

EIGHTY NINTH DAY

MORNING SESSION

Senate Chamber, Olympia  
Friday, April 7, 2023

The Senate was called to order at 9:00 o'clock a.m. by the President of the Senate, Lt. Governor Heck presiding. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Mr. Adam York and Miss Kayla Chang, presented the Colors. Page Miss Elsie Cziske led the Senate in the Pledge of Allegiance. The prayer was offered by Reverend Mary Gear of Olympia Unitarian Universalist Congregation.

MOTIONS

On motion of Senator Pedersen, the reading of the Journal of the previous day was dispensed with and it was approved.

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

MESSAGES FROM THE HOUSE

April 6, 2023

MR. PRESIDENT:  
The Speaker has signed:

HOUSE BILL NO. 1023,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1051,  
HOUSE BILL NO. 1259,  
and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

April 6, 2023

MR. PRESIDENT:  
The House has passed:

SUBSTITUTE HOUSE BILL NO. 1850,  
and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

April 6, 2023

MR. PRESIDENT:  
The House has passed:

SENATE BILL NO. 5066,  
SENATE BILL NO. 5070,  
SENATE BILL NO. 5084,  
SENATE BILL NO. 5131,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO.

5236,

SUBSTITUTE SENATE BILL NO. 5238,

SUBSTITUTE SENATE BILL NO. 5286,

SENATE BILL NO. 5390,

SUBSTITUTE SENATE BILL NO. 5453,

SUBSTITUTE SENATE BILL NO. 5499,

SECOND SUBSTITUTE SENATE BILL NO. 5518,

SUBSTITUTE SENATE BILL NO. 5542,

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

On motion of Senator Pedersen, the Senate advanced to the

fifth order of business.

INTRODUCTION AND FIRST READING

SB 5769 by Senator Mullet

AN ACT Relating to the price ceiling under chapter 70A.65 RCW, the climate commitment act; and amending RCW 70A.65.160.

Referred to Committee on Environment, Energy & Technology.

MOTIONS

On motion of Senator Pedersen, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

On motion of Senator Pedersen, the Senate advanced to the eighth order of business.

MOTION

Senator Kauffman moved adoption of the following resolution:

SENATE RESOLUTION  
8625

By Senators Kauffman, Randall, Liias, Keiser, Rolfes, C. Wilson, Nobles, Trudeau, Hunt, Dhingra, Shewmake, Torres, Boehnke, Nguyen, Stanford, Valdez, Van De Wege, Lovick, Salomon, Braun, Billig, Cleveland, Conway, Hasegawa, Holy, Kuderer, Lovelett, Padden, Pedersen, Rivers, Saldaña, Short, Wagoner, Warnick, Wellman, and L. Wilson

WHEREAS, The Special Olympics is the world's largest sports organization for children and adults with intellectual and physical disabilities, providing year-round training and activities to more than 3.7 million participants and Unified Sports partners in the United States and 200 other countries and jurisdictions; and

WHEREAS, The Special Olympics is a global movement of people creating a new world of inclusion and community, where every single person is accepted and welcomed, regardless of ability or disability; and

WHEREAS, Ninety-eight Washingtonians participated and competed in the 2022 Special Olympics in Orlando, Florida, as either an Athlete, Unified Partner, Coach, or Staff; and

WHEREAS, Among the 98 participating Washingtonians, 65 Athletes, Unified Partners, and Coaches received gold, silver, and bronze medals in their respective competitions; and

WHEREAS, The following teams won medals in their respective competitions, including Competitive Cheer, Bronze Medal; Flag Football, Silver Medal; and Volleyball, Gold Medal; and

WHEREAS, The Bronze medal-winning Competitive Cheer's Athletes, Coaches, and Unified Partners are Athletes TyAnna Brandtly, Samantha Elliott, Anna Stults, Courtney Thom, and MacKenzie Wilkes; Unified Partners Brittany Chiasson, Christina Evenhuis, Naya Hart, Kialie Pogoncheff, and Emily Wright; and Coaches Karen Elliott and Genia Stewart; and

WHEREAS, The Silver medal-winning Soccer team's Athletes

and Coaches are Athletes Joel Adams, Gina Boyle, Jimmie Hutchins, Jocelyn Iwaniec, Seth Landers-Printy, Christopher Lyman, Domanic Morrow, Eamonn Rosenberg, Justin Villareal, and Todd Weathers; and Coaches Caitlin Walker-Collins, and Gregory Weathers; and

WHEREAS, The Silver medal-winning Flag Football's Athletes, Unified Partners, and Coaches are Athletes Turrean Hatzenbeler, Brayden Kelly, Benjamin Kennish, Austin Landon, and Ronnie Papka; Unified Partners Jagateshwar Bains, Jasmair Bains, Nolan Springer, William Suastegui-Perez, and Jordan Tveter; and Coaches Nick Asby, Gregory Kelly, and Donna Lindsay; and

WHEREAS, The Gold medal-winning Volleyball team's Athletes and Coaches are Athletes Grant Brickbealer, Daniel Brito, Stacey Conser, Kevin Geoghegan, Nicholas Hollands, Marcus Moore, Skyler Poor, Nicholas Rothbauer, Larry Simpson, and Gable Wilkins; and Coaches Lucy Capron, Kenneth Randy Geoghegan, and Alysanne Stack; and

WHEREAS, The individual medal-winning athletes are Benjamin Gregory, Gold medal, Athletics; Danielle Haag and Craig Lockard, Bronze medals, Athletics; Crystal Womack, Gold and Silver medals, Bocce; Jacqueline Diaz, two Silver medals, Bocce; Ian Dews, Bronze medal, Bocce; Grace Van Well, Gold medal, Swimming; Jake Moselle, Silver medal, Swimming; Truman Hobbs and Melissa Sprague, Bronze medals, Swimming; Alice Ness, Silver medal, Bowling; Elizabeth Bedell, Silver medal, Bowling; Peter Condon, Bronze medal, Golf; and Doug McPherson, four Bronze medals, Powerlifting;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor these extraordinary and courageous Athletes and their dedicated Coaches and Unified Partners for participating in the 2022 Special Olympics and winning medals in their respective competitions and events; and

BE IT FURTHER RESOLVED, That the Coaches, Unified Partners, Athletes' families, and the Special Olympics Washington Board of Directors and staff be applauded for their time, dedication, and expertise in preparing these athletes for their successes both on and off the field and empowering them to pursue their dreams, as well as the countless fans across Washington who cheered on the delegation for their support; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Special Olympics Washington.

Senators Kauffman, Wellman and Boehnke spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8625.

The motion by Senator Kauffman carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced athletes and staff who represented Washington at the 2022 Special Olympics who were seated in the gallery.

#### MOTION

On motion of Senator Pedersen, the Senate reverted to the seventh order of business.

#### SIGNED BY THE PRESIDENT

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

thereupon did sign in open session:

HOUSE BILL NO. 1023,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1051,  
and HOUSE BILL NO. 1259.

#### THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Randall moved that Debra J. Entenman, Senate Gubernatorial Appointment No. 9203, be confirmed as a member of the Renton Technical College Board of Trustees.

Senators Randall and Holy spoke in favor of passage of the motion.

#### MOTION

On motion of Senator Nobles, Senators Dhingra, Rolfes and Stanford were excused.

#### APPOINTMENT OF DEBRA J. ENTENMAN

The President declared the question before the Senate to be the confirmation of Debra J. Entenman, Senate Gubernatorial Appointment No. 9203, as a member of the Renton Technical College Board of Trustees.

The Secretary called the roll on the confirmation of Debra J. Entenman, Senate Gubernatorial Appointment No. 9203, as a member of the Renton Technical College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senators Dhingra, Rolfes and Stanford

Debra J. Entenman, Senate Gubernatorial Appointment No. 9203, having received the constitutional majority was declared confirmed as a member of the Renton Technical College Board of Trustees.

#### THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Cleveland moved that Steven R. Jacobs, Senate Gubernatorial Appointment No. 9117, be confirmed as a member of the Health Care Facilities Authority.

Senator Cleveland spoke in favor of the motion.

#### APPOINTMENT OF STEVEN R. JACOBS

The President declared the question before the Senate to be the confirmation of Steven R. Jacobs, Senate Gubernatorial Appointment No. 9117, as a member of the Health Care Facilities Authority.

The Secretary called the roll on the confirmation of Steven R. Jacobs, Senate Gubernatorial Appointment No. 9117, as a

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member of the Health Care Facilities Authority and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senators Dhingra, Rolfes and Stanford

Steven R. Jacobs, Senate Gubernatorial Appointment No. 9117, having received the constitutional majority was declared confirmed as a member of the Health Care Facilities Authority.

## THIRD READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Keiser moved that Ollie A. Garrett, Senate Gubernatorial Appointment No. 9328, be confirmed as a member of the Liquor and Cannabis Board.

Senators Keiser and Valdez spoke in favor of passage of the motion.

## APPOINTMENT OF OLLIE A. GARRETT

The President declared the question before the Senate to be the confirmation of Ollie A. Garrett, Senate Gubernatorial Appointment No. 9328, as a member of the Liquor and Cannabis Board.

The Secretary called the roll on the confirmation of Ollie A. Garrett, Senate Gubernatorial Appointment No. 9328, as a member of the Liquor and Cannabis Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senators Dhingra and Rolfes

Ollie A. Garrett, Senate Gubernatorial Appointment No. 9328, having received the constitutional majority was declared confirmed as a member of the Liquor and Cannabis Board.

## MOTION

On motion of Senator Pedersen, the Senate reverted to the sixth order of business.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1323, by House Committee on Labor & Workplace Standards (originally sponsored by Bronoske, Berry, Leavitt, Morgan, Taylor, Senn, Bateman, Reed, Lekanoff and Doglio)

Requiring a training and certification program for individuals who apply fire-resistant materials.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1323 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1323.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1323 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Rolfes

SUBSTITUTE HOUSE BILL NO. 1323, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED HOUSE BILL NO. 1636, by Representatives Orwall, Walsh and Timmons

Concerning foreclosure protections for homeowners in common interest communities.

The measure was read the second time.

## MOTION

Senator Trudeau moved that the following committee striking amendment by the Committee on Law & Justice be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 64.32.200 and 2021 c 222 s 3 are each amended to read as follows:

(1) The declaration may provide for the collection of all sums assessed by the association of apartment owners for the share of the common expenses chargeable to any apartment and the collection may be enforced in any manner provided in the declaration including, but not limited to, (a) ((ten)) 10 days notice shall be given the delinquent apartment owner to the effect that unless such assessment is paid within ((ten)) 10 days any or all utility services will be forthwith severed and shall remain severed until such assessment is paid, or (b) collection of such assessment may be made by such lawful method of enforcement, judicial or extra-judicial, as may be provided in the declaration and/or

bylaws.

(2) All sums assessed by the association of apartment owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a lien on such apartment prior to all other liens except only (a) tax liens on the apartment in favor of any assessing unit and/or special district, and (b) all sums unpaid on all mortgages of record. Such lien is not subject to the ban against execution or forced sales of homesteads under RCW 6.13.080 and, subject to the provisions in subsection ((4)) (5) of this section, may be foreclosed by suit by the manager or board of directors, acting on behalf of the apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in such foreclosures shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the apartment owners, shall have power, unless prohibited by the declaration, to bid on the apartment at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment, the period of redemption shall be eight months after the sale. Suit to recover any judgment for any unpaid common expenses shall be maintainable without foreclosing or waiving the liens securing the same.

(3) Where the mortgagee of a mortgage of record or other purchaser of an apartment obtains possession of the apartment as a result of foreclosure of the mortgage, such possessor, his or her successors and assigns shall not be liable for the share of the common expenses or assessments by the association of apartment owners chargeable to such apartment which became due prior to such possession. Such unpaid share of common expenses of assessments shall be deemed to be common expenses collectible from all of the apartment owners including such possessor, his or her successors and assigns.

(4)(a) When the association, or the manager or board of directors on its behalf, mails to the apartment owner by first-class mail the first notice of delinquency for past due assessments to the apartment address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS FROM THE APARTMENT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**

**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. DO NOT DELAY.**

**BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.**

**REFER TO THE CONTACTS BELOW for sources of assistance.**

**SEEKING ASSISTANCE**

**Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:**

**The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission**

**Telephone: . . . . . Website: . . . . .**

**The United States Department of Housing and Urban Development**

**Telephone: . . . . . Website: . . . . .**

**The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys**

**Telephone: . . . . . Website: . . . . .**

**The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.**

**(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the apartment owner, the association or the association's attorney shall mail the first preforeclosure notice to the apartment owner in order to satisfy the requirement in (a) of this subsection.**

**(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (5)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.**

**(5) An association, or the manager or board of directors on its behalf, may not commence an action to foreclose a lien on an apartment under this section unless:**

**(a) The apartment owner, at the time the action is commenced, owes at least a sum equal to the greater of:**

**(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or**

**(ii) ((\$200)) \$2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;**

**(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (4)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the apartment address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((shall state as follows:**

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The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the apartment owner pursuant to subsection (4)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (4)(a) of this section is mailed;

(c) At least 180 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that apartment.

((5)) (6) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 2. RCW 64.32.200 and 2021 c 222 s 4 are each amended to read as follows:

(1) The declaration may provide for the collection of all sums assessed by the association of apartment owners for the share of the common expenses chargeable to any apartment and the collection may be enforced in any manner provided in the declaration including, but not limited to, (a) ((ten)) 10 days notice shall be given the delinquent apartment owner to the effect that unless such assessment is paid within ((ten)) 10 days any or all utility services will be forthwith severed and shall remain severed until such assessment is paid, or (b) collection of such assessment may be made by such lawful method of enforcement, judicial or extra-judicial, as may be provided in the declaration and/or bylaws.

(2) All sums assessed by the association of apartment owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a lien on such apartment prior to all other liens except only (a) tax liens on the apartment in favor of any assessing unit and/or special district, and (b) all sums unpaid on all mortgages of record. Such lien is not subject to the ban against execution or forced sales of homesteads under RCW 6.13.080 and, subject to the provisions in subsection (((4))) (5) of this section, may be foreclosed by suit by the manager or board of directors, acting on behalf of the apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in such foreclosures shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the apartment owners, shall have power, unless prohibited by the declaration, to bid on the apartment at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment, the period of redemption shall be eight months after the sale. Suit to recover any judgment for any unpaid common expenses shall be maintainable without foreclosing or waiving the liens securing the same.

(3) Where the mortgagee of a mortgage of record or other purchaser of an apartment obtains possession of the apartment as a result of foreclosure of the mortgage, such possessor, his or her successors and assigns shall not be liable for the share of the common expenses or assessments by the association of apartment owners chargeable to such apartment which became due prior to such possession. Such unpaid share of common expenses of assessments shall be deemed to be common expenses collectible from all of the apartment owners including such possessor, his or

her successors and assigns.

(4)(a) When the association, or the manager or board of directors on its behalf, mails to the apartment owner by first-class mail the first notice of delinquency for past due assessments to the apartment address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

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The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the apartment owner, the association or the association's attorney shall mail the first preforeclosure notice to the apartment owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (5)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(5) An association, or the manager or board of directors on its behalf, may not commence an action to foreclose a lien on an apartment under this section unless:

(a) The apartment owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((\$200)) \$2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (4)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the apartment address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((shall state as follows:

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The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the apartment owner pursuant to subsection (4)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (4)(a) of this section is mailed;

(c) At least 90 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that apartment.

((5)) (6) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

**Sec. 3.** RCW 64.34.364 and 2021 c 222 s 5 are each amended to read as follows:

(1) The association has a lien on a unit for any unpaid assessments levied against a unit from the time the assessment is due.

(2) A lien under this section shall be prior to all other liens and encumbrances on a unit except: (a) Liens and encumbrances recorded before the recording of the declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. A lien under this section is not subject to the provisions of chapter 6.13 RCW.

(3) Except as provided in subsections (4) and (5) of this section, the lien shall also be prior to the mortgages described in subsection (2)(b) of this section to the extent of assessments for common expenses, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.34.360(1) which would have become due during the six months immediately preceding the date of a sheriff's sale in an action for judicial foreclosure by either the association or a mortgagee, the date of a trustee's sale in a nonjudicial foreclosure by a mortgagee, or the date of recording of the declaration of forfeiture in a proceeding by the vendor under a real estate contract.

(4) The priority of the association's lien against units encumbered by a mortgage held by an eligible mortgagee or by a mortgagee which has given the association a written request for a notice of delinquent assessments shall be reduced by up to three months if and to the extent that the lien priority under subsection (3) of this section includes delinquencies which relate to a period after such holder becomes an eligible mortgagee or has given such notice and before the association gives the holder a written notice of the delinquency. This subsection does not affect the priority of mechanics' or material suppliers' liens, or the priority of liens for other assessments made by the association.

(5) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided by subsection (9) of this section, the association shall not be entitled to the lien priority provided for under subsection (3) of this section.

(6) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

(7) Recording of the declaration constitutes record notice and perfection of the lien for assessments. While no further recording of any claim of lien for assessment under this section shall be required to perfect the association's lien, the association may record a notice of claim of lien for assessments under this section in the real property records of any county in which the condominium is located. Such recording shall not constitute the written notice of delinquency to a mortgagee referred to in subsection (2) of this section.

(8) A lien for unpaid assessments and the personal liability for payment of assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within three years after the amount of the assessments sought to be recovered becomes due.

(9) The lien arising under this section may be enforced judicially by the association or its authorized representative in the manner set forth in chapter 61.12 RCW. The lien arising under this section may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration (a) contains a grant of the condominium in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, (b) contains a power of sale, (c) provides in its terms that the units are not used principally for agricultural or farming purposes, and (d) provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative shall have the power, unless prohibited by the declaration, to purchase the unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this section shall prohibit an association from taking a deed in lieu of foreclosure.

(10) From the time of commencement of an action by the

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association to foreclose a lien for nonpayment of delinquent assessments against a unit that is not occupied by the owner thereof, the association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the unit as and when due. If the rental is not paid, the receiver may obtain possession of the unit, refurbish it for rental up to a reasonable standard for rental units in this type of condominium, rent the unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent assessments. Only a receiver may take possession and collect rents under this subsection, and a receiver shall not be appointed less than ((ninety)) 90 days after the delinquency. The exercise by the association of the foregoing rights shall not affect the priority of preexisting liens on the unit.

(11) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure shall not be liable for assessments or installments thereof that became due prior to such right of possession. Such unpaid assessments shall be deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior owner of personal liability for assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(12) In addition to constituting a lien on the unit, each assessment shall be the joint and several obligation of the owner or owners of the unit to which the same are assessed as of the time the assessment is due. In a voluntary conveyance, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Suit to recover a personal judgment for any delinquent assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(13) The association may from time to time establish reasonable late charges and a rate of interest to be charged on all subsequent delinquent assessments or installments thereof. In the absence of another established nonusurious rate, delinquent assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the assessments became delinquent.

(14) The association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

(15) The association upon written request shall furnish to a unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments against that unit. The statement shall be furnished within fifteen days after receipt of the request and is binding on the association, the board of directors, and every unit owner, unless and to the extent known by the recipient to be false.

(16) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(17)(a) When the association mails to the unit owner by first-class mail the first notice of delinquency for past due assessments to the unit address and to any other address that the owner has provided to the association, the association shall include a first

preforeclosure notice that states as follows:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**

**FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**

**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. DO NOT DELAY.**

**BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.**

**REFER TO THE CONTACTS BELOW for sources of assistance.**

**SEEKING ASSISTANCE**

**Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:**

**The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission**

**Telephone: . . . . . Website: . . . . .**

**The United States Department of Housing and Urban Development**

**Telephone: . . . . . Website: . . . . .**

**The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys**

**Telephone: . . . . . Website: . . . . .**

**The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.**

**(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the unit owner, the association or the association's attorney shall mail the first preforeclosure notice to the unit owner in order to satisfy the requirement in (a) of this subsection.**

**(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (18)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.**

(18) An association may not commence an action to foreclose a lien on a unit under this section unless:

(a) The unit owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((\$200)) \$2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, **but no sooner than 60 days after the first preforeclosure notice required in subsection (17)(a) of this section is mailed**, the association has mailed, by first-class mail, to the owner, at the unit address and to any other address which the owner has provided to the association, a **second** notice of delinquency, which ((shall state as follows:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**

**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW** to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.**

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The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the unit owner pursuant to subsection (17)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (17)(a) of this section is mailed;

(c) At least 180 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that unit.

((18)) (19) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

**Sec. 4.** RCW 64.34.364 and 2021 c 222 s 6 are each amended to read as follows:

(1) The association has a lien on a unit for any unpaid assessments levied against a unit from the time the assessment is due.

(2) A lien under this section shall be prior to all other liens and encumbrances on a unit except: (a) Liens and encumbrances recorded before the recording of the declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. A lien under this section is not subject to the provisions of chapter 6.13 RCW.

(3) Except as provided in subsections (4) and (5) of this section, the lien shall also be prior to the mortgages described in subsection (2)(b) of this section to the extent of assessments for common expenses, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.34.360(1) which would have become due during the six months immediately preceding the

date of a sheriff's sale in an action for judicial foreclosure by either the association or a mortgagee, the date of a trustee's sale in a nonjudicial foreclosure by a mortgagee, or the date of recording of the declaration of forfeiture in a proceeding by the vendor under a real estate contract.

(4) The priority of the association's lien against units encumbered by a mortgage held by an eligible mortgagee or by a mortgagee which has given the association a written request for a notice of delinquent assessments shall be reduced by up to three months if and to the extent that the lien priority under subsection (3) of this section includes delinquencies which relate to a period after such holder becomes an eligible mortgagee or has given such notice and before the association gives the holder a written notice of the delinquency. This subsection does not affect the priority of mechanics' or material suppliers' liens, or the priority of liens for other assessments made by the association.

(5) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided by subsection (9) of this section, the association shall not be entitled to the lien priority provided for under subsection (3) of this section.

(6) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

(7) Recording of the declaration constitutes record notice and perfection of the lien for assessments. While no further recording of any claim of lien for assessment under this section shall be required to perfect the association's lien, the association may record a notice of claim of lien for assessments under this section in the real property records of any county in which the condominium is located. Such recording shall not constitute the written notice of delinquency to a mortgagee referred to in subsection (2) of this section.

(8) A lien for unpaid assessments and the personal liability for payment of assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within three years after the amount of the assessments sought to be recovered becomes due.

(9) The lien arising under this section may be enforced judicially by the association or its authorized representative in the manner set forth in chapter 61.12 RCW. The lien arising under this section may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration (a) contains a grant of the condominium in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, (b) contains a power of sale, (c) provides in its terms that the units are not used principally for agricultural or farming purposes, and (d) provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative shall have the power, unless prohibited by the declaration, to purchase the unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this section shall prohibit an association from taking a deed in lieu of foreclosure.

(10) From the time of commencement of an action by the association to foreclose a lien for nonpayment of delinquent assessments against a unit that is not occupied by the owner thereof, the association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the unit as and when due. If the rental is not paid, the receiver may obtain possession of the unit, refurbish it for rental up to a reasonable standard for rental units in this type of condominium, rent the unit



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or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent assessments. Only a receiver may take possession and collect rents under this subsection, and a receiver shall not be appointed less than ((ninety)) 90 days after the delinquency. The exercise by the association of the foregoing rights shall not affect the priority of preexisting liens on the unit.

(11) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure shall not be liable for assessments or installments thereof that became due prior to such right of possession. Such unpaid assessments shall be deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior owner of personal liability for assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(12) In addition to constituting a lien on the unit, each assessment shall be the joint and several obligation of the owner or owners of the unit to which the same are assessed as of the time the assessment is due. In a voluntary conveyance, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Suit to recover a personal judgment for any delinquent assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(13) The association may from time to time establish reasonable late charges and a rate of interest to be charged on all subsequent delinquent assessments or installments thereof. In the absence of another established nonusurious rate, delinquent assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the assessments became delinquent.

(14) The association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

(15) The association upon written request shall furnish to a unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments against that unit. The statement shall be furnished within fifteen days after receipt of the request and is binding on the association, the board of directors, and every unit owner, unless and to the extent known by the recipient to be false.

(16) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(17)(a) When the association mails to the unit owner by first-class mail the first notice of delinquency for past due assessments to the unit address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS. THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. DO NOT DELAY.**

**BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.**

**REFER TO THE CONTACTS BELOW for sources of assistance.**

**SEEKING ASSISTANCE**

**Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:**

**The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission**

**Telephone: . . . . . Website: . . . . .**

**The United States Department of Housing and Urban Development**

**Telephone: . . . . . Website: . . . . .**

**The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys**

**Telephone: . . . . . Website: . . . . .**

**The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.**

**(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the unit owner, the association or the association's attorney shall mail the first preforeclosure notice to the unit owner in order to satisfy the requirement in (a) of this subsection.**

**(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (18)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.**

**(18) An association may not commence an action to foreclose a lien on a unit under this section unless:**

**(a) The unit owner, at the time the action is commenced, owes at least a sum equal to the greater of:**

**(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or**

**(ii) ((\$200)) \$2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;**

**(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (17)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the unit address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((shall state as follows:**

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Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the unit owner pursuant to subsection (17)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (17)(a) of this section is mailed;

(c) At least 90 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that unit.

((18)) (19) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

**Sec. 5.** RCW 64.38.100 and 2021 c 222 s 7 are each amended to read as follows:

(1)(a) If the governing documents of an association provide for a lien on the lot of any owner for unpaid assessments, the association shall include the following first preforeclosure notice when mailing to the lot owner by first-class mail the first notice of delinquency to the lot address and to any other address that the owner has provided to the association:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**

**FROM THE HOMEOWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**

**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.****

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the following:

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Telephone: . . . . . Website: . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the lot owner, the association or the association's attorney shall mail the first preforeclosure notice to the lot owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (2)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(2) If the governing documents of an association provide for a lien on the lot of any owner for unpaid assessments, the association may not commence an action to foreclose the lien unless:

(a) The lot owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((\$200)) \$2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (1)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the lot address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((shall state as follows:

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**FROM THE HOMEOWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**

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the following:

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Telephone: . . . . . Website: . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the lot owner pursuant to subsection (1)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (1)(a) of this section is mailed;

(c) At least 180 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that lot.

((2)) (3) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

**Sec. 6.** RCW 64.38.100 and 2021 c 222 s 8 are each amended to read as follows:

(1)(a) If the governing documents of an association provide for a lien on the lot of any owner for unpaid assessments, the association shall include the following first preforeclosure notice when mailing to the lot owner by first-class mail the first notice of delinquency to the lot address and to any other address that the owner has provided to the association:

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The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the lot owner, the association or the association's attorney shall mail the first preforeclosure notice to the lot owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (2)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(2) If the governing documents of an association provide for a lien on the lot of any owner for unpaid assessments, the association may not commence an action to foreclose the lien unless:

(a) The lot owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((\$200)) \$2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (1)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the lot address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((shall state as follows:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS FROM THE HOMEOWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**

**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. DO NOT DELAY.**

**BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.**

**REFER TO THE CONTACTS BELOW for sources of assistance.**

**SEEKING ASSISTANCE**

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission

Telephone: . . . . . Website: . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the lot owner pursuant to subsection (1)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (1)(a) of this section is mailed;

(c) At least 90 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that lot.

((2)) (3) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

**Sec. 7.** RCW 64.90.485 and 2021 c 222 s 1 are each amended to read as follows:

(1) The association has a statutory lien on each unit for any unpaid assessment against the unit from the time such assessment is due.

(2) A lien under this section has priority over all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances that the association creates, assumes, or takes subject to;

(b) Except as otherwise provided in subsection (3) of this section, a security interest on the unit recorded before the date on which the unpaid assessment became due or, in a cooperative, a security interest encumbering only the unit owner's interest and perfected before the date on which the unpaid assessment became due; and

(c) Liens for real estate taxes and other state or local governmental assessments or charges against the unit or cooperative.

(3)(a) A lien under this section also has priority over the security interests described in subsection (2)(b) of this section to the extent of an amount equal to the following:

(i) The common expense assessments, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.90.480(1), along with any specially allocated assessments that are properly assessable against the unit under such periodic budget, which would have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the association's lien or a security interest described in subsection (2)(b) of this section;

(ii) The association's actual costs and reasonable attorneys' fees incurred in foreclosing its lien but incurred after the giving of the notice described in (a)(iii) of this subsection; provided, however, that the costs and reasonable attorneys' fees that will have priority under this subsection (3)(a)(ii) shall not exceed ((two thousand dollars)) \$2,000 or an amount equal to the amounts described in (a)(i) of this subsection, whichever is less;

(iii) The amounts described in (a)(ii) of this subsection shall be prior only to the security interest of the holder of a security interest on the unit recorded before the date on which the unpaid assessment became due and only if the association has given that holder not less than ((sixty)) 60 days' prior written notice that the owner of the unit is in default in payment of an assessment. The notice shall contain:

- (A) Name of the borrower;
- (B) Recording date of the trust deed or mortgage;
- (C) Recording information;
- (D) Name of condominium, unit owner, and unit designation

stated in the declaration or applicable supplemental declaration;

(E) Amount of unpaid assessment; and

(F) A statement that failure to, within ((sixty)) 60 days of the written notice, submit the association payment of six months of assessments as described in (a)(i) of this subsection will result in the priority of the amounts described in (a)(ii) of this subsection; and

(iv) Upon payment of the amounts described in (a)(i) and (ii) of this subsection by the holder of a security interest, the association's lien described in this subsection (3)(a) shall thereafter be fully subordinated to the lien of such holder's security interest on the unit.

(b) For the purposes of this subsection:

(i) "Institution of proceedings" means either:

(A) The date of recording of a notice of trustee's sale by a deed of trust beneficiary;

(B) The date of commencement, pursuant to applicable court rules, of an action for judicial foreclosure either by the association or by the holder of a recorded security interest; or

(C) The date of recording of a notice of intention to forfeit in a real estate contract forfeiture proceeding by the vendor under a real estate contract.

(ii) "Capital improvements" does not include making, in the ordinary course of management, repairs to common elements or replacements of the common elements with substantially similar items, subject to: (A) Availability of materials and products, (B) prevailing law, or (C) sound engineering and construction standards then prevailing.

(c) The adoption of a periodic budget that purports to allocate to a unit any fines, late charges, interest, attorneys' fees and costs incurred for services unrelated to the foreclosure of the association's lien, other collection charges, or specially allocated assessments assessed under RCW 64.90.480 (6) or (7) does not cause any such items to be included in the priority amount affecting such unit.

(4) Subsections (2) and (3) of this section do not affect the priority of mechanics' or material suppliers' liens to the extent that law of this state other than chapter 277, Laws of 2018 gives priority to such liens, or the priority of liens for other assessments made by the association.

(5) A lien under this section is not subject to chapter 6.13 RCW.

(6) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided under subsection (13) of this section, the association is not entitled to the lien priority provided for under subsection (3) of this section, and is subject to the limitations on deficiency judgments as provided in chapter 61.24 RCW.

(7) Unless the declaration provides otherwise, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority as to each other, and any foreclosure of one such lien shall not affect the lien of the other.

(8) Recording of the declaration constitutes record notice and perfection of the statutory lien created under this section. Further notice or recordation of any claim of lien for assessment under this section is not required, but is not prohibited.

(9) A lien for unpaid assessments and the personal liability for payment of those assessments are extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the full amount of the assessments sought to be recovered becomes due.

(10) This section does not prohibit actions against unit owners to recover sums for which subsection (1) of this section creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

(11) The association upon written request must furnish to a unit

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owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments or the priority amount against that unit, or both. The statement must be furnished within ((fifteen)) 15 days after receipt of the request and is binding on the association, the board, and every unit owner unless, and to the extent, known by the recipient to be false. The liability of a recipient who reasonably relies upon the statement must not exceed the amount set forth in any statement furnished pursuant to this section or RCW 64.90.640(1)(b).

(12) In a cooperative, upon nonpayment of an assessment on a unit, the unit owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and the lien may be foreclosed as provided under this section.

(13) The association's lien may be foreclosed in accordance with (a) and (b) of this subsection.

(a) In a common interest community other than a cooperative, the association's lien may be foreclosed judicially in accordance with chapter 61.12 RCW, subject to any rights of redemption under chapter 6.23 RCW.

(b) The lien may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration: Contains a grant of the common interest community in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, contains a power of sale, provides in its terms that the units are not used principally for agricultural purposes, and provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative may purchase the unit at the foreclosure sale and acquire, hold, lease, mortgage, or convey the unit. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption is eight months.

(c) In a cooperative in which the unit owners' interests in the units are real estate, the association's lien must be foreclosed in like manner as a mortgage on real estate or by power of sale under (b) of this subsection.

(d) In a cooperative in which the unit owners' interests in the units are personal property, the association's lien must be foreclosed in like manner as a security interest under chapter 62A.9A RCW.

(14) If the unit owner's interest in a unit in a cooperative is real estate, the following requirements apply:

(a) The association, upon nonpayment of assessments and compliance with this subsection, may sell that unit at a public sale or by private negotiation, and at any time and place. The association must give to the unit owner and any lessee of the unit owner reasonable notice in a record of the time, date, and place of any public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time and date after which a private conveyance may be made. Such notice must also be sent to any other person that has a recorded interest in the unit that would be cut off by the sale, but only if the recorded interest was on record seven weeks before the date specified in the notice as the date of any public sale or seven weeks before the date specified in the notice as the date after which a private sale may be made. The notices required under this subsection may be sent to any address reasonable in the circumstances. A sale may not be held until five weeks after the sending of the notice. The association may buy at any public sale and, if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.

(b) Unless otherwise agreed to or as stated in this section, the

unit owner is liable for any deficiency in a foreclosure sale.

(c) The proceeds of a foreclosure sale must be applied in the following order:

(i) The reasonable expenses of sale;

(ii) The reasonable expenses of securing possession before sale; the reasonable expenses of holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges and premiums on insurance; and, to the extent provided for by agreement between the association and the unit owner, reasonable attorneys' fees, costs, and other legal expenses incurred by the association;

(iii) Satisfaction of the association's lien;

(iv) Satisfaction in the order of priority of any subordinate claim of record; and

(v) Remittance of any excess to the unit owner.

(d) A good-faith purchaser for value acquires the unit free of the association's debt that gave rise to the lien under which the foreclosure sale occurred and any subordinate interest, even though the association or other person conducting the sale failed to comply with this section. The person conducting the sale must execute a conveyance to the purchaser sufficient to convey the unit and stating that it is executed by the person after a foreclosure of the association's lien by power of sale and that the person was empowered to make the sale. Signature and title or authority of the person signing the conveyance as grantor and a recital of the facts of nonpayment of the assessment and of the giving of the notices required under this subsection are sufficient proof of the facts recited and of the authority to sign. Further proof of authority is not required even though the association is named as grantee in the conveyance.

(e) At any time before the association has conveyed a unit in a cooperative or entered into a contract for its conveyance under the power of sale, the unit owners or the holder of any subordinate security interest may cure the unit owner's default and prevent sale or other conveyance by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorneys' fees and costs of the creditor.

(15) In an action by an association to collect assessments or to foreclose a lien on a unit under this section, the court may appoint a receiver to collect all sums alleged to be due and owing to a unit owner before commencement or during pendency of the action. The receivership is governed under chapter 7.60 RCW. During pendency of the action, the court may order the receiver to pay sums held by the receiver to the association for any assessments against the unit. The exercise of rights under this subsection by the association does not affect the priority of preexisting liens on the unit.

(16) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure is not liable for assessments or installments of assessments that became due prior to such right of possession. Such unpaid assessments are deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior unit owner of personal liability for assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(17) In addition to constituting a lien on the unit, each assessment is the joint and several obligation of the unit owner of the unit to which the same are assessed as of the time the assessment is due. A unit owner may not exempt himself or herself from liability for assessments. In a voluntary conveyance other than by foreclosure, the grantee of a unit is jointly and

severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. Suit to recover a personal judgment for any delinquent assessment is maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(18) The association may from time to time establish reasonable late charges and a rate of interest to be charged, not to exceed the maximum rate calculated under RCW 19.52.020, on all subsequent delinquent assessments or installments of assessments. If the association does not establish such a rate, delinquent assessments bear interest from the date of delinquency at the maximum rate calculated under RCW 19.52.020 on the date on which the assessments became delinquent.

(19) The association is entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in a suit being commenced or prosecuted to judgment. The prevailing party is also entitled to recover costs and reasonable attorneys' fees in such suits, including any appeals, if it prevails on appeal and in the enforcement of a judgment.

(20) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(21)(a) When the association mails to the unit owner by first-class mail the first notice of delinquency for past due assessments to the unit address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS FROM THE UNIT OWNERS ASSOCIATION TO WHICH YOUR HOME BELONGS.**

**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. DO NOT DELAY.**

**BE CAREFUL** of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.

**REFER TO THE CONTACTS BELOW** for sources of assistance.

#### **SEEKING ASSISTANCE**

**Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:**

**The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission**

**Telephone: . . . . . Website: . . . . .**

**The United States Department of Housing and Urban Development**

**Telephone: . . . . . Website: . . . . .**

**The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys**

**Telephone: . . . . . Website: . . . . .**

**The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.**

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this

subsection has not yet been mailed to the unit owner, the association or the association's attorney shall mail the first preforeclosure notice to the unit owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (22)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(22) An association may not commence an action to foreclose a lien on a unit under this section unless:

(a) The unit owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((\$200)) \$2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (21)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the unit address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((shall state as follows:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**

**FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**

**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW** to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.**

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The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the owner pursuant to subsection (21)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection

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(21)(a) of this section is mailed;

(c) At least 180 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that unit.

~~((22))~~ (23) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

**Sec. 8.** RCW 64.90.485 and 2021 c 222 s 2 are each amended to read as follows:

(1) The association has a statutory lien on each unit for any unpaid assessment against the unit from the time such assessment is due.

(2) A lien under this section has priority over all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances that the association creates, assumes, or takes subject to;

(b) Except as otherwise provided in subsection (3) of this section, a security interest on the unit recorded before the date on which the unpaid assessment became due or, in a cooperative, a security interest encumbering only the unit owner's interest and perfected before the date on which the unpaid assessment became due; and

(c) Liens for real estate taxes and other state or local governmental assessments or charges against the unit or cooperative.

(3)(a) A lien under this section also has priority over the security interests described in subsection (2)(b) of this section to the extent of an amount equal to the following:

(i) The common expense assessments, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.90.480(1), along with any specially allocated assessments that are properly assessable against the unit under such periodic budget, which would have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the association's lien or a security interest described in subsection (2)(b) of this section;

(ii) The association's actual costs and reasonable attorneys' fees incurred in foreclosing its lien but incurred after the giving of the notice described in (a)(iii) of this subsection; provided, however, that the costs and reasonable attorneys' fees that will have priority under this subsection (3)(a)(ii) shall not exceed ((two thousand dollars)) \$2,000 or an amount equal to the amounts described in (a)(i) of this subsection, whichever is less;

(iii) The amounts described in (a)(ii) of this subsection shall be prior only to the security interest of the holder of a security interest on the unit recorded before the date on which the unpaid assessment became due and only if the association has given that holder not less than ((sixty)) 60 days' prior written notice that the owner of the unit is in default in payment of an assessment. The notice shall contain:

(A) Name of the borrower;

(B) Recording date of the trust deed or mortgage;

(C) Recording information;

(D) Name of condominium, unit owner, and unit designation stated in the declaration or applicable supplemental declaration;

(E) Amount of unpaid assessment; and

(F) A statement that failure to, within ((sixty)) 60 days of the written notice, submit the association payment of six months of assessments as described in (a)(i) of this subsection will result in the priority of the amounts described in (a)(ii) of this subsection; and

(iv) Upon payment of the amounts described in (a)(i) and (ii) of this subsection by the holder of a security interest, the association's lien described in this subsection (3)(a) shall thereafter be fully subordinated to the lien of such holder's security interest on the unit.

(b) For the purposes of this subsection:

(i) "Institution of proceedings" means either:

(A) The date of recording of a notice of trustee's sale by a deed of trust beneficiary;

(B) The date of commencement, pursuant to applicable court rules, of an action for judicial foreclosure either by the association or by the holder of a recorded security interest; or

(C) The date of recording of a notice of intention to forfeit in a real estate contract forfeiture proceeding by the vendor under a real estate contract.

(ii) "Capital improvements" does not include making, in the ordinary course of management, repairs to common elements or replacements of the common elements with substantially similar items, subject to: (A) Availability of materials and products, (B) prevailing law, or (C) sound engineering and construction standards then prevailing.

(c) The adoption of a periodic budget that purports to allocate to a unit any fines, late charges, interest, attorneys' fees and costs incurred for services unrelated to the foreclosure of the association's lien, other collection charges, or specially allocated assessments assessed under RCW 64.90.480 (6) or (7) does not cause any such items to be included in the priority amount affecting such unit.

(4) Subsections (2) and (3) of this section do not affect the priority of mechanics' or material suppliers' liens to the extent that law of this state other than chapter 277, Laws of 2018 gives priority to such liens, or the priority of liens for other assessments made by the association.

(5) A lien under this section is not subject to chapter 6.13 RCW.

(6) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided under subsection (13) of this section, the association is not entitled to the lien priority provided for under subsection (3) of this section, and is subject to the limitations on deficiency judgments as provided in chapter 61.24 RCW.

(7) Unless the declaration provides otherwise, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority as to each other, and any foreclosure of one such lien shall not affect the lien of the other.

(8) Recording of the declaration constitutes record notice and perfection of the statutory lien created under this section. Further notice or recordation of any claim of lien for assessment under this section is not required, but is not prohibited.

(9) A lien for unpaid assessments and the personal liability for payment of those assessments are extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the full amount of the assessments sought to be recovered becomes due.

(10) This section does not prohibit actions against unit owners to recover sums for which subsection (1) of this section creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

(11) The association upon written request must furnish to a unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments or the priority amount against that unit, or both. The statement must be furnished within ((fifteen)) 15 days after receipt of the request and is binding on the association, the board, and every unit owner unless, and to the extent, known by

the recipient to be false. The liability of a recipient who reasonably relies upon the statement must not exceed the amount set forth in any statement furnished pursuant to this section or RCW 64.90.640(1)(b).

(12) In a cooperative, upon nonpayment of an assessment on a unit, the unit owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and the lien may be foreclosed as provided under this section.

(13) The association's lien may be foreclosed in accordance with (a) and (b) of this subsection.

(a) In a common interest community other than a cooperative, the association's lien may be foreclosed judicially in accordance with chapter 61.12 RCW, subject to any rights of redemption under chapter 6.23 RCW.

(b) The lien may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration: Contains a grant of the common interest community in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, contains a power of sale, provides in its terms that the units are not used principally for agricultural purposes, and provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative may purchase the unit at the foreclosure sale and acquire, hold, lease, mortgage, or convey the unit. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption is eight months.

(c) In a cooperative in which the unit owners' interests in the units are real estate, the association's lien must be foreclosed in like manner as a mortgage on real estate or by power of sale under (b) of this subsection.

(d) In a cooperative in which the unit owners' interests in the units are personal property, the association's lien must be foreclosed in like manner as a security interest under chapter 62A.9A RCW.

(14) If the unit owner's interest in a unit in a cooperative is real estate, the following requirements apply:

(a) The association, upon nonpayment of assessments and compliance with this subsection, may sell that unit at a public sale or by private negotiation, and at any time and place. The association must give to the unit owner and any lessee of the unit owner reasonable notice in a record of the time, date, and place of any public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time and date after which a private conveyance may be made. Such notice must also be sent to any other person that has a recorded interest in the unit that would be cut off by the sale, but only if the recorded interest was on record seven weeks before the date specified in the notice as the date of any public sale or seven weeks before the date specified in the notice as the date after which a private sale may be made. The notices required under this subsection may be sent to any address reasonable in the circumstances. A sale may not be held until five weeks after the sending of the notice. The association may buy at any public sale and, if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.

(b) Unless otherwise agreed to or as stated in this section, the unit owner is liable for any deficiency in a foreclosure sale.

(c) The proceeds of a foreclosure sale must be applied in the following order:

- (i) The reasonable expenses of sale;
- (ii) The reasonable expenses of securing possession before sale; the reasonable expenses of holding, maintaining, and preparing the unit for sale, including payment of taxes and other

governmental charges and premiums on insurance; and, to the extent provided for by agreement between the association and the unit owner, reasonable attorneys' fees, costs, and other legal expenses incurred by the association;

(iii) Satisfaction of the association's lien;

(iv) Satisfaction in the order of priority of any subordinate claim of record; and

(v) Remittance of any excess to the unit owner.

(d) A good-faith purchaser for value acquires the unit free of the association's debt that gave rise to the lien under which the foreclosure sale occurred and any subordinate interest, even though the association or other person conducting the sale failed to comply with this section. The person conducting the sale must execute a conveyance to the purchaser sufficient to convey the unit and stating that it is executed by the person after a foreclosure of the association's lien by power of sale and that the person was empowered to make the sale. Signature and title or authority of the person signing the conveyance as grantor and a recital of the facts of nonpayment of the assessment and of the giving of the notices required under this subsection are sufficient proof of the facts recited and of the authority to sign. Further proof of authority is not required even though the association is named as grantee in the conveyance.

(e) At any time before the association has conveyed a unit in a cooperative or entered into a contract for its conveyance under the power of sale, the unit owners or the holder of any subordinate security interest may cure the unit owner's default and prevent sale or other conveyance by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorneys' fees and costs of the creditor.

(15) In an action by an association to collect assessments or to foreclose a lien on a unit under this section, the court may appoint a receiver to collect all sums alleged to be due and owing to a unit owner before commencement or during pendency of the action. The receivership is governed under chapter 7.60 RCW. During pendency of the action, the court may order the receiver to pay sums held by the receiver to the association for any assessments against the unit. The exercise of rights under this subsection by the association does not affect the priority of preexisting liens on the unit.

(16) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure is not liable for assessments or installments of assessments that became due prior to such right of possession. Such unpaid assessments are deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior unit owner of personal liability for assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(17) In addition to constituting a lien on the unit, each assessment is the joint and several obligation of the unit owner of the unit to which the same are assessed as of the time the assessment is due. A unit owner may not exempt himself or herself from liability for assessments. In a voluntary conveyance other than by foreclosure, the grantee of a unit is jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. Suit to recover a personal judgment for any delinquent assessment is maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(18) The association may from time to time establish



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reasonable late charges and a rate of interest to be charged, not to exceed the maximum rate calculated under RCW 19.52.020, on all subsequent delinquent assessments or installments of assessments. If the association does not establish such a rate, delinquent assessments bear interest from the date of delinquency at the maximum rate calculated under RCW 19.52.020 on the date on which the assessments became delinquent.

(19) The association is entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in a suit being commenced or prosecuted to judgment. The prevailing party is also entitled to recover costs and reasonable attorneys' fees in such suits, including any appeals, if it prevails on appeal and in the enforcement of a judgment.

(20) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(21)(a) When the association mails to the unit owner by first-class mail the first notice of delinquency for past due assessments to the unit address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS FROM THE UNIT OWNERS ASSOCIATION TO WHICH YOUR HOME BELONGS.**

**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. DO NOT DELAY.**

**BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.**

**REFER TO THE CONTACTS BELOW for sources of assistance.**

**SEEKING ASSISTANCE**

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission

Telephone: . . . . . Website: . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the unit owner, the association or the association's attorney shall mail the first preforeclosure notice to the unit owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (22)(b) of this section to mail a second preforeclosure notice at or after

the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(22) An association may not commence an action to foreclose a lien on a unit under this section unless:

(a) The unit owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) (\$200) \$2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (21)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the unit address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((shall state as follows:

**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**

**FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**

**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. DO NOT DELAY.**

**BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.**

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Telephone: . . . . . Website: . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the owner pursuant to subsection (21)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (21)(a) of this section is mailed;

(c) At least 90 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that unit.

((22)) (23) Every aspect of a collection, foreclosure, sale, or

other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

**Sec. 9.** 2021 c 222 s 9 (uncodified) is amended to read as follows:

Sections 1, 3, 5, and 7 of this act expire January 1, ((2024)) 2025.

**Sec. 10.** 2021 c 222 s 10 (uncodified) is amended to read as follows:

Sections 2, 4, 6, and 8 of this act take effect January 1, ((2024)) 2025.

NEW SECTION. **Sec. 11.** Sections 1, 3, 5, and 7 of this act expire January 1, 2025.

NEW SECTION. **Sec. 12.** Sections 2, 4, 6, and 8 of this act take effect January 1, 2025."

On page 1, line 2 of the title, after "communities;" strike the remainder of the title and insert "amending RCW 64.32.200, 64.32.200, 64.34.364, 64.34.364, 64.38.100, 64.38.100, 64.90.485, and 64.90.485; amending 2021 c 222 ss 9 and 10 (uncodified); providing an effective date; and providing an expiration date."

Senator Trudeau spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Law & Justice to Engrossed House Bill No. 1636.

The motion by Senator Trudeau carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Trudeau, the rules were suspended, Engrossed House Bill No. 1636 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Trudeau spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1636 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1636 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Rolfes

ENGROSSED HOUSE BILL NO. 1636, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1712, by Representatives Schmick and

Chapman

Protecting workers displaced due to finfish aquaculture facility closure.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1712 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Muzzall spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1712.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1712 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Rolfes

HOUSE BILL NO. 1712, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1086, by Representatives Shavers, Ryu, Ramel, Lekanoff, Callan, Simmons, Timmons, Thai, Paul, Santos, Ormsby and Tharinger

Increasing local governments' ability to contract with community service organizations.

The measure was read the second time.

#### MOTION

Senator Lovelett moved that the following committee striking amendment by the Committee on Local Government, Land Use & Tribal Affairs be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that office of financial management forecasts are showing state population growth of more than 2.2 million people by the year 2050. In the face of this dramatic growth, the legislature finds that it is more important than ever to help preserve, maintain, and enhance local parks, trails, and open spaces that are key contributors to the state's quality of life.

The legislature further finds that local parks and recreation agencies confronted with this growth are still dealing with severe budget impacts brought on by the COVID-19 pandemic and

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facing a pending economic slowdown, even as the utilization of parks, open spaces, and trails has spiked up dramatically.

The legislature finds that local parks agencies desperately need additional funding and tools to address the significant growth in use and to better empower nonprofit and service organizations to make a positive impact in their communities.

The legislature finds that community service organizations can help local agencies bring people together in a way that fosters an ethic of service, builds cohesion among residents, and provides more free and accessible outdoor recreation opportunities, particularly in underserved communities.

The legislature finds that increased use of volunteers, and agreements with community service organizations, can help smaller agencies stretch local dollars further and take on bigger projects than they otherwise would be able to.

The legislature finds that one way to incentivize these types of agreements with community service organizations is by modernizing the state laws around contracting with such organizations, which have not been updated since 1988.

The legislature further finds that years of inflation and growth should be taken into account in updating these state laws, which currently restrict many local agencies to a \$25,000 per year limit for all community service organization contracts.

Therefore, it is the intent of the legislature to modernize the state laws around contracting with community service organizations in a manner that accounts for three and a half decades of growth and inflationary costs, so that local parks agencies can operate with more reasonable and up-to-date limits that are in keeping with today's budget and cost realities. Doing so will provide local agencies one additional tool to address maintenance backlogs, preserve quality open spaces, and better serve communities experiencing inequities and lacking access to parks and recreation facilities and programs that support healthy living. The legislature therefore intends to increase the dollar limit from \$25,000 to \$75,000 for smaller agencies. It is the intent of the legislature that this limit apply annually to all contracts entered into by an agency under RCW 35.21.278 in any one year, and that this limit not be interpreted to apply on a per contract basis so as to allow any number of individual contracts of up to \$75,000.

It is the intent of the legislature that this authority be used to provide additional opportunities for public service organizations to meaningfully participate in the betterment of their community, rather than as a way for local agencies to advantage nonprofits over other businesses in public contracting.

**Sec. 2.** RCW 35.21.278 and 2019 c 352 s 7 are each amended to read as follows:

(1) Without regard to competitive bidding laws for public works, a county, city, town, school district, metropolitan park district, park and recreation district, port district, or park and recreation service area may contract with a chamber of commerce, a service organization, a community, youth, or athletic association, or other similar association located and providing service in the immediate neighborhood, for drawing design plans, making improvements to a park, school playground, public square, other public spaces, or port habitat site, installing equipment or artworks, or providing maintenance services for such a project, or for a facility or facilities as a community or neighborhood project, or for an environmental justice stewardship or sustainability project, and may reimburse the contracting association its expense. The contracting association may use volunteers to whom no wage or salary compensation is paid in the project and provide the volunteers with clothing or tools; meals or refreshments; accident/injury insurance coverage; and reimbursement of their expenses. The consideration to be

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received by the public entity through the value of the improvements, artworks, equipment, or maintenance shall have a value at least equal to ~~((three))~~ two times that of the payment to the contracting association. All payments made by a public entity under the authority of this section for all such contracts in any one year shall not exceed ~~((twenty five thousand dollars))~~ \$75,000 or two dollars per resident within the boundaries of the public entity, whichever is greater.

(2) A county, city, town, school district, metropolitan park district, park and recreation district, or park and recreation service area may ratify an agreement, which qualifies under subsection (1) of this section and was made before June 9, 1988.

(3) Without regard to competitive bidding laws for public works, a school district, institution of higher education, or other governmental entity that includes training programs for students may contract with a community service organization, nonprofit organization, or other similar entity, to build tiny houses for low-income housing, if the students participating in the building of the tiny houses are in:

- (a) Training in a community and technical college construction or construction management program;
- (b) A career and technical education program;
- (c) A state-recognized apprenticeship preparation program; or
- (d) Training under a construction career exploration program for high school students administered by a nonprofit organization."

On page 1, line 2 of the title, after "organizations;" strike the remainder of the title and insert "amending RCW 35.21.278; and creating a new section."

Senator Lovelett spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Local Government, Land Use & Tribal Affairs to Engrossed House Bill No. 1086.

The motion by Senator Lovelett carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Lovelett, the rules were suspended, Engrossed House Bill No. 1086 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Lovelett and Torres spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1086.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1086 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, Mullet, Muzzall, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Boehnke, MacEwen, McCune and

Padden

Excused: Senator Rolfes

ENGROSSED HOUSE BILL NO. 1086, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1533, by House Committee on State Government & Tribal Relations (originally sponsored by Mena, Davis, Reed, Doglio, Fosse, Berg, Taylor, Ryu, Peterson, Berry, Walen, Alvarado, Ramel, Simmons, Griffey, Morgan, Gregerson, Shavers, Ormsby, Pollet, Fey, Kloba, Bateman and Macri)

Exempting the disclosure of certain information of agency employees or their dependents who are survivors of domestic violence, sexual assault, harassment, or stalking.

The measure was read the second time.

## MOTION

Senator Hunt moved that the following committee striking amendment by the Committee on State Government & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 42.56.250 and 2020 c 106 s 1 are each amended to read as follows:

(1) The following employment and licensing information is exempt from public inspection and copying under this chapter:

((4)) (a) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;

((2)) (b) All applications for public employment other than for vacancies in elective office, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

((3)) (c) Professional growth plans (PGPs) in educator license renewals submitted through the eCert system in the office of the superintendent of public instruction;

((4)) (d) The following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, driver's license numbers, identocard numbers, payroll deductions including the amount and identification of the deduction, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency. For purposes of this subsection, "employees" includes independent provider home care workers as defined in RCW 74.39A.240;

((5)) (e) Information that identifies a person who, while an agency employee: ((a)) (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and ((b)) (ii)

requests his or her identity or any identifying information not be disclosed;

((6)) (f) Investigative records compiled by an employing agency in connection with an investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws or an employing agency's internal policies prohibiting discrimination or harassment in employment. Records are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name. The employing agency must inform a complainant, other accuser, or witness that his or her name will be redacted from the investigation records unless he or she consents to disclosure;

((7)) (g) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;

((8)) (h) Photographs and month and year of birth in the personnel files of employees or volunteers of a public agency, including employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have access to the photographs and full date of birth. For the purposes of this subsection, news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030;

((9)) (i) Any employee's name or other personally identifying information, including but not limited to birthdate, job title, addresses of work stations and locations, work email address, work phone number, bargaining unit, or other similar information, maintained by an agency in personnel-related records or systems, or responsive to a request for a list of individuals subject to the commercial purpose prohibition under RCW 42.56.070(8), if the employee has provided:

(A) A sworn statement, signed under penalty of perjury and verified by the director of the employing agency or director's designee, that the employee or a dependent of the employee is a survivor of domestic violence as defined in RCW 10.99.020 or 7.105.010, sexual assault as defined in RCW 70.125.030 or sexual abuse as defined in RCW 7.105.010, stalking as described in RCW 9A.46.110 or defined in RCW 7.105.010, or harassment as described in RCW 9A.46.020 or defined in RCW 7.105.010, and notifying the agency as to why the employee has a reasonable basis to believe that the risk of domestic violence, sexual assault, sexual abuse, stalking, or harassment continues to exist. A sworn statement under this subsection expires after two years, but may be subsequently renewed by providing a new sworn statement to the employee's employing agency; or

(B) Provides proof to the employing agency of the employee's participation or the participation of a dependent in the address confidentiality program under chapter 40.24 RCW.

(ii) Any documentation maintained by an agency to administer this subsection (1)(i) is exempt from disclosure under this chapter and is confidential and may not be disclosed without consent of the employee who submitted the documentation. Agencies may provide information to their employees on how to submit a request to anonymize their work email address.

(iii) The following definitions apply to this subsection (1)(i):

(A) "Employee" means a state agency employee or an employee of a public school serving any of grades kindergarten through 12.

(B) "Agency" means a state agency or a public school serving any of grades kindergarten through 12.

(C) "Verified" means that the director of the employing agency or director's designee confirmed that the sworn statement

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identifies the alleged perpetrator or perpetrators by name and, if possible, image or likeness, or that the director or designee obtained from the employee a police report, protection order petition, or other documentation of allegations related to the domestic violence, sexual assault or abuse, stalking, or harassment.

(iv) The exemption in this subsection (1)(i) does not apply to public records requests from the news media as defined in RCW 5.68.010(5):

(j) The global positioning system data that would indicate the location of the residence of a public employee or volunteer using the global positioning system recording device;

~~((4))~~ (k) Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots; and

~~((4))~~ (l) Voluntarily submitted information collected and maintained by a state agency or higher education institution that identifies an individual state employee's personal demographic details. "Personal demographic details" means race or ethnicity, sexual orientation as defined by RCW 49.60.040(~~((26))~~) (27), immigration status, national origin, or status as a person with a disability. This exemption does not prevent the release of state employee demographic information in a deidentified or aggregate format.

~~((2))~~ (2) Upon receipt of a request for information located exclusively in an employee's personnel, payroll, supervisor, or training file, the agency must provide notice to the employee, to any union representing the employee, and to the requestor. The notice must state:

- (a) The date of the request;
- (b) The nature of the requested record relating to the employee;
- (c) That the agency will release any information in the record which is not exempt from the disclosure requirements of this chapter at least ten days from the date the notice is made; and
- (d) That the employee may seek to enjoin release of the records under RCW 42.56.540.

NEW SECTION. Sec. 2. (1) By May 1, 2025, the joint legislative audit and review committee must analyze the impacts of section 1 of this act and must submit a report summarizing its analysis to the legislature. In preparing the report, the joint legislative audit and review committee must consult survivors with direct lived experience of domestic violence, sexual assault or abuse, stalking, or harassment. The report must include, at a minimum:

- (a) Whether the exemption created in section 1 of this act, and exceptions to the exemption, effectively protects public employees and dependents who are survivors of domestic violence, sexual assault or abuse, stalking, or harassment by protecting their personal information while maintaining public transparency and oversight of governmental operations; and
- (b) Whether the exemption created in section 1 of this act, and exceptions to the exemption, should be maintained or modified to ensure the protection of public employees and dependents who are survivors of domestic violence, sexual assault or abuse, stalking, or harassment by protecting their personal information while maintaining public transparency and oversight of governmental operations.

(2) 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 immediately."

On page 1, line 3 of the title, after "stalking;" strike the remainder of the title and insert "amending RCW 42.56.250;

creating a new section; providing an expiration date; and declaring an emergency."

MOTION

Senator Trudeau moved that the following floor amendment no. 0306 by Senator Trudeau be adopted:

On page 3, beginning on line 22, after "(iii)" strike all material through "Verified" on line 27, and insert "For purposes of this subsection (1)(i), "verified""

Senators Trudeau and Wilson, J. spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0306 by Senator Trudeau on page 3, line 22 to the committee striking amendment.

The motion by Senator Trudeau carried and floor amendment no. 0306 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on State Government & Elections as amended to Engrossed Substitute House Bill No. 1533.

The motion by Senator Hunt carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

On motion of Senator Hunt, the rules were suspended, Engrossed Substitute House Bill No. 1533 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hunt and Wilson, J. spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1533 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1533 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Rolfes

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1533, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1187, by House Committee on Civil Rights & Judiciary (originally

sponsored by Hackney, Berry, Bateman, Ramel, Doglio, Simmons, Lekanoff, Bronoske, Wylie, Stonier, Pollet and Ormsby)

Concerning privileged communication between employees and the unions that represent them.

The measure was read the second time.

#### MOTION

Senator Padden moved that the following floor amendment no. 0328 by Senator Padden be adopted:

On page 7, beginning on line 13, after "action, the" strike all material through "member" on line 18 and insert "privilege is deemed waived if the employee identifies the union representative as a witness. Such a waiver shall not be construed to waive privilege on behalf of other nonparty employees represented by the union without those employees' consent, and a court may review such issues in camera to determine the treatment of such communications"

Senator Padden spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0328 by Senator Padden on page 7, line 13 to Engrossed Substitute House Bill No. 1187.

The motion by Senator Padden did not carry and floor amendment no. 0328 was not adopted by voice vote.

#### MOTION

Senator Short moved that the following floor amendment no. 0327 by Senator Short be adopted:

On page 7, line 28, after "(c)" insert "The privilege created in this subsection (11) may not interfere with an employee's or union representative's applicable statutory mandatory reporting requirements, including but not limited to duties to report in chapters 26.44, 43.101, and 74.34 RCW.

(d)"

Correct any internal references accordingly.

Senators Short and Dhingra spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0327 by Senator Short on page 7, line 28 to Engrossed Substitute House Bill No. 1187.

The motion by Senator Short carried and floor amendment no. 0327 was adopted by voice vote.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Trudeau and without objection, floor amendment no. 0329 by Senator Trudeau on page 7, line 28 to Engrossed Substitute House Bill No. 1187 was withdrawn.

#### MOTION

On motion of Senator Dhingra, the rules were suspended, Engrossed Substitute House Bill No. 1187 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dhingra and Holy spoke in favor of passage of the bill.

Senator Padden spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1187.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1187 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Boehnke, Cleveland, Conway, Dhingra, Frame, Hasegawa, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, Mullet, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Van De Wege, Wellman, Wilson, C. and Wilson, J.

Voting nay: Senators Braun, Dozier, Fortunato, Gildon, Hawkins, McCune, Muzzall, Padden, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, L.

Excused: Senator Rolfes

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1187, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1730, by Representatives Waters, Stonier, Klicker, Low, Couture, Chambers, Ybarra, Barnard, Schmidt, Street, McClintock, Walen, Hutchins, Caldier and Cheney

Allowing people 18 years of age or older to work in certain 21 year and older establishments.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1730 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1730.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1730 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Torres, Trudeau, Valdez, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Liias, Lovelett, Stanford and Van De Wege

Excused: Senator Rolfes

HOUSE BILL NO. 1730, having received the constitutional majority, was declared passed. There being no objection, the title

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of the bill was ordered to stand as the title of the act.

The measure was read the second time.

MOTION

MOTION

At 10:19 a.m., on motion of Senator Pedersen, the Senate was declared to be at ease subject to the call of the President.

Senator Warnick announced a meeting of the Republican Caucus.

Senator Boehnke moved that the following committee striking amendment by the Committee on Environment, Energy & Technology be not adopted:

----

Strike everything after the enacting clause and insert the following:

The Senate was called to order at 11:01 a.m. by President Heck.

"NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1658, by House Committee on Education (originally sponsored by Shavers, Santos, Morgan, Ramel, Taylor and Ormsby)

Authorizing public high school students to earn elective credit for paid work experience.

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

(2) "Hub height" means the distance from the ground to the middle of a wind turbine's rotor.

The measure was read the second time.

(3) "Light-mitigating technology system" means aircraft detection lighting or any other comparable system capable of reducing the impact of facility obstruction lighting while maintaining conspicuity sufficient to assist aircraft in identifying and avoiding collision with a utility-scale wind energy facility.

MOTION

On motion of Senator Pedersen, the rules were suspended, Substitute House Bill No. 1658 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wellman and Hawkins spoke in favor of passage of the bill.

(4) "Power offtake agreement" means a long-term contract that provides for the provision of the whole or any part of the available capacity or the sale or other disposal of the whole or any part of the output of a utility-scale wind energy facility.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1658.

(5) "Repowering" means a rebuild or refurbishment of a turbine or facility that is required due to the turbine or facility reaching the end of its useful life or useful reasonable economic life. The rebuild or refurbishment does not constitute repowering if it is part of routine major maintenance or the maintenance of or replacement of equipment that does not materially affect the expected physical or economical life of the turbine or facility.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1658 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, McCune, Muzzall, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

(6) "Utility-scale wind energy facility" means a facility used in the generation of electricity by means of turbines or other devices that capture and employ the kinetic energy of the wind and:

Voting nay: Senators Boehnke, MacEwen, Mullet, Padden and Stanford

(a) Is required under federal aviation administration regulations, guidelines, circulars, or standards, as they existed as of January 1, 2023, to have obstruction lights; or

SUBSTITUTE HOUSE BILL NO. 1658, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

(b) Has at least one obstruction light and at least one wind turbine with a hub height of at least 75 feet above ground level.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1173, by House Committee on Environment & Energy (originally sponsored by Connors, Klicker and Rude)

Reducing light pollution associated with certain energy infrastructure.

NEW SECTION. Sec. 2. (1) On and after July 1, 2023, no new utility-scale wind energy facility shall commence operations unless the developer, owner, or operator of the facility applies to the federal aviation administration for installation of a light-mitigating technology system that complies with federal aviation administration regulations, 14 C.F.R. § 1.1 et seq. If approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility shall install the light-mitigating technology system on approved turbines within 24 months after receipt of such approval.

(2) On and after January 1, 2025, or upon the completion of repowering, whichever is earlier, any developer, owner, or operator of a utility-scale wind energy facility that has commenced operations without a light-mitigating technology system shall apply to the federal aviation administration for installation and operation of a light-mitigating technology system that complies with federal aviation administration regulations, 14 C.F.R. § 1.1 et seq., within six months after the execution of a new power offtake agreement related to such utility-scale wind energy facility. If approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility shall install the light-mitigating technology system on approved turbines within 24 months following such approval.

(3) Prior to construction, operation, or repowering of any utility scale wind energy facility, the board of county commissioners of

any county in which construction is proposed may determine the type of light-mitigating technology system that shall be used on such wind energy facility. The developer shall submit an application to the board on a form and in the manner specified by the board proposing the light-mitigating technology system that such developer will install and maintain upon such wind energy facility. The board shall have the authority to approve the proposed light-mitigating technology system or to require the installation of another light-mitigating technology system to serve the public interest.

**NEW SECTION. Sec. 3.** (1) A violation of the requirements of this chapter is punishable by a civil penalty of up to \$5,000 per day per violation. Penalties are appealable to the pollution control hearings board.

(2)(a) The department may enforce the requirements of this chapter.

(b) Enforcement of this chapter by the department must rely on notification and information exchange between the department and utility-scale wind energy facility owners or operators. The department must prepare and distribute information regarding this chapter to utility-scale wind energy facility owners and operators to help facility owners and operators in their advance planning to meet the deadlines.

(c)(i) If the department obtains information that a facility is not in compliance with the requirements of this chapter, the department may issue a notification letter by certified mail to the facility owner or operator and offer information or other appropriate assistance regarding compliance with this chapter. If compliance is not achieved within 60 days of the issuance of a notification letter under this subsection, the department may assess penalties under this section.

(ii) The department may delay any combination of the issuance of a notification letter under this subsection (2)(c), the 60-day period in which compliance with the requirements of this chapter must be achieved, or the imposition of penalties for good cause shown due to:

(A) Supply chain constraints, including lack of light-mitigating technology system availability;

(B) Lack of contractor availability;

(C) Lighting system permitting delays; or

(D) Technological feasibility considerations.

**Sec. 4.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 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, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 3 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, 70A.245.020, 70A.65.200, 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 RCW 70A.245.020 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.

(o) Orders by the department of ecology under RCW 70A.455.080.

(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.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.21C RCW to read as follows:

(1) Actions to mitigate light pollution at a utility-scale wind energy facility as required under section 2 of this act, are



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categorically exempt from the requirements of this chapter.

(2) For the purposes of this section, "utility-scale wind energy facility" has the same meaning as defined in section 1 of this act.

**NEW SECTION. Sec. 6.** Sections 1 through 3 of this act constitute a new chapter in Title 70A 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."

On page 1, line 2 of the title, after "infrastructure;" strike the remainder of the title and insert "amending RCW 43.21B.110; adding a new section to chapter 43.21C RCW; adding a new chapter to Title 70A RCW; prescribing penalties; and declaring an emergency."

Senators Boehnke and Nguyen spoke in favor of the motion to not adopt the committee striking amendment.

The President declared the question before the Senate to be to not adopt the committee striking amendment by the Committee on Environment, Energy & Technology to Engrossed Substitute House Bill No. 1173.

The motion by Senator Boehnke carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Boehnke moved that the following striking floor amendment no. 0324 by Senator Boehnke be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aircraft detection lighting system" means a sensor-based system that:

- (a) Is designed to detect approaching aircraft;
- (b) Automatically activates appropriate obstruction lights until the lights are no longer needed by the aircraft; and

(c) The federal aviation administration has approved as meeting the requirements set forth in chapter 10 of the federal aviation administration's 2020 advisory circular AC 70/7460-1M, "Obstruction marking and lighting."

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

(3) "Hub height" means the distance from the ground to the middle of a wind turbine's rotor.

(4) "Light-mitigating technology system" means aircraft detection lighting or another federal aviation administration-approved system capable of reducing the impact of aviation obstruction lighting while maintaining conspicuity sufficient to assist aircraft in identifying and avoiding collision with a utility-scale wind energy facility.

(5) "Repowering" means a rebuild or refurbishment of a turbine or facility that is required due to the turbine or facility reaching the end of its useful life or useful reasonable economic life. The rebuild or refurbishment does not constitute repowering if it is part of routine major maintenance or the maintenance of or replacement of equipment that does not materially affect the expected physical or economical life of the turbine or facility.

(6) "Utility-scale wind energy facility" means a facility used in the generation of electricity by means of turbines or other devices

that capture and employ the kinetic energy of the wind and:

(a) Is required under federal aviation administration regulations, guidelines, circulars, or standards, as they existed as of January 1, 2023, to have obstruction lights; or

(b) Has at least one obstruction light and at least one wind turbine with a hub height of at least 75 feet above ground level.

**NEW SECTION. Sec. 2.** (1) Except as provided in section 3 of this act, beginning July 1, 2023, no new utility-scale wind energy facility shall commence operations unless the developer, owner, or operator of the facility applies to the federal aviation administration for installation of a light-mitigating technology system that complies with federal aviation administration regulations, as they existed as of the effective date of this section. If approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility shall install the light-mitigating technology system on approved turbines within 24 months after receipt of such approval. If not approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility is not subject to this chapter.

(2) Except as provided in section 3 of this act, beginning January 1, 2028, or upon the completion of repowering, whichever is earlier, any developer, owner, or operator of a utility-scale wind energy facility that has commenced operations without an aircraft detection lighting system shall apply to the federal aviation administration for installation and operation of a light-mitigating technology system that achieves comparable light mitigation outcomes to an aircraft detection lighting system and that complies with federal aviation administration regulations, as they existed as of the effective date of this section. If approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility shall install the light-mitigating technology system on approved turbines within 24 months following such approval. If not approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility is not subject to this chapter.

(3) A developer, owner, or operator of a utility-scale wind energy facility shall comply with any wind energy ordinance adopted by a legislative authority of a county pursuant to section 3 of this act.

(4) Nothing in this section requires mitigation of light pollution to be carried out in a manner that conflicts with federal requirements, including requirements of the federal aviation administration or the United States department of defense.

**NEW SECTION. Sec. 3.** A new section is added to chapter 36.01 RCW to read as follows:

(1) A legislative authority of any county may adopt a wind energy ordinance that includes specifications for aviation obstruction light-mitigating technology systems only when there is more than one technology approved by the federal aviation administration. In adopting an ordinance under this section, the county legislative authority shall consider whether affected wind energy facilities have caused, or will cause, light impacts requiring mitigation. Additional practicability criteria related to the selection of light-mitigating technology systems may include the costs associated with the installation of such a system, the economic impact to a developer, owner, or operator of the installation of such a system, conditions under which light mitigation is required, and the type of system that best serves the public interest of the county. Nothing in this section authorizes a county to deny a permit application for a wind energy facility where the use of a light-mitigating technology system is not allowed by the federal aviation administration, United States department of defense, or if it is determined by the county to be

impracticable.

(2) The definitions in section 1 of this act apply throughout this section unless the context clearly requires otherwise.

**NEW SECTION. Sec. 4.** (1) A violation of the requirements of this chapter is punishable by a civil penalty of up to \$5,000 per day per violation. Penalties are appealable to the pollution control hearings board.

(2)(a) The department may enforce the requirements of this chapter.

(b) Enforcement of this chapter by the department must rely on notification and information exchange between the department and utility-scale wind energy facility owners or operators. The department must prepare and distribute information regarding this chapter to utility-scale wind energy facility owners and operators to help facility owners and operators in their advance planning to meet the deadlines.

(c)(i) If the department obtains information that a facility is not in compliance with the requirements of this chapter, the department may issue a notification letter by certified mail to the facility owner or operator and offer information or other appropriate assistance regarding compliance with this chapter. If compliance is not achieved within 60 days of the issuance of a notification letter under this subsection, the department may assess penalties under this section.

(ii) The department may delay any combination of the issuance of a notification letter under this subsection (2)(c), the 60-day period in which compliance with the requirements of this chapter must be achieved, or the imposition of penalties for good cause shown due to:

(A) Supply chain constraints, including lack of light-mitigating technology system availability;

(B) Lack of contractor availability;

(C) Lighting system permitting delays; or

(D) Technological feasibility considerations.

(3) A utility-scale wind energy facility owner or operator of a facility that has commenced operations prior to January 1, 2023, that applies for the approval of a light-mitigating technology system to the federal aviation administration prior to January 1, 2027, but that has not received a determination to approve the system by the federal aviation administration as of July 1, 2027, may not be assessed a penalty under this chapter until at least 24 months after the federal aviation administration issues its determination on the application of the utility-scale wind energy facility's proposed light-mitigating technology system.

(4) The department may adopt by rule a light mitigation standard that references a more recent version of any federal requirements referenced in section 2 of this act in order to maintain consistency between this chapter and federal aviation administration requirements.

**Sec. 5.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 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, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 4 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, 70A.245.020, 70A.65.200, 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 RCW 70A.245.020 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.

(o) Orders by the department of ecology under RCW 70A.455.080.

(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

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repeal rules.

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

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.21C RCW to read as follows:

(1) Actions to mitigate light pollution at a utility-scale wind energy facility as required under section 2 of this act, are categorically exempt from the requirements of this chapter.

(2) For the purposes of this section, "utility-scale wind energy facility" has the same meaning as defined in section 1 of this act.

**NEW SECTION. Sec. 7.** Sections 1, 2, and 4 of this act constitute a new chapter in Title 70A RCW.

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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

On page 1, line 2 of the title, after "infrastructure;" strike the remainder of the title and insert "amending RCW 43.21B.110; adding a new section to chapter 36.01 RCW; adding a new section to chapter 43.21C RCW; adding a new chapter to Title 70A RCW; prescribing penalties; and declaring an emergency."

#### MOTION

Senator Nguyen moved that the following floor amendment no. 0332 by Senator Nguyen be adopted:

On page 2, line 8, after "facility" insert "with five or more turbines"

On page 2, line 23, after "facility" insert "with five or more turbines"

On page 3, beginning on line 9, after "systems" strike all material through "administration" on line 10

On page 3, at the beginning of line 14, strike "practicability"

Senators Nguyen and Boehnke spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0332 by Senator Nguyen on page 2, line 8 to striking floor amendment no. 0324.

The motion by Senator Nguyen carried and floor amendment no. 0324 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 0324 by Senator Boehnke to Engrossed Substitute House Bill No. 1173.

The motion by Senator Boehnke carried and striking floor amendment no. 0324 was adopted by voice vote.

#### MOTION

On motion of Senator Boehnke, the rules were suspended, Engrossed Substitute House Bill No. 1173 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Boehnke, Nguyen and Gildon spoke in favor of passage of the bill.

#### REMARKS BY THE PRESIDENT

President Heck: "Senator Boehnke, with all due respect, a reminder to you and others who have made this particular allusion, referencing the other chamber in such a fashion is a violation of your rules."

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1173.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1173 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senator Liias

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1173, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1474, by House Committee on Appropriations (originally sponsored by Taylor, Chopp, Berg, Peterson, Reed, Stonier, Gregerson, Bronoske, Cortes, Mena, Street, Ramel, Fosse, Fey, Goodman, Duerr, Bateman, Morgan, Alvarado, Macri, Senn, Berry, Kloba, Hackney, Springer, Slatter, Callan, Orwall, Farivar, Simmons, Ortiz-Self, Thai, Ryu, Stearns, Wylie, Ramos, Doglio, Riccelli, Chapman, Santos, Davis, Ormsby, Bergquist and Pollet)

Creating the covenant homeownership account and program to address the history of housing discrimination due to racially restrictive real estate covenants in Washington state.

The measure was read the second time.

#### MOTION

Senator Lovick moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

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

(a) Generations of systemic, racist, and discriminatory policies and practices have created barriers to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington state. The legislature finds that these policies and practices include redlining, racially restrictive covenants, mortgage subsidies and incentives, and displacement and gentrification.

(b) The state government was both an active and passive participant in this discrimination. For example, the legislature recognizes the role of state courts in facilitating discrimination by property owners; the existence of mandatory recording statutes that required county auditors to record racially restrictive covenants; the passage of the urban renewal law authorizing the

designation, regulation, and displacement of certain neighborhoods that were deemed to be blighted; and state funding and regulation of the real estate and banking industries in ways that facilitated or promoted private discrimination. The legislature finds that the specific discriminatory acts and omissions are well documented, including in numerous public and private studies, reports, and other publications.

(c) This discrimination and its impacts continue to exist in the present day. The legislature recognizes that the homeownership rate for black, indigenous, and people of color and other historically marginalized communities in Washington is 19 percent below that of non-Hispanic white households, and the homeownership rate for black households is even lower. The legislature recognizes that credit, including home mortgages, is harder and more expensive to obtain for black, indigenous, and people of color and other historically marginalized communities in Washington than for non-Hispanic white households. The legislature finds that the imbalance in supply and demand in Washington's housing market has only exacerbated these inequities.

(d) These negative impacts extend beyond homeownership and affect wealth generation, housing security, and other outcomes for black, indigenous, and people of color and other historically marginalized communities in Washington. The legislature finds that these impacts include higher rates of homelessness, rent burdening, substandard or otherwise unhealthy or unsafe housing, and predatory and discriminatory lending practices that lead to further displacement and gentrification.

(e) Existing state and federal programs and other race-neutral approaches are insufficient to remedy that discrimination and its impacts on access to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington. The legislature finds that race-conscious programs, such as the special purpose credit programs authorized by section 6 of this act, are necessary to remedy the past discrimination in which the state was complicit and to remove the structural barriers that persist.

(2) The legislature declares that the state has a compelling interest in remedying past and ongoing discrimination and its impacts on access to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.22 RCW to read as follows:

(1) Beginning January 1, 2024, except as provided in subsection (2) of this section, the county auditor must collect a covenant homeownership program assessment of \$50 for each document recorded, which is in addition to any other charge, surcharge, or assessment allowed by law. The county auditor may retain up to one percent of the moneys for collection of the assessment and must remit the remainder of the moneys to the state treasurer to be deposited in the covenant homeownership account created in section 4 of this act.

(2) The assessment imposed in this section does not apply to: (a) Assignments or substitutions of previously recorded deeds of trust; (b) documents recording a birth, marriage, divorce, or death; (c) any recorded documents otherwise exempted from a recording fee or additional assessments under state law; (d) marriage licenses issued by the county auditor; (e) documents recording a name change order under RCW 4.24.130; or (f) documents recording a federal, state, county, city, or water-sewer district, or wage lien or satisfaction of lien.

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

(1) "Department" means the department of commerce, except

as otherwise indicated in section 7 of act.

(2) "Commission" means the Washington state housing finance commission.

(3) "Covenant homeownership program study" means an evidence-based written report prepared by or on behalf of the commission as required in section 5 of this act.

(4) "First-time home buyer" means:

(a) An individual or the individual's spouse who has had no ownership in a principal residence during the three-year period ending on the date of purchase of the property;

(b) A single parent who has only owned a home with a former spouse while married;

(c) An individual who is a displaced homemaker as defined in 24 C.F.R. Sec. 93.2 as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and has only owned a home with a spouse;

(d) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; or

(e) An individual who has only owned a property that is determined by a licensed building inspector as being uninhabitable.

(5) "Oversight committee" means the covenant homeownership program oversight committee established in section 7 of this act.

(6) "Program" means the covenant homeownership program described in section 6 of this act.

(7) "Program participant" means a person who receives down payment and closing cost assistance through a special purpose credit program created by the commission for purposes of the covenant homeownership program.

(8) "Racially restrictive real estate covenant" means a recorded covenant or deed restriction that includes or included racial restrictions on property ownership or use against protected classes that are unlawful under RCW 49.60.224. For example, these unlawful restrictions commonly included exclusions against black, indigenous, and people of color and other historically marginalized communities in Washington state, using terms, many of which are offensive, such as "African blood" meaning all sub-Saharan African ancestries; "Aryan" meaning not Jewish, not eastern or southern European, nor any ancestry except northern European; "Asiatic" meaning all Asian ancestries; Chinese; "colored person" meaning all sub-Saharan African ancestries; "colored races" meaning all nonwhite races; "Ethiopian" meaning all sub-Saharan African ancestries; "gentile" meaning non-Jewish; Hawaiian; "Hebrew" meaning Jewish; "Hindu" meaning all South Asian ancestries; "Indian" meaning Native Americans and also possibly South Asian ancestries; Japanese; "Malay" meaning Filipino; "Mongolian" meaning all East Asian ancestries; "Negro blood" meaning all sub-Saharan African ancestries; "oriental" meaning all Asian ancestries; "Turkish empire" meaning all middle easterners; and "yellow races" meaning all Asian ancestries.

(9) "Special purpose credit program" means a credit assistance program created by the commission as authorized by the federal consumer financial protection bureau under regulation B, 12 C.F.R. 1002.8(a)(1), pursuant to Title VII of the consumer credit protection act (the equal credit opportunity act, 15 U.S.C. Sec. 1691 et seq.) as amended, allowing a creditor to extend special purpose credit to applicants who meet eligibility requirements under a credit assistance program expressly authorized by state law for the benefit of an economically disadvantaged class of persons.

**NEW SECTION. Sec. 4.** The covenant homeownership account is created in the state treasury. All receipts from the

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assessment established in section 2 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be made only for the purposes of the program described in section 6 of this act. The legislature may appropriate moneys in the account as follows:

(1) The legislature may appropriate up to one percent of moneys in the account to the department for costs related to the program described in section 6 of this act including, but not limited to, costs related to administering one or more contracts with the commission for purposes of the program, costs related to outreach and stakeholder engagement, costs related to reimbursing the department of financial institutions for its costs related to the oversight committee created in section 7 of this act, and other administrative, data collection, and reporting costs; and

(2) The legislature may appropriate the remainder of the moneys in the account to the department to contract with the commission for the purposes of the program described in section 6 of this act.

**NEW SECTION. Sec. 5.** (1)(a) The commission shall complete, or cause to be completed, an initial covenant homeownership program study. The initial covenant homeownership program study must:

(i) Document past and ongoing discrimination against black, indigenous, and people of color and other historically marginalized communities in Washington state and the impacts of this discrimination on homeownership in the state, including access to credit and other barriers to homeownership in the state;

(ii) Analyze whether and to what extent existing programs and race-neutral approaches have been insufficient to remedy this discrimination and its impacts;

(iii)(A) Recommend and evaluate potential programmatic and policy changes, including creation of one or more special purpose credit programs, to remedy this discrimination and its impacts;

(B) As part of the recommendations related to creation of one or more special purpose credit programs, identify through evidence-based documentation the economically disadvantaged class or classes of persons that require down payment and closing cost assistance in order to reduce racial disparities in homeownership in the state. The class or classes of persons identified in the study may share one or more common characteristics such as, race, national origin, or sex; and

(iv) Identify methodology to evaluate the efficacy of any recommended programmatic and policy changes over time.

(b) By March 1, 2024, and in compliance with RCW 43.01.036, the commission shall submit a copy of the initial covenant homeownership program study to the appropriate committees of the legislature and post a copy of the study to the commission's website.

(2)(a) At least every five years after the initial covenant homeownership program study is completed, the commission shall complete, or cause to be completed, an updated covenant homeownership program study. The updated covenant homeownership program study must:

(i) Update and reevaluate the findings and recommendations contained in the initial covenant homeownership program study and any subsequent program studies;

(ii) Document the experience of program participants and others impacted by past and ongoing discrimination, including their experience accessing or attempting to access credit and any barriers to homeownership in the state that they have faced or continue to face;

(iii) Evaluate the special purpose credit program or programs' efficacy in providing down payment and closing cost assistance to the economically disadvantaged class or classes of persons

identified in the initial covenant homeownership program study and any subsequent program studies, and the special purpose credit program or programs' impacts on remedying discrimination and reducing racial disparities in homeownership in the state; and

(iv) Recommend program modifications and improvements.

(b) By December 31, 2028, and by December 31st every five years thereafter, and in compliance with RCW 43.01.036, the commission shall submit a copy of an updated covenant homeownership program study to the appropriate committees of the legislature and post a copy of the study to the commission's website.

(c) The board of the commission shall review each subsequent covenant homeownership program study and consider the evidence-based documentation and recommendations in designing and implementing program amendments.

**NEW SECTION. Sec. 6.** (1) As part of the covenant homeownership program, the department shall contract with the commission to design, develop, implement, and evaluate one or more special purpose credit programs to reduce racial disparities in homeownership in the state by providing down payment and closing cost assistance. The contract must authorize the commission to use the contract funding as follows:

(a) The contract must authorize the commission to use up to one percent of the contract funding for costs related to administering the program including, but not limited to, costs related to completing a covenant homeownership program study required under section 5 of this act, and other administrative, data collection, and reporting costs;

(b) The contract must authorize the commission to use up to one percent of the contract funding to provide targeted education, homeownership counseling, and outreach about special purpose credit programs created under this section to black, indigenous, and people of color and other historically marginalized communities in Washington state, including outreach to relevant affinity groups for mortgage lenders; and

(c) The contract must authorize the commission to use the remainder of the contract funding to provide down payment and closing cost assistance to program participants. This portion of the contract funding may not be used to provide any type of assistance other than down payment and closing cost assistance.

(2) The commission shall create one or more special purpose credit programs to provide down payment and closing cost assistance for the benefit of one or more economically disadvantaged classes of persons identified in a covenant homeownership program study under section 5 of this act. In creating a special purpose credit program, the commission must consider the evidence-based documentation and programmatic and policy recommendations set forth in the initial covenant homeownership program study and any subsequent program studies. If the covenant homeownership program study identifies an economically disadvantaged class or classes of persons that share one or more common characteristics such as, race, national origin, or sex and the board of the commission finds it necessary to consider this information in tailoring a special purpose credit program to provide credit assistance to economically disadvantaged classes of persons, the commission may consider these characteristics in designing and implementing the program.

(3) At minimum, a special purpose credit program authorized under this section must:

(a) Provide loans for down payment and closing cost assistance to program participants that can be combined with other forms of down payment and closing cost assistance;

(b) Require a program participant to repay loans for down payment and closing cost assistance at the time that the house is sold; and

(c) Be implemented in conjunction with the commission's housing finance programs.

(4) To be eligible to receive down payment and closing cost assistance through a special purpose credit program authorized under this section, a special purpose credit program applicant must:

(a) Have a household income at or below 100 percent of the area median income;

(b) Be a first-time home buyer; and

(c)(i) Be a Washington state resident who:

(A) Was a Washington state resident on or before the enactment of the federal fair housing act (Title VIII of the civil rights act of 1968; P.L. 90-284; 82 Stat. 73) on April 11, 1968, and was or would have been excluded from homeownership in Washington state by a racially restrictive real estate covenant on or before April 11, 1968; or

(B) Is a descendant of a person who meets the criteria in (c)(i)(A) of this subsection;

(ii) Records that show a person's address on or about a specific date or include a reference indicating that a person is a resident of a specific city or area on or about a specific date may be used to provide proof that a person satisfies the criteria in (c)(i) of this subsection, such as genealogical records, vital records, church records, military records, probate records, public records, census data, newspaper clippings, and other similar documents.

(5) The commission may adopt rules, and shall adopt program policies, as necessary to implement this section. Program rules or policies must include procedures and standards for extending credit under the special purpose credit program, including program eligibility requirements. From time to time, including in response to a covenant homeownership program study's evaluation of program efficacy, the board of the commission may amend the special purpose credit programs, rules, and policies.

(6) By July 1, 2024, one or more of the special purpose credit programs must begin providing down payment and closing cost assistance to program participants.

(7) By December 31, 2025, and by each following December 31st, and in compliance with RCW 43.01.036, the commission shall submit an annual report to the appropriate committees of the legislature on the progress of the special purpose credit program or programs developed under this section. The report shall include, at minimum, the program eligibility requirements, the type and amount of down payment and closing cost assistance provided to program participants, the number of program participants and their corresponding eligibility categories, the location of property financed, and program outreach efforts. The report must be posted on the commission's website.

**NEW SECTION. Sec. 7.** (1) The department of financial institutions shall establish the covenant homeownership program oversight committee consisting of the following members appointed by the governor, except for the legislative members who must be appointed by the president of the senate or the speaker of the house of representatives as described in this section:

(a) One person who meets the eligibility criteria for the special purpose credit program described in section 6(4) of this act and is from east of the crest of the Cascade mountains;

(b) One person who meets the eligibility criteria for the special purpose credit program described in section 6(4) of this act and is from west of the crest of the Cascade mountains;

(c) One representative of an organization that operates a special purpose credit program, counseling service, or debt relief program that serves persons who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants as defined in section 3 of this act;

(d) One representative of a community-based organization that

specializes in the development of permanently affordable housing that serves persons who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants;

(e) One representative of the real estate sales profession;

(f) One representative of the home mortgage lending profession who has a minimum of five years' lending or underwriting experience;

(g) One representative of the nonprofit affordable housing development industry;

(h) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and

(i) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives.

(2)(a) Nonlegislative members shall each serve a three-year term, subject to renewal for no more than one additional three-year term. The oversight committee shall develop rules that provide for the staggering of terms so that, after the first two years of the committee's existence, the terms of one-third of the nonlegislative members expire each year.

(b) Legislative members shall each serve a two-year term, subject to renewal for no more than one additional two-year term.

(c) On the expiration of the term of each member, the governor, president of the senate, or the speaker of the house of representatives, as authorized under subsection (1) of this section, shall appoint a successor to serve for a term of two years if the successor is a legislative member, or three years if the successor is a nonlegislative member.

(d) The governor may remove a nonlegislative member of the oversight committee for cause. The president of the senate may remove a senator serving as a legislative member of the oversight committee for cause, and the speaker of the house of representatives may remove a member of the house of representatives serving as a legislative member of the oversight committee for cause.

(e) Vacancies on the oversight committee for any reason must be filled by appointment as authorized under subsection (1) of this section for the duration of the unexpired term.

(3) The oversight committee:

(a) Shall oversee and review the commission's activities and performance related to the program, including the commission's creation and administration of one or more special purpose credit programs authorized in section 6 of this act;

(b) Shall work with the department of financial institutions to convene meetings, create a charter and operating procedures, and to coordinate the oversight committee's ongoing activities;

(c) Shall convene the initial meeting of the oversight committee and select a chair by October 1, 2023;

(d) Shall work with the department of financial institutions to convene a meeting at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the committee;

(e) May conduct its meetings by conference telephone call, videoconference, or using similar technology that enables all persons participating in the meeting to hear each other at the same time; and

(f) May, from time to time, make recommendations to the appropriate committees of the legislature regarding the program.

(4)(a) The oversight committee is a class one group under RCW 43.03.220. Except as provided in (b) of this subsection, members of the committee receive no compensation for their services as members of the committee but may be reimbursed for travel and other expenses in accordance with rules adopted by the office of financial management.

(b) As authorized by RCW 43.03.220, the department of financial institutions may provide a stipend to individuals who are

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low income or have lived experience to support their participation on the oversight committee.

(5)(a) The department of commerce and the commission shall work together to supply the oversight committee and the department of financial institutions with any information requested by the oversight committee or the department of financial institutions that the oversight committee or the department of financial institutions deems necessary for the committee to carry out its duties under this section. This information may include, but is not limited to, books, accounts, records, policies, procedures, files, and information from relevant third parties.

(b) Any information shared among the oversight committee, the department of financial institutions, the department of commerce, and the commission that is confidential and exempt from public disclosure under RCW 42.56.270 shall remain confidential when received by the receiving party.

(6) The department of commerce and the commission must report to the oversight committee on a quarterly basis. The report must address the results of targeted education, homeownership counseling, and outreach efforts by the department of commerce as authorized under this chapter, and the results of any special purpose credit program formed by the commission under this chapter, and down payment and closing cost assistance to program participants.

(7)(a) The department of financial institutions shall:

(i) Provide subject matter expertise, administrative assistance, and staff support to the oversight committee; and

(ii) Work in coordination with the department of commerce and the commission to conduct outreach and financial education to the communities served by this chapter, in accordance with RCW 43.320.150.

(b) The department of financial institutions may:

(i) Have one or more staff present at oversight committee meetings;

(ii) Employ staff necessary to carry out the purposes of this section; and

(iii) Hire outside experts and other professionals it deems necessary to carry out its duties under this section.

(8) The department of commerce shall reimburse the department of financial institutions for costs related to the oversight committee from the moneys that the legislature appropriates to the department of commerce for this purpose from the covenant homeownership account under section 4(1) of this act.

**Sec. 8.** RCW 36.18.010 and 2022 c 141 s 2 are each amended to read as follows:

Except as otherwise ordered by the court pursuant to RCW 4.24.130, county auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((five dollars))~~ \$5; for each additional page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((one dollar))~~ \$1. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((three dollars))~~ \$3; for each additional page eight and one-half by ~~((fourteen))~~ 14

inches or less, ~~((one dollar))~~ \$1;

(3) For preparing noncertified copies, for each page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((one dollar))~~ \$1;

(4) For administering an oath or taking an affidavit, with or without seal, ~~((two dollars))~~ \$2;

(5) For issuing a marriage license, ~~((eight dollars))~~ \$8, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional ~~((five dollar))~~ \$5 fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ~~((ten dollar))~~ \$10 fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, ~~((eight dollars))~~ \$8;

(7) For recording plats, ~~((fifty))~~ 50 cents for each lot except cemetery plats for which the charge shall be ~~((twenty-five))~~ 25 cents per lot; also ~~((one dollar))~~ \$1 for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of ~~((twenty-five dollars))~~ \$25 per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((five dollars))~~ \$5; for each additional page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((one dollar))~~ \$1;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170;

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, ~~((fifty dollars))~~ \$50, in addition to all other applicable recording fees;

(11) For recording instruments, a ~~((three dollar))~~ \$3 surcharge to be deposited into the Washington state library operations account created in RCW 43.07.129;

(12) For recording instruments, a ~~((two dollar))~~ \$2 surcharge to be deposited into the Washington state library-archives building account created in RCW 43.07.410 until the financing contract entered into by the secretary of state for the Washington state library-archives building is paid in full;

(13) For recording instruments, a surcharge as provided in RCW 36.22.178; ~~((and))~~

(14) For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in RCW 36.22.179; and

(15) For recording instruments, except for documents exempt under section 2(2) of this act, an assessment as provided in section 2 of this act.

**Sec. 9.** RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct

transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources

stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state



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university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 10.** RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the

covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the

tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 11.** RCW 42.56.270 and 2022 c 201 s 2 and 2022 c 16 s 28 are each reenacted and amended to read as follows:

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

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

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750; (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, and 43.---~~ (the new chapter created in section 13 of this act) RCW and RCW 43.155.160, 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), cannabis producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

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

(c) Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services to a licensed cannabis business in accordance with RCW 69.50.561;

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

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

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

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

(iii) Financial or proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.31.625 (3)(b) and (4);

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

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

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(d) If there is no written contact for a period of ~~((sixty))~~ 60 days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70A.500 RCW to implement chapter 70A.500 RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under RCW 43.330.502, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

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

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

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

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

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

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

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

(21) Market share data submitted by a manufacturer under RCW 70A.500.190(4);

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

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

(24) Financial institution and retirement account information, and building security plan information, supplied to the liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or prospective licensee for the purpose of obtaining, maintaining,

or renewing a license to produce, process, transport, or sell cannabis as allowed under chapter 69.50 RCW;

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

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

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

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

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

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

(31) Records filed with the department of ecology under chapter 70A.515 RCW that a court has determined are confidential valuable commercial information under RCW 70A.515.130; and

(32) Unaggregated financial, proprietary, or commercial information submitted to or obtained by the liquor and cannabis board in applications for licenses under RCW 66.24.140 or 66.24.145, or in any reports or remittances submitted by a person licensed under RCW 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis board under chapter 66.08 RCW.

**NEW SECTION. Sec. 12.** This act may be known and cited as the covenant homeownership account and program act.

**NEW SECTION. Sec. 13.** Sections 1 and 3 through 7 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 14.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 15.** (1) 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.

(2) In addition, if the covenant homeownership program described in section 6 of this act is held invalid, in whole or in part, the legislature may appropriate moneys in the covenant homeownership account to the department of commerce to contract with the Washington state housing finance commission for one or more other programs that support homeownership for first-time home buyers.

**NEW SECTION. Sec. 16.** Section 9 of this act expires July 1, 2024.

**NEW SECTION. Sec. 17.** Section 10 of this act takes effect July 1, 2024."

On page 1, line 3 of the title, after "state;" strike the remainder of the title and insert "amending RCW 36.18.010, 43.84.092, and 43.84.092; reenacting and amending RCW 42.56.270; adding a new section to chapter 36.22 RCW; adding a new chapter to Title 43 RCW; creating new sections; providing an effective date; and providing an expiration date."

The President declared the question before the Senate to be the motion to not adopt the committee striking amendment by the Committee on Ways & Means to Second Substitute Senate Bill No. 1474.

The motion by Senator Lovick carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Lovick moved that the following committee striking amendment by the Committee on Housing be adopted:

Strike everything after the enacting clause and insert the following:

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

(a) Generations of systemic, racist, and discriminatory policies and practices have created barriers to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington state. The legislature finds that these policies and practices include redlining, racially restrictive covenants, mortgage subsidies and incentives, and displacement and gentrification.

(b) The state government was both an active and passive participant in this discrimination. For example, the legislature recognizes the role of state courts in facilitating discrimination by property owners; the existence of mandatory recording statutes that required county auditors to record racially restrictive covenants; the passage of the urban renewal law authorizing the designation, regulation, and displacement of certain neighborhoods that were deemed to be blighted; and state funding and regulation of the real estate and banking industries in ways that facilitated or promoted private discrimination. The legislature finds that the specific discriminatory acts and omissions are well documented, including in numerous public and private studies, reports, and other publications.

(c) This discrimination and its impacts continue to exist in the present day. The legislature recognizes that the homeownership rate for black, indigenous, and people of color and other historically marginalized communities in Washington is 19 percent below that of non-Hispanic white households, and the homeownership rate for black households is even lower. The legislature recognizes that credit, including home mortgages, is harder and more expensive to obtain for black, indigenous, and people of color and other historically marginalized communities in Washington than for non-Hispanic white households. The

legislature finds that the imbalance in supply and demand in Washington's housing market has only exacerbated these inequities.

(d) These negative impacts extend beyond homeownership and affect wealth generation, housing security, and other outcomes for black, indigenous, and people of color and other historically marginalized communities in Washington. The legislature finds that these impacts include higher rates of homelessness, rent burdening, substandard or otherwise unhealthy or unsafe housing, and predatory and discriminatory lending practices that lead to further displacement and gentrification.

(e) Existing state and federal programs and other race-neutral approaches are insufficient to remedy that discrimination and its impacts on access to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington. The legislature finds that race-conscious programs, such as the special purpose credit programs authorized by section 6 of this act, are necessary to remedy the past discrimination in which the state was complicit and to remove the structural barriers that persist.

(2) The legislature declares that the state has a compelling interest in remedying past and ongoing discrimination and its impacts on access to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.22 RCW to read as follows:

(1) Beginning January 1, 2024, except as provided in subsection (2) of this section, the county auditor must collect a covenant homeownership program assessment of \$100 for each document recorded, which is in addition to any other charge, surcharge, or assessment allowed by law. The county auditor may retain up to one percent of the moneys for collection of the assessment and must remit the remainder of the moneys to the state treasurer to be deposited in the covenant homeownership account created in section 4 of this act.

(2) The assessment imposed in this section does not apply to: (a) Assignments or substitutions of previously recorded deeds of trust; (b) documents recording a birth, marriage, divorce, or death; (c) any recorded documents otherwise exempted from a recording fee or additional assessments under state law; (d) marriage licenses issued by the county auditor; (e) documents recording a name change order under RCW 4.24.130; or (f) documents recording a federal, state, county, city, or water-sewer district, or wage lien or satisfaction of lien.

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

(1) "Department" means the department of commerce, except as otherwise indicated in section 7 of act.

(2) "Commission" means the Washington state housing finance commission.

(3) "Covenant homeownership program study" means an evidence-based written report prepared by or on behalf of the commission as required in section 5 of this act.

(4) "First-time home buyer" means:

(a) An individual or the individual's spouse who has had no ownership in a principal residence during the three-year period ending on the date of purchase of the property;

(b) A single parent who has only owned a home with a former spouse while married;

(c) An individual who is a displaced homemaker as defined in 24 C.F.R. Sec. 93.2 as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and has only owned a home with a spouse;

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(d) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; or

(e) An individual who has only owned a property that is determined by a licensed building inspector as being uninhabitable.

(5) "Oversight committee" means the covenant homeownership program oversight committee established in section 7 of this act.

(6) "Program" means the covenant homeownership program described in section 6 of this act.

(7) "Program participant" means a person who receives down payment and closing cost assistance through a special purpose credit program created by the commission for purposes of the covenant homeownership program.

(8) "Racially restrictive real estate covenant" means a recorded covenant or deed restriction that includes or included racial restrictions on property ownership or use against protected classes that are unlawful under RCW 49.60.224. For example, these unlawful restrictions commonly included exclusions against black, indigenous, and people of color and other historically marginalized communities in Washington state, using terms, many of which are offensive, such as "African blood" meaning all sub-Saharan African ancestries; "Aryan" meaning not Jewish, not eastern or southern European, nor any ancestry except northern European; "Asiatic" meaning all Asian ancestries; Chinese; "colored person" meaning all sub-Saharan African ancestries; "colored races" meaning all nonwhite races; "Ethiopian" meaning all sub-Saharan African ancestries; "gentile" meaning non-Jewish; Hawaiian; "Hebrew" meaning Jewish; "Hindu" meaning all South Asian ancestries; "Indian" meaning Native Americans and also possibly South Asian ancestries; Japanese; "Malay" meaning Filipino; "Mongolian" meaning all East Asian ancestries; "Negro blood" meaning all sub-Saharan African ancestries; "oriental" meaning all Asian ancestries; "Turkish empire" meaning all middle easterners; and "yellow races" meaning all Asian ancestries.

(9) "Special purpose credit program" means a credit assistance program created by the commission as authorized by the federal consumer financial protection bureau under regulation B, 12 C.F.R. 1002.8(a)(1), pursuant to Title VII of the consumer credit protection act (the equal credit opportunity act, 15 U.S.C. Sec. 1691 et seq.) as amended, allowing a creditor to extend special purpose credit to applicants who meet eligibility requirements under a credit assistance program expressly authorized by state law for the benefit of an economically disadvantaged class of persons.

**NEW SECTION. Sec. 4.** The covenant homeownership account is created in the state treasury. All receipts from the assessment established in section 2 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be made only for the purposes of the program described in section 6 of this act. The legislature may appropriate moneys in the account as follows:

(1) The legislature may appropriate up to one percent of moneys in the account to the department for costs related to the program described in section 6 of this act including, but not limited to, costs related to administering one or more contracts with the commission for purposes of the program, costs related to outreach and stakeholder engagement, costs related to reimbursing the department of financial institutions for its costs related to the oversight committee created in section 7 of this act, and other administrative, data collection, and reporting costs; and

(2) The legislature may appropriate the remainder of the

moneys in the account to the department to contract with the commission for the purposes of the program described in section 6 of this act.

**NEW SECTION. Sec. 5.** (1)(a) The commission shall complete, or cause to be completed, an initial covenant homeownership program study. The initial covenant homeownership program study must:

(i) Document past and ongoing discrimination against black, indigenous, and people of color and other historically marginalized communities in Washington state and the impacts of this discrimination on homeownership in the state, including access to credit and other barriers to homeownership in the state;

(ii) Analyze whether and to what extent existing programs and race-neutral approaches have been insufficient to remedy this discrimination and its impacts;

(iii)(A) Recommend and evaluate potential programmatic and policy changes, including creation of one or more special purpose credit programs, to remedy this discrimination and its impacts;

(B) As part of the recommendations related to creation of one or more special purpose credit programs, identify through evidence-based documentation the economically disadvantaged class or classes of persons that require down payment and closing cost assistance in order to reduce racial disparities in homeownership in the state. The class or classes of persons identified in the study may share one or more common characteristics such as, race, national origin, or sex; and

(iv) Identify methodology to evaluate the efficacy of any recommended programmatic and policy changes over time.

(b) By March 1, 2024, and in compliance with RCW 43.01.036, the commission shall submit a copy of the initial covenant homeownership program study to the appropriate committees of the legislature and post a copy of the study to the commission's website.

(2)(a) At least every five years after the initial covenant homeownership program study is completed, the commission shall complete, or cause to be completed, an updated covenant homeownership program study. The updated covenant homeownership program study must:

(i) Update and reevaluate the findings and recommendations contained in the initial covenant homeownership program study and any subsequent program studies;

(ii) Document the experience of program participants and others impacted by past and ongoing discrimination, including their experience accessing or attempting to access credit and any barriers to homeownership in the state that they have faced or continue to face;

(iii) Evaluate the special purpose credit program or programs' efficacy in providing down payment and closing cost assistance to the economically disadvantaged class or classes of persons identified in the initial covenant homeownership program study and any subsequent program studies, and the special purpose credit program or programs' impacts on remedying discrimination and reducing racial disparities in homeownership in the state; and

(iv) Recommend program modifications and improvements.

(b) By December 31, 2028, and by December 31st every five years thereafter, and in compliance with RCW 43.01.036, the commission shall submit a copy of an updated covenant homeownership program study to the appropriate committees of the legislature and post a copy of the study to the commission's website.

(c) The board of the commission shall review each subsequent covenant homeownership program study and consider the evidence-based documentation and recommendations in designing and implementing program amendments.

**NEW SECTION. Sec. 6.** (1) As part of the covenant

homeownership program, the department shall contract with the commission to design, develop, implement, and evaluate one or more special purpose credit programs to reduce racial disparities in homeownership in the state by providing down payment and closing cost assistance. The contract must authorize the commission to use the contract funding as follows:

(a) The contract must authorize the commission to use up to one percent of the contract funding for costs related to administering the program including, but not limited to, costs related to completing a covenant homeownership program study required under section 5 of this act, and other administrative, data collection, and reporting costs;

(b) The contract must authorize the commission to use up to one percent of the contract funding to provide targeted education, homeownership counseling, and outreach about special purpose credit programs created under this section to black, indigenous, and people of color and other historically marginalized communities in Washington state, including outreach to relevant affinity groups for mortgage lenders; and

(c) The contract must authorize the commission to use the remainder of the contract funding to provide down payment and closing cost assistance to program participants. This portion of the contract funding may not be used to provide any type of assistance other than down payment and closing cost assistance.

(2) The commission shall create one or more special purpose credit programs to provide down payment and closing cost assistance for the benefit of one or more economically disadvantaged classes of persons identified in a covenant homeownership program study under section 5 of this act. In creating a special purpose credit program, the commission must consider the evidence-based documentation and programmatic and policy recommendations set forth in the initial covenant homeownership program study and any subsequent program studies. If the covenant homeownership program study identifies an economically disadvantaged class or classes of persons that share one or more common characteristics such as, race, national origin, or sex and the board of the commission finds it necessary to consider this information in tailoring a special purpose credit program to provide credit assistance to economically disadvantaged classes of persons, the commission may consider these characteristics in designing and implementing the program.

(3) At minimum, a special purpose credit program authorized under this section must:

(a) Provide loans for down payment and closing cost assistance to program participants that can be combined with other forms of down payment and closing cost assistance;

(b) Require a program participant to repay loans for down payment and closing cost assistance at the time that the house is sold; and

(c) Be implemented in conjunction with the commission's housing finance programs.

(4) To be eligible to receive down payment and closing cost assistance through a special purpose credit program authorized under this section, a special purpose credit program applicant must:

(a) Have a household income at or below 100 percent of the area median income;

(b) Be a first-time home buyer; and

(c)(i) Be a Washington state resident who:

(A) Was a Washington state resident on or before the enactment of the federal fair housing act (Title VIII of the civil rights act of 1968; P.L. 90-284; 82 Stat. 73) on April 11, 1968, and was or would have been excluded from homeownership in Washington state by a racially restrictive real estate covenant on or before April 11, 1968; or

(B) Is a descendant of a person who meets the criteria in

(c)(i)(A) of this subsection;

(ii) Records that show a person's address on or about a specific date or include a reference indicating that a person is a resident of a specific city or area on or about a specific date may be used to provide proof that a person satisfies the criteria in (c)(i) of this subsection, such as genealogical records, vital records, church records, military records, probate records, public records, census data, newspaper clippings, and other similar documents.

(5) The commission may adopt rules, and shall adopt program policies, as necessary to implement this section. Program rules or policies must include procedures and standards for extending credit under the special purpose credit program, including program eligibility requirements. From time to time, including in response to a covenant homeownership program study's evaluation of program efficacy, the board of the commission may amend the special purpose credit programs, rules, and policies.

(6) By July 1, 2024, one or more of the special purpose credit programs must begin providing down payment and closing cost assistance to program participants.

(7) By December 31, 2025, and by each following December 31st, and in compliance with RCW 43.01.036, the commission shall submit an annual report to the appropriate committees of the legislature on the progress of the special purpose credit program or programs developed under this section. The report shall include, at minimum, the program eligibility requirements, the type and amount of down payment and closing cost assistance provided to program participants, the number of program participants and their corresponding eligibility categories, the location of property financed, and program outreach efforts. The report must be posted on the commission's website.

**NEW SECTION. Sec. 7.** (1) The department of financial institutions shall establish the covenant homeownership program oversight committee consisting of the following members appointed by the governor, except for the legislative members who must be appointed by the president of the senate or the speaker of the house of representatives as described in this section:

(a) One person who meets the eligibility criteria for the special purpose credit program described in section 6(4) of this act and is from east of the crest of the Cascade mountains;

(b) One person who meets the eligibility criteria for the special purpose credit program described in section 6(4) of this act and is from west of the crest of the Cascade mountains;

(c) One representative of an organization that operates a special purpose credit program, counseling service, or debt relief program that serves persons who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants as defined in section 3 of this act;

(d) One representative of a community-based organization that specializes in the development of permanently affordable housing that serves persons who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants;

(e) One representative of the real estate sales profession;

(f) One representative of the home mortgage lending profession who has a minimum of five years' lending or underwriting experience;

(g) One representative of the nonprofit affordable housing development industry;

(h) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and

(i) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives.

(2)(a) Nonlegislative members shall each serve a three-year term, subject to renewal for no more than one additional three-year term. The oversight committee shall develop rules that

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provide for the staggering of terms so that, after the first two years of the committee's existence, the terms of one-third of the nonlegislative members expire each year.

(b) Legislative members shall each serve a two-year term, subject to renewal for no more than one additional two-year term.

(c) On the expiration of the term of each member, the governor, president of the senate, or the speaker of the house of representatives, as authorized under subsection (1) of this section, shall appoint a successor to serve for a term of two years if the successor is a legislative member, or three years if the successor is a nonlegislative member.

(d) The governor may remove a nonlegislative member of the oversight committee for cause. The president of the senate may remove a senator serving as a legislative member of the oversight committee for cause, and the speaker of the house of representatives may remove a member of the house of representatives serving as a legislative member of the oversight committee for cause.

(e) Vacancies on the oversight committee for any reason must be filled by appointment as authorized under subsection (1) of this section for the duration of the unexpired term.

(3) The oversight committee:

(a) Shall oversee and review the commission's activities and performance related to the program, including the commission's creation and administration of one or more special purpose credit programs authorized in section 6 of this act;

(b) Shall work with the department of financial institutions to convene meetings, create a charter and operating procedures, and to coordinate the oversight committee's ongoing activities;

(c) Shall convene the initial meeting of the oversight committee and select a chair by October 1, 2023;

(d) Shall work with the department of financial institutions to convene a meeting at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the committee;

(e) May conduct its meetings by conference telephone call, videoconference, or using similar technology that enables all persons participating in the meeting to hear each other at the same time; and

(f) May, from time to time, make recommendations to the appropriate committees of the legislature regarding the program.

(4)(a) The oversight committee is a class one group under RCW 43.03.220. Except as provided in (b) of this subsection, members of the committee receive no compensation for their services as members of the committee but may be reimbursed for travel and other expenses in accordance with rules adopted by the office of financial management.

(b) As authorized by RCW 43.03.220, the department of financial institutions may provide a stipend to individuals who are low income or have lived experience to support their participation on the oversight committee.

(5)(a) The department of commerce and the commission shall work together to supply the oversight committee and the department of financial institutions with any information requested by the oversight committee or the department of financial institutions that the oversight committee or the department of financial institutions deems necessary for the committee to carry out its duties under this section. This information may include, but is not limited to, books, accounts, records, policies, procedures, files, and information from relevant third parties.

(b) Any information shared among the oversight committee, the department of financial institutions, the department of commerce, and the commission that is confidential and exempt from public disclosure under RCW 42.56.270 shall remain

confidential when received by the receiving party.

(6) The department of commerce and the commission must report to the oversight committee on a quarterly basis. The report must address the results of targeted education, homeownership counseling, and outreach efforts by the department of commerce as authorized under this chapter, and the results of any special purpose credit program formed by the commission under this chapter, and down payment and closing cost assistance to program participants.

(7)(a) The department of financial institutions shall:

(i) Provide subject matter expertise, administrative assistance, and staff support to the oversight committee; and

(ii) Work in coordination with the department of commerce and the commission to conduct outreach and financial education to the communities served by this chapter, in accordance with RCW 43.320.150.

(b) The department of financial institutions may:

(i) Have one or more staff present at oversight committee meetings;

(ii) Employ staff necessary to carry out the purposes of this section; and

(iii) Hire outside experts and other professionals it deems necessary to carry out its duties under this section.

(8) The department of commerce shall reimburse the department of financial institutions for costs related to the oversight committee from the moneys that the legislature appropriates to the department of commerce for this purpose from the covenant homeownership account under section 4(1) of this act.

**Sec. 8.** RCW 36.18.010 and 2022 c 141 s 2 are each amended to read as follows:

Except as otherwise ordered by the court pursuant to RCW 4.24.130, county auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((five dollars))~~ \$5; for each additional page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((one dollar))~~ \$1. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((three dollars))~~ \$3; for each additional page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((one dollar))~~ \$1;

(3) For preparing noncertified copies, for each page eight and one-half by ~~((fourteen))~~ 14 inches or less, ~~((one dollar))~~ \$1;

(4) For administering an oath or taking an affidavit, with or without seal, ~~((two dollars))~~ \$2;

(5) For issuing a marriage license, ~~((eight dollars))~~ \$8, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional ~~((five dollar))~~ \$5 fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ~~((ten dollar))~~ \$10 fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

- (6) For searching records per hour, (~~eight dollars~~) \$8;
- (7) For recording plats, (~~fifty~~) 50 cents for each lot except cemetery plats for which the charge shall be (~~twenty-five~~) 25 cents per lot; also (~~one dollar~~) \$1 for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of (~~twenty-five dollars~~) \$25 per plat;
- (8) For recording of miscellaneous records not listed above, for the first page eight and one-half by (~~fourteen~~) 14 inches or less, (~~five dollars~~) \$5; for each additional page eight and one-half by (~~fourteen~~) 14 inches or less, (~~one dollar~~) \$1;
- (9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170;
- (10) For recording an emergency nonstandard document as provided in RCW 65.04.047, (~~fifty dollars~~) \$50, in addition to all other applicable recording fees;
- (11) For recording instruments, a (~~three dollar~~) \$3 surcharge to be deposited into the Washington state library operations account created in RCW 43.07.129;
- (12) For recording instruments, a (~~two dollar~~) \$2 surcharge to be deposited into the Washington state library-archives building account created in RCW 43.07.410 until the financing contract entered into by the secretary of state for the Washington state library-archives building is paid in full;
- (13) For recording instruments, a surcharge as provided in RCW 36.22.178; (~~and~~)
- (14) For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in RCW 36.22.179; and
- (15) For recording instruments, except for documents exempt under section 2(2) of this act, an assessment as provided in section 2 of this act.

**Sec. 9.** RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the

treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound



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Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 10.** RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the

freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account,

the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 11.** RCW 42.56.270 and 2022 c 201 s 2 and 2022 c 16 s 28 are each reenacted and amended to read as follows:

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

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

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750; (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, and 43.---~~ (the new chapter created in section 13 of this act) RCW and RCW 43.155.160, 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

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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), cannabis producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

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

(c) Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services to a licensed cannabis business in accordance with RCW 69.50.561;

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

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

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

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

(iii) Financial or proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.31.625 (3)(b) and (4);

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

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

(d) If there is no written contact for a period of ~~((sixty))~~ 60 days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70A.500 RCW to implement chapter 70A.500 RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under RCW 43.330.502, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as

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

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

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

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

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

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

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

(21) Market share data submitted by a manufacturer under RCW 70A.500.190(4);

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

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

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

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

(26) Financial and commercial information submitted to or obtained by the retirement board of any city that is responsible for the management of an employees' retirement system pursuant to the authority of chapter 35.39 RCW, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result

in loss to the retirement fund or to result in private loss to the providers of this information except that (a) the names and commitment amounts of the private funds in which retirement funds are invested and (b) the aggregate quarterly performance results for a retirement fund's portfolio of investments in such funds are subject to disclosure;

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

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

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

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

(31) Records filed with the department of ecology under chapter 70A.515 RCW that a court has determined are confidential valuable commercial information under RCW 70A.515.130; and

(32) Unaggregated financial, proprietary, or commercial information submitted to or obtained by the liquor and cannabis board in applications for licenses under RCW 66.24.140 or 66.24.145, or in any reports or remittances submitted by a person licensed under RCW 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis board under chapter 66.08 RCW.

**NEW SECTION. Sec. 12.** This act may be known and cited as the covenant homeownership account and program act.

**NEW SECTION. Sec. 13.** Sections 1 and 3 through 7 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 14.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 15.** (1) 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.

(2) In addition, if the covenant homeownership program described in section 6 of this act is held invalid, in whole or in part, the legislature may appropriate moneys in the covenant homeownership account to the department of commerce to contract with the Washington state housing finance commission for one or more other programs that support homeownership for first-time home buyers.

**NEW SECTION. Sec. 16.** Section 9 of this act expires July 1, 2024.

**NEW SECTION. Sec. 17.** Section 10 of this act takes effect July 1, 2024."

On page 1, line 3 of the title, after "state;" strike the remainder of the title and insert "amending RCW 36.18.010, 43.84.092, and 43.84.092; reenacting and amending RCW 42.56.270; adding a

new section to chapter 36.22 RCW; adding a new chapter to Title 43 RCW; creating new sections; providing an effective date; and providing an expiration date."

#### MOTION

Senator Fortunato moved that the following floor amendment no. 0338 by Senator Fortunato be adopted:

On page 3, after line 4, insert the following:

"(3) The assessment imposed in this section expires when all applicants who applied for any program described in section 6 of this act prior to July 1, 2028, have been served."

On page 8, after line 40, insert the following:

"(8) No applications for special purpose credit programs may be submitted after July 1, 2028."

Senator Fortunato spoke in favor of adoption of the amendment to the striking amendment.

Senators Kuderer and Frame spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0338 by Senator Fortunato on page 3, after line 4 to the committee striking amendment.

The motion by Senator Fortunato did not carry and floor amendment no. 0338 was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Housing to Second Substitute House Bill No. 1474.

The motion by Senator Lovick carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Lovick, the rules were suspended, Second Substitute House Bill No. 1474 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Lovick spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1474.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1474 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Cleveland, Conway, Dhingra, Frame, Hasegawa, Hunt, Kauffman, Keiser, Kuderer, Lias, Lovelett, Lovick, Mullet, Muzzall, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, Gildon, Hawkins, Holy, King, MacEwen, McCune, Padden, Rivers, Schoesler, Short, Torres, Wagoner, Warnick, Wilson, J. and Wilson, L.

SECOND SUBSTITUTE HOUSE BILL NO. 1474, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1515, by House Committee on Appropriations (originally sponsored by Macri, Davis, Simmons, Orwall, Taylor, Leavitt, Riccelli, Callan, Farivar, Alvarado, Reed, Fosse, Doglio, Berg, Ryu, Peterson, Fitzgibbon, Bateman, Eslick, Ormsby, Stonier and Tharinger)

Concerning contracting and procurement requirements for behavioral health services in medical assistance programs.

The measure was read the second time.

#### MOTION

Senator Cleveland moved that the following committee striking amendment by the Committee on Health & Long Term Care be adopted:

Strike everything after the enacting clause and insert the following:

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

(a) Medicaid enrollees in Washington are challenged with accessing needed behavioral health care. According to the Washington state department of social and health services, as of 2021, among medicaid enrollees with an identified mental health need, only 50 percent of adults and 66 percent of youth received treatment, while among medicaid enrollees with an identified substance use disorder need, only 37 percent of adults and 23 percent of youth received treatment. Furthermore, the national council for mental wellbeing's 2022 access to care survey found that 43 percent of adults in the United States who say they need mental health or substance use care did not receive that care, and they face numerous barriers to receiving needed treatment. Lack of necessary care can cause behavioral health conditions to deteriorate and crises to escalate, driving increasing use of intensive services such as inpatient care and involuntary treatment. As a result, the behavioral health system is reaching a crisis point in communities across the state.

(b) As of December 2022, 1,953,153 Washington residents rely on apple health managed care organizations to provide for their physical and behavioral health needs. During the integration of physical and behavioral health care pursuant to chapter 225, Laws of 2014, the health care authority most recently procured managed care services in 2018 and selected five managed care organizations to serve as Washington's apple health plans to provide for the physical and behavioral health care needs of medicaid enrollees. The health care authority has begun considering when to conduct a new procurement for managed care organizations, including an allowance for possible new entrants that do not currently serve Washington's medicaid population.

(c) Medicaid managed care procurement presents a need and an opportunity for the state to reset expectations for managed care organizations related to behavioral health services to ensure that Washington residents are being served by qualified and experienced health plans that can deliver on the access to care and quality of care that residents need and deserve.

(2) It is the intent of the legislature to seize this opportunity to address ongoing challenges Washington's medicaid enrollees face in accessing behavioral health care. The legislature intends to establish robust new standards defining the levels of medicaid-funded behavioral health service capacity and resources that are adequate to meet medicaid enrollees' treatment needs; to ensure that managed care organizations that serve Washington's medicaid enrollees have a track record of success in delivering a

broad range of behavioral health care services to safety net populations; and to advance payment structures and provider network delivery models that improve equitable access, promote integration of care, and deliver on outcomes.

(3) The legislature finds that increased access to behavioral health services for American Indians and Alaska Natives, children in foster care, and the aged, blind, and disabled through the preservation and enhancement of the fee-for-service system is also critical to reducing health disparities among these vulnerable populations. The legislature also intends to increase access to timely and robust behavioral health services for American Indians and Alaska Natives, children in foster care, and the aged, blind, and disabled, in the fee-for-service system they access.

Sec. 2. RCW 74.09.871 and 2019 c 325 s 4006 are each amended to read as follows:

(1) Any agreement or contract by the authority to provide behavioral health services as defined under RCW 71.24.025 to persons eligible for benefits under medicaid, Title XIX of the social security act, and to persons not eligible for medicaid must include the following:

(a) Contractual provisions consistent with the intent expressed in RCW 71.24.015 and 71.36.005;

(b) Standards regarding the quality of services to be provided, including increased use of evidence-based, research-based, and promising practices, as defined in RCW 71.24.025;

(c) Accountability for the client outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025 and performance measures linked to those outcomes;

(d) Standards requiring behavioral health administrative services organizations and managed care organizations to maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the authority and to protect essential behavioral health system infrastructure and capacity, including a continuum of substance use disorder services;

(e) Provisions to require that medically necessary substance use disorder and mental health treatment services be available to clients;

(f) Standards requiring the use of behavioral health service provider reimbursement methods that incentivize improved performance with respect to the client outcomes established in RCW 71.24.435 and 71.36.025, integration of behavioral health and primary care services at the clinical level, and improved care coordination for individuals with complex care needs;

(g) Standards related to the financial integrity of the contracting entity. This subsection does not limit the authority of the authority to take action under a contract upon finding that a contracting entity's financial status jeopardizes the contracting entity's ability to meet its contractual obligations;

(h) Mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial deductions, termination of the contract, receivership, recprocurement of the contract, and injunctive remedies;

(i) Provisions to maintain the decision-making independence of designated crisis responders; and

(j) Provisions stating that public funds appropriated by the legislature may not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(2) At least six months prior to releasing a medicaid integrated managed care procurement, but no later than January 1, 2025, the authority shall adopt statewide network adequacy standards that

are assessed on a regional basis for the behavioral health provider networks maintained by managed care organizations pursuant to subsection (1)(d) of this section. The standards shall require a network that ensures access to appropriate and timely behavioral health services for the enrollees of the managed care organization who live within the regional service area. At a minimum, these standards must address each behavioral health services type covered by the medicaid integrated managed care contract. This includes, but is not limited to: Outpatient, inpatient, and residential levels of care for adults and youth with a mental health disorder; outpatient, inpatient, and residential levels of care for adults and youth with a substance use disorder; crisis and stabilization services; providers of medication for opioid use disorders; specialty care; other facility-based services; and other providers as determined by the authority through this process. The authority shall apply the standards regionally and shall incorporate behavioral health system needs and considerations as follows:

(a) Include a process for an annual review of the network adequacy standards;

(b) Provide for participation from counties and behavioral health providers in both initial development and subsequent updates;

(c) Account for the regional service area's population; prevalence of behavioral health conditions; types of minimum behavioral health services and service capacity offered by providers in the regional service area; number and geographic proximity of providers in the regional service area; an assessment of the needs or gaps in the region; and availability of culturally specific services and providers in the regional service area to address the needs of communities that experience cultural barriers to health care including but not limited to communities of color and the LGBTQ+ community;

(d) Include a structure for monitoring compliance with provider network standards and timely access to the services;

(e) Consider how statewide services, such as residential treatment facilities, are utilized cross-regionally; and

(f) Consider how the standards would impact requirements for behavioral health administrative service organizations.

(3) Before releasing a medicaid integrated managed care procurement, the authority shall identify options that minimize provider administrative burden, including the potential to limit the number of managed care organizations that operate in a regional service area.

(4) The following factors must be given significant weight in any medicaid integrated managed care procurement process under this section:

(a) Demonstrated commitment and experience in serving low-income populations;

(b) Demonstrated commitment and experience serving persons who have mental illness, substance use disorders, or co-occurring disorders;

(c) Demonstrated commitment to and experience with partnerships with county and municipal criminal justice systems, housing services, and other critical support services necessary to achieve the outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025;

(d) The ability to provide for the crisis service needs of medicaid enrollees, consistent with the degree to which such services are funded;

(e) Recognition that meeting enrollees' physical and behavioral health care needs is a shared responsibility of contracted behavioral health administrative services organizations, managed care organizations, service providers, the state, and communities;

~~((e))~~ (f) Consideration of past and current performance and participation in other state or federal behavioral health programs

as a contractor; ~~((and~~

~~((f))~~ (g) The ability to meet requirements established by the authority~~((--(3))~~);

(h) The extent to which a managed care organization's approach to contracting simplifies billing and contracting burdens for community behavioral health provider agencies, which may include but is not limited to a delegation arrangement with a provider network that leverages local, federal, or philanthropic funding to enhance the effectiveness of medicaid-funded integrated care services and promote medicaid clients' access to a system of services that addresses additional social support services and social determinants of health as defined in RCW 43.20.025;

(i) Demonstrated prior national or in-state experience with a full continuum of behavioral health services that are substantially similar to the behavioral health services covered under the Washington medicaid state plan, including evidence through past and current data on performance, quality, and outcomes; and

(j) Demonstrated commitment by managed care organizations to the use of alternative pricing and payment structures between a managed care organization and its behavioral health services providers, including provider networks described in subsection (b) of this section, and between a managed care organization and a behavioral administrative service organization, in any of their agreements or contracts under this section, which may include but are not limited to:

(i) Value-based purchasing efforts consistent with the authority's value-based purchasing strategy, such as capitated payment arrangements, comprehensive population-based payment arrangements, or case rate arrangements; or

(ii) Payment methods that secure a sufficient amount of ready and available capacity for levels of care that require staffing 24 hours per day, 365 days per year, to serve anyone in the regional service area with a demonstrated need for the service at all times, regardless of fluctuating utilization.

(5) The authority may use existing cross-system outcome data such as the outcomes and related measures under subsection (4)(c) of this section and chapter 338, Laws of 2013, to determine that the alternative pricing and payment structures referenced in subsection (4)(j) of this section have advanced community behavioral health system outcomes more effectively than a fee-for-service model may have been expected to deliver.

(6)(a) The authority shall urge managed care organizations to establish, continue, or expand delegation arrangements with a provider network that exists on the effective date of this section and that leverages local, federal, or philanthropic funding to enhance the effectiveness of medicaid-funded integrated care services and promote medicaid clients' access to a system of services that addresses additional social support services and social determinants of health as defined in RCW 43.20.025. Such delegation arrangements must meet the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards.

(b) The authority shall recognize and support, and may not limit or restrict, a delegation arrangement that a managed care organization and a provider network described in (a) of this subsection have agreed upon, provided such arrangement meets the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards. The authority may periodically review such arrangements for effectiveness according to the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards.

(c) Managed care organizations and the authority may evaluate whether to establish or support future delegation arrangements with any additional provider networks that may be created after

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the effective date of this section, based on the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards.

(7) The authority shall expand the types of behavioral health crisis services that can be funded with medicaid to the maximum extent allowable under federal law, including seeking approval from the centers for medicare and medicaid services for amendments to the medicaid state plan or medicaid state directed payments that support the 24 hours per day, 365 days per year capacity of the crisis delivery system when necessary to achieve this expansion.

(8) The authority shall, in consultation with managed care organizations, review reports and recommendations of the involuntary treatment act work group established pursuant to section 103, chapter 302, Laws of 2020 and develop a plan for adding contract provisions that increase managed care organizations' accountability when their enrollees require long-term involuntary inpatient behavioral health treatment and shall explore opportunities to maximize medicaid funding as appropriate.

(9) In recognition of the value of community input and consistent with past procurement practices, the authority shall include county and behavioral health provider representatives in the development of any medicaid integrated managed care procurement process. This shall include, at a minimum, two representatives identified by the association of county human services and two representatives identified by the Washington council for behavioral health to participate in the review and development of procurement documents.

(10) For purposes of purchasing behavioral health services and medical care services for persons eligible for benefits under medicaid, Title XIX of the social security act and for persons not eligible for medicaid, the authority must use regional service areas. The regional service areas must be established by the authority as provided in RCW 74.09.870.

~~((4))~~ (11) Consideration must be given to using multiple-biennia contracting periods.

~~((5))~~ (12) Each behavioral health administrative services organization operating pursuant to a contract issued under this section shall serve clients within its regional service area who meet the authority's eligibility criteria for mental health and substance use disorder services within available resources.

**Sec. 3.** RCW 71.24.861 and 2019 c 325 s 1047 are each amended to read as follows:

(1) The legislature finds that ongoing coordination between state agencies, the counties, and the behavioral health administrative services organizations is necessary to coordinate the behavioral health system. To this end, the authority shall establish a committee to meet quarterly to address systemic issues, including but not limited to the data-sharing needs of behavioral health system partners.

(2) The committee established in subsection (1) of this section must be convened by the authority, meet quarterly, and include representatives from:

- (a) The authority;
- (b) The department of social and health services;
- (c) The department;
- (d) The office of the governor;
- (e) One representative from the behavioral health administrative services organization per regional service area; and
- (f) One county representative per regional service area.

**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, 2023, in the omnibus appropriations

act, this act is null and void."

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 74.09.871 and 71.24.861; and creating new sections."

Senator Cleveland spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Second Substitute House Bill No. 1515.

The motion by Senator Cleveland carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Cleveland, the rules were suspended, Engrossed Second Substitute House Bill No. 1515 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland and Rivers spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1515.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1515 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1515, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1564, by Representatives Mosbrucker, Orwall, Chambers, Graham, Rude and Rule

Prohibiting the sale of over-the-counter sexual assault kits.

The measure was read the second time.

MOTION

Senator Dhingra moved that the following committee striking amendment by the Committee on Law & Justice be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to support survivors of sexual offenses through building victim-centered, trauma-informed systems that promote successful

investigations and prosecutions of sexual offenses. Thorough and professional investigations, including preservation of forensic evidence, are imperative and a fundamental component in achieving these outcomes. At-home sexual assault test kits create false expectations and harm the potential for successful investigations and prosecutions. The sale of over-the-counter sexual assault kits may prevent survivors from receiving accurate information about their options and reporting processes; from obtaining access to appropriate and timely medical treatment and follow up; and from connecting to their community and other vital resources.

**NEW SECTION. Sec. 2.** A new section is added to chapter 5.70 RCW to read as follows:

(1)(a) As used in this section, "over-the-counter sexual assault kit" means a sexual assault kit or rape kit that:

(i) Is marketed or presented as over-the-counter, at-home, or self-collected;

(ii) Is offered for sale or as a sample to members of the public; and

(iii) Purports to allow a natural person to independently collect evidence of a sexual assault outside of a hospital or other health care facility.

(b) "Over-the-counter sexual assault kit" does not include a sexual assault kit intended for administration or collection by law enforcement or a health care provider.

(c) As used in this section, "health care provider" means a person, hospital, or other health care facility that is licensed, certified, or otherwise authorized or permitted by law in Washington state to administer health care or dispense medication in the ordinary course of business or practice of a profession.

(d) As used in this section, "natural person" means a human being. The term does not include a corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity. The term does not include a government or governmental subdivision, agency, or instrumentality. The term does not include a health care provider.

(e) As used in this section, "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity. The term does not include a government or governmental subdivision, agency, or instrumentality.

(2) A person may not sell, offer for sale, or provide to a natural person an over-the-counter sexual assault kit.

(3) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW."

On page 1, line 2 of the title, after "kits;" strike the remainder of the title and insert "adding a new section to chapter 5.70 RCW; and creating a new section."

Senator Dhingra spoke in favor of the motion to not adopt the committee striking amendment.

The President declared the question before the Senate to be the motion to not adopt the committee striking amendment by the Committee on Law & Justice to House Bill No. 1564.

The motion by Senator Dhingra carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Dhingra moved that the following striking floor amendment no. 0263 by Senator Dhingra be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** It is the intent of the legislature to support survivors of sexual offenses through building victim-centered, trauma-informed systems that promote successful investigations and prosecutions of sexual offenses. Thorough and professional investigations, including preservation of forensic evidence, are imperative and a fundamental component in achieving these outcomes. At-home sexual assault test kits create false expectations and harm the potential for successful investigations and prosecutions. The sale of over-the-counter sexual assault kits may prevent survivors from receiving accurate information about their options and reporting processes; from obtaining access to appropriate and timely medical treatment and follow up; and from connecting to their community and other vital resources.

**NEW SECTION. Sec. 2.** A new section is added to chapter 5.70 RCW to read as follows:

(1) For purposes of this section:

(a) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place situated in Washington state where a health care provider provides health care to patients.

(b) "Health care provider" means a person licensed, certified, or otherwise authorized or permitted by law, in Washington state, to provide health care in the ordinary course of business or practice of a profession, and includes a health care facility.

(c) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity. The term does not include a government or governmental subdivision, agency, or instrumentality.

(d) "Sexual assault kit" means a product with which evidence of sexual assault is collected.

(2) A person may not sell, offer for sale, or otherwise make available a sexual assault kit:

(a) That is marketed or otherwise presented as over-the-counter, at-home, or self-collected or in any manner that indicates that the sexual assault kit may be used for the collection of evidence of sexual assault other than by law enforcement or a health care provider; or

(b) If the person intends, knows, or reasonably should know that the sexual assault kit will be used for the collection of evidence of sexual assault other than by law enforcement or a health care provider.

(3) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW."

On page 1, line 2 of the title, after "kits;" strike the remainder of the title and insert "adding a new section to chapter 5.70 RCW; and creating a new section."

MOTION

Senator McCune moved that the following floor amendment no. 0331 by Senator McCune be adopted:

On page 2, line 3, after "(2)" strike "A" and insert "Except as provided in subsection (3) of this section, a"



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On page 2, line 14, after "(3)" insert "A person may sell, offer for sale, or otherwise make available a sexual assault kit that will be used for the collection of evidence of sexual assault other than by law enforcement or a health care provider if the collection of evidence is supervised by a sexual assault nurse examiner or a telehealth sexual assault nurse examiner.

(4)"

Correct any internal references accordingly.

Senator McCune spoke in favor of adoption of the amendment to the striking amendment.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator McCune and without objection, floor amendment no. 0331 by Senator McCune on page 2, line 3 to House Bill No. 1564 was withdrawn.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 0263 by Senator Dhingra to House Bill No. 1564.

The motion by Senator Dhingra carried and striking floor amendment no. 0263 was adopted by voice vote.

#### MOTION

On motion of Senator Dhingra, the rules were suspended, House Bill No. 1564 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dhingra, Trudeau and Holy spoke in favor of passage of the bill.

Senators Padden, McCune and MacEwen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1564.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1564 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 7; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, Mullet, Muzzall, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wellman, Wilson, C. and Wilson, J.

Voting nay: Senators Fortunato, MacEwen, McCune, Padden, Wagoner, Warnick and Wilson, L.

HOUSE BILL NO. 1564, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1181, by House Committee on Appropriations (originally sponsored by Duerr, Fitzgibbon, Berry, Peterson, Ryu, Alvarado, Taylor, Reed, Walen, Bateman, Ramel, Goodman, Doglio, Macri, Callan, Simmons, Lekanoff, Gregerson, Bergquist, Stonier, Pollet, Davis, Kloba, Riccelli, Mena and Tharinger)

Improving the state's response to climate change by updating the state's planning framework.

The measure was read the second time.

#### MOTION

Senator Lovelett moved that the following striking floor amendment no. 0333 by Senator Lovelett be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.70A.020 and 2021 c 254 s 1 are each amended to read as follows:

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040 and, where specified, also guide the development of regional policies, plans, and strategies adopted under RCW 36.70A.210 and chapter 47.80 RCW. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans ~~((and))~~, development regulations, and, where specified, regional plans, policies, and strategies:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that will reduce greenhouse gas emissions and per capita vehicle miles traveled, and are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Retain open space and green space, enhance recreational opportunities, ~~((conserve))~~ enhance fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

(10) Environment. Protect and enhance the environment and

enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process, including the participation of vulnerable populations and overburdened communities, and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

(14) Climate change and resiliency. Ensure that comprehensive plans, development regulations, and regional policies, plans, and strategies under RCW 36.70A.210 and chapter 47.80 RCW adapt to and mitigate the effects of a changing climate; support reductions in greenhouse gas emissions and per capita vehicle miles traveled; prepare for climate impact scenarios; foster resiliency to climate impacts and natural hazards; protect and enhance environmental, economic, and human health and safety; and advance environmental justice.

(15) Shorelines of the state. For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 shall be considered an element of the county's or city's comprehensive plan.

**Sec. 2.** RCW 36.70A.480 and 2010 c 107 s 2 are each amended to read as follows:

(1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the ~~((fourteen))~~ 15 goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter 90.58 RCW rather than the goals, policies, and procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.

(3)(a) The policies, goals, and provisions of chapter 90.58 RCW and applicable guidelines shall be the sole basis for determining compliance of a shoreline master program with this chapter except as the shoreline master program is required to comply with the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105.

(b) Except as otherwise provided in (c) of this subsection, development regulations adopted under this chapter to protect critical areas within shorelines of the state apply within shorelines of the state until the department of ecology approves one of the following: A comprehensive master program update, as defined in RCW 90.58.030; a segment of a master program relating to critical areas, as provided in RCW 90.58.090; or a new or amended master program approved by the department of ecology on or after March 1, 2002, as provided in RCW 90.58.080. The adoption or update of development regulations to protect critical areas under this chapter prior to department of ecology approval of a master program update as provided in this subsection is not a comprehensive or segment update to the master program.

(c)(i) Until the department of ecology approves a master program or segment of a master program as provided in (b) of this

subsection, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local government's development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified if: (A) The redevelopment or modification is consistent with the local government's master program; and (B) the local government determines that the proposed redevelopment or modification will result in no net loss of shoreline ecological functions. The local government may waive this requirement if the redevelopment or modification is consistent with the master program and the local government's development regulations to protect critical areas.

(ii) For purposes of this subsection (3)(c), an agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. "Agricultural activity," as used in this subsection (3)(c), has the same meaning as defined in RCW 90.58.065.

(d) Upon department of ecology approval of a shoreline master program or critical area segment of a shoreline master program, critical areas within shorelines of the state are protected under chapter 90.58 RCW and are not subject to the procedural and substantive requirements of this chapter, except as provided in subsection (6) of this section. Nothing in chapter 321, Laws of 2003 or chapter 107, Laws of 2010 is intended to affect whether or to what extent agricultural activities, as defined in RCW 90.58.065, are subject to chapter 36.70A RCW.

(e) The provisions of RCW 36.70A.172 shall not apply to the adoption or subsequent amendment of a local government's shoreline master program and shall not be used to determine compliance of a local government's shoreline master program with chapter 90.58 RCW and applicable guidelines. Nothing in this section, however, is intended to limit or change the quality of information to be applied in protecting critical areas within shorelines of the state, as required by chapter 90.58 RCW and applicable guidelines.

(4) Shoreline master programs shall provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources as defined by department of ecology guidelines adopted pursuant to RCW 90.58.060.

(5) Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(~~((5))~~) (6) and have been designated as such by a local government pursuant to RCW 36.70A.060(2).

(6) If a local jurisdiction's master program does not include land necessary for buffers for critical areas that occur within shorelines of the state, as authorized by RCW 90.58.030(2)(~~((#))~~) (d), then the local jurisdiction shall continue to regulate those critical areas and their required buffers pursuant to RCW 36.70A.060(2).

**Sec. 3.** RCW 36.70A.070 and 2022 c 246 s 2 and 2022 c 220 s 1 are each reenacted and amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140. Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land,

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where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces and green spaces, urban and community forests within the urban growth area, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. The land use element must give special consideration to achieving environmental justice in its goals and policies, including efforts to avoid creating or worsening environmental health disparities. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity and reduce per capita vehicle miles traveled within the jurisdiction, but without increasing greenhouse gas emissions elsewhere in the state. Where applicable, the land use element shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound. The land use element must reduce and mitigate the risk to lives and property posed by wildfires by using land use planning tools, which may include, but are not limited to, reducing wildfire risks to residential development in high risk areas and the wildland urban interface area, separating human development from wildfire prone landscapes, and protecting existing residential development and infrastructure through community wildfire preparedness and fire adaptation measures.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that:

(a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as provided by the department of commerce, including:

(i) Units for moderate, low, very low, and extremely low-income households; and

(ii) Emergency housing, emergency shelters, and permanent supportive housing;

(b) Includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences, and within an urban growth area boundary, moderate density housing options including, but not limited to, duplexes, triplexes, and townhomes;

(c) Identifies sufficient capacity of land for housing including, but not limited to, government-assisted housing, housing for moderate, low, very low, and extremely low-income households, manufactured housing, multifamily housing, group homes, foster care facilities, emergency housing, emergency shelters, permanent supportive housing, and within an urban growth area boundary, consideration of duplexes, triplexes, and townhomes;

(d) Makes adequate provisions for existing and projected needs of all economic segments of the community, including:

(i) Incorporating consideration for low, very low, extremely low, and moderate-income households;

(ii) Documenting programs and actions needed to achieve housing availability including gaps in local funding, barriers such as development regulations, and other limitations;

(iii) Consideration of housing locations in relation to employment location; and

(iv) Consideration of the role of accessory dwelling units in meeting housing needs;

(e) Identifies local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including:

(i) Zoning that may have a discriminatory effect;

(ii) Disinvestment; and

(iii) Infrastructure availability;

(f) Identifies and implements policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local policies, plans, and actions;

(g) Identifies areas that may be at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and

(h) Establishes antidisplacement policies, with consideration given to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing; equitable development initiatives; inclusionary zoning; community planning requirements; tenant protections; land disposition policies; and consideration of land that may be used for affordable housing.

In counties and cities subject to the review and evaluation requirements of RCW 36.70A.215, any revision to the housing element shall include consideration of prior review and evaluation reports and any reasonable measures identified. The housing element should link jurisdictional goals with overall county goals to ensure that the housing element goals are met.

The adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city that is required or chooses to plan under RCW 36.70A.040 that increase housing capacity, increase housing affordability, and mitigate displacement as required under this subsection (2) and that apply outside of critical areas are not subject to administrative or judicial appeal under chapter 43.21C RCW unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, including green infrastructure, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

The county or city shall identify all public entities that own capital facilities and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include within its capital facilities element the information required by this subsection. If, after a good faith effort, the county or city is unable to gather the information required by this subsection from the other public entities, the failure to include such information in its capital facilities element cannot be grounds for a finding of noncompliance or invalidity under this act. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans and emailing and calling the staff of the public entity.

(4)(a) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities(~~(s)~~) including, but not limited to, electrical (~~(lines)~~), (~~(telecommunication lines)~~) telecommunications, and natural gas (~~(lines)~~) systems.

(b) The county or city shall identify all public entities that own utility systems and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include within its utilities element the information required in (a) of this subsection. However, if, after a good faith effort, the county or city is unable to gather the information required in (a) of this subsection from the other public entities, the failure to include such information in the utilities element shall not be grounds for a finding of noncompliance or invalidity under this act. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans, and emailing and calling the staff of the public entity.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural economic advancement, densities, and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- (i) Containing or otherwise controlling rural development;
- (ii) Assuring visual compatibility of rural development with the surrounding rural area;
- (iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;
- (iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and
- (v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area are subject to the requirements of (d)(iv) of this subsection, but are not subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity may be permitted subject to confirmation from all existing providers of public facilities and public services of sufficient capacity of existing public facilities and public services to serve any new or additional demand from the new development or redevelopment. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5) and is consistent with the local character. Any commercial development or redevelopment within a mixed-use area must be principally designed to serve the existing and projected rural population and must meet the following requirements:

(I) Any included retail or food service space must not exceed the footprint of previously occupied space or 5,000 square feet, whichever is greater, for the same or similar use; and

(II) Any included retail or food service space must not exceed 2,500 square feet for a new use;

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(23). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(23). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas shall not extend beyond the logical outer boundary of the existing area, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of this subsection (5)(d), an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to

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plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated ~~((traffic))~~ multimodal level of service impacts to state-owned transportation facilities resulting from land use assumptions to assist ~~((the department of transportation))~~ in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments, active transportation facilities, and general aviation airport facilities, to define existing capital facilities and travel levels ~~((as a basis for))~~ to inform future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) ~~((Level))~~ Multimodal level of service standards for all locally owned arterials ~~((and))~~, locally and regionally operated transit routes that serve urban growth areas, state-owned or operated transit routes that serve urban areas if the department of transportation has prepared such standards, and active transportation facilities to serve as a gauge to judge performance of the system and success in helping to achieve the goals of this chapter consistent with environmental justice. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, multimodal level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting multimodal level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, active transportation, or transit program and the office of financial management's ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance ~~((locally owned))~~ transportation facilities or services that are below an established multimodal level of service standard;

(E) Forecasts of ~~((traffic))~~ multimodal transportation demand and needs within cities and urban growth areas, and forecasts of multimodal transportation demand and needs outside of cities and urban growth areas, for at least ten years based on the adopted land use plan to ~~((provide information on the location, timing, and~~

~~capacity needs of future growth))~~ inform the development of a transportation element that balances transportation system safety and convenience to accommodate all users of the transportation system to safely, reliably, and efficiently provide access and mobility to people and goods. Priority must be given to inclusion of transportation facilities and services providing the greatest multimodal safety benefit to each category of roadway users for the context and speed of the facility;

(F) Identification of state and local system needs to equitably meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW. Local system needs should reflect the regional transportation system and local goals, and strive to equitably implement the multimodal network;

(G) A transition plan for transportation as required in Title II of the Americans with disabilities act of 1990 (ADA). As a necessary step to a program access plan to provide accessibility under the ADA, state and local government, public entities, and public agencies are required to perform self-evaluations of their current facilities, relative to accessibility requirements of the ADA. The agencies are then required to develop a program access plan, which can be called a transition plan, to address any deficiencies. The plan is intended to achieve the following:

(I) Identify physical obstacles that limit the accessibility of facilities to individuals with disabilities;

(II) Describe the methods to be used to make the facilities accessible;

(III) Provide a schedule for making the access modifications; and

(IV) Identify the public officials responsible for implementation of the transition plan;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by the office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting the identified needs of the transportation system, including state transportation facilities, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) ~~((Pedestrian and bicycle))~~ Active transportation component to include collaborative efforts to identify and designate planned improvements for ~~((pedestrian and bicycle))~~ active transportation facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards

adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include ((increased)) active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. If the collection of impact fees is delayed under RCW 82.02.050(3), the six-year period required by this subsection (6)(b) must begin after full payment of all impact fees is due to the county or city. A development proposal may not be denied for causing the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan where such impacts could be adequately mitigated through active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, or other transportation systems management strategies funded by the development.

(c) The transportation element described in this subsection (6), the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year investment program required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; (c) an evaluation of tree canopy coverage within the urban growth area; and ((e)) (d) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9)(a) A climate change and resiliency element that is designed to result in reductions in overall greenhouse gas emissions and that must enhance resiliency to and avoid the adverse impacts of climate change, which must include efforts to reduce localized greenhouse gas emissions and avoid creating or worsening localized climate impacts to vulnerable populations and overburdened communities.

(b) The climate change and resiliency element shall include the following subelements:

(i) A greenhouse gas emissions reduction subelement;

(ii) A resiliency subelement.

(c) The greenhouse gas emissions reduction subelement of the climate change and resiliency element is mandatory for the jurisdictions specified in section 4(1) of this act and is encouraged for all other jurisdictions, including those planning under RCW 36.70A.040 and those planning under chapter 36.70 RCW. The resiliency subelement of the climate change and resiliency element is mandatory for all jurisdictions planning under RCW 36.70A.040 and is encouraged for those jurisdictions planning under chapter 36.70 RCW.

(d)(i) The greenhouse gas emissions reduction subelement of the comprehensive plan, and its related development regulations, must identify the actions the jurisdiction will take during the planning cycle consistent with the guidelines published by the

department pursuant to section 5 of this act that will:

(A) Result in reductions in overall greenhouse gas emissions generated by transportation and land use within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state;

(B) Result in reductions in per capita vehicle miles traveled within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state; and

(C) Prioritize reductions that benefit overburdened communities in order to maximize the cobenefits of reduced air pollution and environmental justice.

(ii) Actions not specifically identified in the guidelines developed by the department pursuant to section 5 of this act may be considered consistent with these guidelines only if:

(A) They are projected to achieve greenhouse gas emissions reductions or per capita vehicle miles traveled reductions equivalent to what would be required of the jurisdiction under the guidelines adopted by the department; and

(B) They are supported by scientifically credible projections and scenarios that indicate their adoption is likely to result in reductions of greenhouse gas emissions or per capita vehicle miles traveled.

(iii) A jurisdiction may not restrict population growth or limit population allocation in order to achieve the requirements set forth in this subsection (9)(d).

(e)(i) The resiliency subelement must equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change in human communities and ecological systems through goals, policies, and programs consistent with the best available science and scientifically credible climate projections and impact scenarios that moderate or avoid harm, enhance the resiliency of natural and human systems, and enhance beneficial opportunities. The resiliency subelement must prioritize actions that benefit overburdened communities that will disproportionately suffer from compounding environmental impacts and will be most impacted by natural hazards due to climate change. Specific goals, policies, and programs of the resiliency subelement must include, but are not limited to, those designed to:

(A) Identify, protect, and enhance natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(B) Identify, protect, and enhance community resiliency to climate change impacts, including social, economic, and built environment factors, that support adaptation to climate impacts consistent with environmental justice; and

(C) Address natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfire, and other effects of changes to temperature and precipitation patterns.

(ii) A natural hazard mitigation plan or similar plan that is guided by RCW 36.70A.020(14), that prioritizes actions that benefit overburdened communities, and that complies with the applicable requirements of this chapter, including the requirements set forth in this subsection (9)(e), may be adopted by reference to satisfy these requirements, except that to the extent any of the substantive requirements of this subsection (9)(e) are not addressed, or are inadequately addressed, in the referenced natural hazard mitigation plan, a county or city must supplement the natural hazard mitigation plan accordingly so that the adopted resiliency subelement complies fully with the substantive requirements of this subsection (9)(e).

(A) If a county or city intends to adopt by reference a federal emergency management agency natural hazard mitigation plan in order to meet all or part of the substantive requirements set forth in this subsection (9)(e), and the most recently adopted federal

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emergency management agency natural hazard mitigation plan does not comply with the requirements of this subsection (9)(e), the department may grant the county or city an extension of time in which to submit a natural hazard mitigation plan.

(B) Eligibility for an extension under this subsection prior to July 1, 2027, is limited to a city or county required to review and, if needed, revise its comprehensive plan on or before June 30, 2025, as provided in RCW 36.70A.130, or for a city or county with an existing, unexpired federal emergency management agency natural hazard mitigation plan scheduled to expire before December 31, 2024.

(C) Extension requests after July 1, 2027, may be granted if requirements for the resiliency subelement are amended or added by the legislature or if the department finds other circumstances that may result in a potential finding of noncompliance with a jurisdiction's existing and approved federal emergency management agency natural hazard mitigation plan.

(D) A city or county that wishes to request an extension of time must submit a request in writing to the department no later than the date on which the city or county is required to review and, if needed, revise its comprehensive plan as provided in RCW 36.70A.130.

(E) Upon the submission of such a request to the department, the city or county may have an additional 48 months from the date provided in RCW 36.70A.130 in which to either adopt by reference an updated federal emergency management agency natural hazard mitigation plan or adopt its own natural hazard mitigation plan, and to then submit that plan to the department.

(F) The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city pursuant to (d) of this subsection in order to implement measures specified by the department pursuant to section 5 of this act are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(10) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

**NEW SECTION. Sec. 4.** A new section is added to chapter 36.70A RCW to read as follows:

(1) The requirements of the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 apply only to those counties that are required or that choose to plan under RCW 36.70A.040 and that also meet either of the criteria set forth in (a), (b), or (c) of this subsection on or after April 1, 2021, and the cities with populations greater than 6,000 as of April 1, 2021, within those counties:

(a) A county with a population density of at least 100 people per square mile and a population of at least 200,000;

(b) A county bordering on the Columbia and Snake rivers with a population density of at least 75 people per square mile and an annual growth rate of at least 1.65 percent; or

(c) A county located to the west of the crest of the Cascade mountains with a population of at least 130,000.

(2) The requirements of the amendments to the transportation element of RCW 36.70A.070 set forth in this act apply only to: (a) Counties and cities that meet the population criteria set forth in subsection (1) of this section; and (b) cities with populations of 6,000 or greater as of April 1, 2021, that are located in a county that is required or that chooses to plan under RCW 36.70A.040.

(3) The requirements of the amendments to the land use element of RCW 36.70A.070 set forth in this act apply only to: (a) Counties and cities that meet the population criteria set forth in subsection (1) or (2) of this section; and (b) counties that have a population of 20,000 or greater as of April 1, 2021, and that are required or that choose to plan under RCW 36.70A.040.

(4) Once a county meets either of the sets of criteria set forth in subsection (1) of this section, the requirement to conform with the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 remains in effect, even if the county no longer meets one of these sets of criteria.

(5) If the population of a county that previously had not been required to conform with the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 changes sufficiently to meet either of the sets of criteria set forth in subsection (1) of this section, the county, and the cities with populations greater than 6,000 as of April 1, 2021, within that county, shall adopt a greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 at the next scheduled update of the comprehensive plan as set forth in RCW 36.70A.130.

(6) The population criteria used in this section must be based on population data as determined by the office of financial management.

**NEW SECTION. Sec. 5.** A new section is added to chapter 70A.45 RCW to read as follows:

(1) The department of commerce, in consultation with the department of ecology, the department of health, and the department of transportation, shall publish guidelines that specify a set of measures counties and cities may implement via updates to their comprehensive plans and development regulations that have a demonstrated ability to increase housing capacity within urban growth areas or reduce greenhouse gas emissions, allowing for consideration of the emissions reductions achieved through the adoption of statewide programs. The guidelines must prioritize measures that benefit overburdened communities, including communities that have experienced disproportionate harm due to air pollution and may draw upon the most recent health disparities data from the department of health to identify high pollution areas and disproportionately burdened communities. These guidelines must be developed consistent with an environmental justice assessment pursuant to RCW 70A.02.060 and the guidelines must include environmental justice assessment processes. The guidelines must be based on:

(a) The most recent greenhouse gas emissions report prepared by the department of ecology and the department of commerce pursuant to RCW 70A.45.020(2);

(b) The most recent city and county population estimates prepared by the office of financial management pursuant to RCW 43.62.035;

(c) The locations of major employment centers and transit corridors, for the purpose of increasing housing supply in these areas; and

(d) Available environmental justice data and data regarding access to public transportation for people with disabilities and for vulnerable populations.

(2)(a) The department of commerce, in consultation with the department of transportation, shall publish guidelines that specify a set of measures counties and cities may have available to them to take through updates to their comprehensive plans and development regulations that have a demonstrated ability to reduce per capita vehicle miles traveled, including measures that are designed to be achievable throughout the state, including in

small cities and rural cities.

(b) The guidelines must be based on:

(i) The most recent greenhouse gas emissions report prepared by the department of ecology and the department of commerce pursuant to RCW 70A.45.020(2);

(ii) The most recent city and county population estimates prepared by the office of financial management pursuant to RCW 43.62.035; and

(iii) The most recent summary of per capita vehicle miles traveled as compiled by the department of transportation.

(3) The department of commerce shall first publish the full set of guidelines described in subsections (1) and (2) of this section no later than December 31, 2025. The department of commerce shall update these guidelines at least every five years thereafter based on the most recently available data, and shall provide for a process for local governments and other parties to submit alternative actions for consideration for inclusion into the guidelines at least once per year. The department of commerce shall publish an intermediate set of guidelines no later than December 31, 2023, in order to be available for use by jurisdictions whose periodic updates are required by RCW 36.70A.130(5) to occur prior to December 31, 2025. Jurisdictions whose periodic updates are required by RCW 36.70A.130(5)(b) may utilize the intermediate set of guidelines published by the department of commerce to meet the requirements of RCW 36.70A.070(9).

(4)(a) In any updates to the guidelines published after 2025, the department of commerce shall include an evaluation of the impact that locally adopted climate change and resiliency elements have had on local greenhouse gas emissions and per capita vehicle miles traveled reduction goals. The evaluation must also address the impact that locally adopted greenhouse gas emissions reduction subelements have had on meeting local housing goals and targets.

(b) The updates must also include an estimate of the impacts that locally adopted climate change and resiliency elements will have on achieving local greenhouse gas emissions and per capita vehicle miles traveled reduction goals. The evaluation must also include an estimate of the impact that locally adopted greenhouse gas emissions reduction subelements will have on meeting local housing goals and targets.

(c) The department may include in the specified guidelines what additional measures cities and counties should take to make additional progress on local reduction goals, including any measures that increase housing capacity within urban growth areas.

(5) The department of commerce may not propose or adopt any guidelines that would include any form of a road usage charge or any fees or surcharges related to vehicle miles traveled.

(6) The department of commerce may not propose or adopt any guidelines that would direct or require local governments to regulate or tax, in any form, transportation service providers, delivery vehicles, or passenger vehicles.

(7) The department of commerce, in the course of implementing this section, shall provide and prioritize options that support increased housing supply and diversity of housing types that assist counties and cities in meeting greenhouse gas emissions reduction, housing supply, and other requirements established under this chapter.

(8) The provisions of this section as applied to the department of transportation are subject to the availability of amounts appropriated for this specific purpose.

(9) For purposes of this section, "overburdened communities" and "vulnerable populations" means the same as provided in RCW 36.70A.030.

**NEW SECTION. Sec. 6.** A new section is added to chapter

36.70A RCW to read as follows:

(1) A county or city required to complete a greenhouse gas emissions reduction subelement may submit the subelement to the department for approval. When submitted to the department for approval, the subelement becomes effective when approved by the department as provided in this section. If a county or city does not seek department approval of the subelement, the effective date of the subelement is the date on which the comprehensive plan is adopted by the county or city.

(2) Notice of intent to apply for approval. (a) Not less than 120 days prior to applying for approval of a subelement, the county or city must notify the department in writing that it intends to apply for approval. The department shall review proposed subelements prior to final adoption and advise the county or city of the actions necessary to receive approval.

(b) The department may consult with other relevant state agencies in making its determination.

(c) The department shall publish notice in the Washington State Register that a city or county has notified the department of its intent to apply for approval and the department shall post a copy of the notice on the department website.

(3) Procedures for an application for approval. (a) After taking final action to adopt a greenhouse gas emissions reduction subelement, a city or county may apply to the department for approval of the subelement. A city or county must submit its application to the department within 10 days of taking final action.

(b) An application for approval must include, at a minimum, the following:

(i) A cover letter from the legislative authority requesting approval;

(ii) A copy of the adopted ordinance or resolution taking the legislative action or actions required to adopt the greenhouse gas emissions reduction subelement;

(iii) A statement explaining how the adopted subelement complies with the provisions of this chapter; and

(iv) A copy of the record developed by the city or county at any public meetings or public hearings at which action was taken on the greenhouse gas emissions reduction subelement.

(c) For purposes of this subsection, the terms "action" and "meeting" have the same definition as in RCW 42.30.020.

(4) Approval procedures. (a) The department shall strive to achieve final action to approve or deny an application within 180 days of the date of receipt of the application.

(b) The department must issue its decision in the form of a written statement, including findings of fact and conclusions, and noting the date of the issuance of its decision. The department's issued decision must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications to the proposed greenhouse gas emissions reduction subelement.

(c) The department will promptly publish its decision on the application for approval as follows:

(i) Notify the city or county in writing of its determination;

(ii) Publish a notice of action in the Washington State Register;

(iii) Post a notice of its decision on the agency website; and

(iv) Notify other relevant state agencies regarding the approval decision.

(5) The department shall approve a proposed greenhouse gas emissions reduction subelement unless it determines that the proposed greenhouse gas emissions reduction subelement is not consistent with the policy of RCW 36.70A.070 and, after they are adopted, the applicable guidelines.

(6) The department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment by a local government planning under RCW



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36.70A.040 may be appealed according to the following provisions:

(a) The department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment by a local government planning under RCW 36.70A.040 may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(b) A decision of the growth management hearings board concerning an appeal of the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment must be based solely on whether or not the adopted or amended greenhouse gas emissions reduction subelement, any adopted amendments to other elements of the comprehensive plan necessary to carry out the subelement, and any adopted or amended development regulations necessary to implement the subelement, comply with the goal set forth in RCW 36.70A.020(14) as it applies to greenhouse gas emissions reductions, RCW 36.70A.070(9) excluding RCW 36.70A.070(9)(e), the guidelines adopted under section 5 of this act applicable to the greenhouse gas emissions reduction subelement, or chapter 43.21C RCW.

**Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with RCW 36.70A.5801;

(b) That the ~~((twenty))~~ 20-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; ~~((or))~~

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous; or

(f) That the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendments by a local government planning under RCW 36.70A.040 was not in compliance with the joint guidance issued by the department pursuant to section 5 of this act.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within ~~((sixty))~~ 60 days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

**Sec. 8.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

(2) Except as otherwise provided in subsection (4) of this section, the burden is on the petitioner to demonstrate that any action taken by a state agency, county, or city under this chapter is not in compliance with the requirements of this chapter.

(3) In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter.

(4) A county or city subject to a determination of invalidity made under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating that the ordinance or resolution it has enacted in response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of this chapter under the standard in RCW 36.70A.302(1).

(5) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW.

(6) The greenhouse gas emissions reduction subelement required by RCW 36.70A.070 shall take effect as provided in section 6 of this act.

**Sec. 9.** RCW 36.70A.190 and 2022 c 252 s 5 are each amended to read as follows:

(1) The department shall establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state.

(2) The department shall develop a priority list and establish funding levels for planning and technical assistance grants both for counties and cities that plan under RCW 36.70A.040. Priority for assistance shall be based on a county's or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, the presence of overburdened communities, and other relevant factors. The department shall establish funding levels for grants to community-based organizations for the specific purpose of advancing participation of vulnerable populations and overburdened communities in the planning process.

(3) The department shall develop and administer a grant

program to provide direct financial assistance to counties and cities for the preparation of comprehensive plans under this chapter. The department may establish provisions for county and city matching funds to conduct activities under this subsection. Grants may be expended for any purpose directly related to the preparation of a county or city comprehensive plan as the county or city and the department may agree, including, without limitation, the conducting of surveys, inventories and other data gathering and management activities, the retention of planning consultants, contracts with regional councils for planning and related services, and other related purposes.

(4) The department shall establish a program of technical assistance:

(a) Utilizing department staff, the staff of other state agencies, and the technical resources of counties and cities to help in the development of comprehensive plans required under this chapter. The technical assistance may include, but not be limited to, model land use ordinances, regional education and training programs, and information for local and regional inventories; and

(b) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter.

(5) The department shall provide mediation services to resolve disputes between counties and cities regarding, among other things, coordination of regional issues and designation of urban growth areas.

(6) The department shall provide services to facilitate the timely resolution of disputes between a federally recognized Indian tribe and a city or county.

(a) A federally recognized Indian tribe may request the department to provide facilitation services to resolve issues of concern with a proposed comprehensive plan and its development regulations, or any amendment to the comprehensive plan and its development regulations.

(b) Upon receipt of a request from a tribe, the department shall notify the city or county of the request and offer to assist in providing facilitation services to encourage resolution before adoption of the proposed comprehensive plan. Upon receipt of the notice from the department, the city or county must delay any final action to adopt any comprehensive plan or any amendment or its development regulations for at least 60 days. The tribe and the city or county may jointly agree to extend this period by notifying the department. A county or city must not be penalized for noncompliance under this chapter due to any delays associated with this process.

(c) Upon receipt of a request, the department shall provide comments to the county or city including a summary and supporting materials regarding the tribe's concerns. The county or city may either agree to amend the comprehensive plan as requested consistent with the comments from the department, or enter into a facilitated process with the tribe, which must be arranged by the department using a suitable expert to be paid by the department. This facilitated process may also extend the 60-day delay of adoption, upon agreement of the tribe and the city or county.

(d) At the end of the 60-day period, unless by agreement there is an extension of the 60-day period, the city or county may proceed with adoption of the proposed comprehensive plan and development regulations. The facilitator shall write a report of findings describing the basis for agreements or disagreements that occurred during the process that are allowed to be disclosed by the parties and the resulting agreed-upon elements of the plan to be amended.

(7) The department shall provide planning grants to enhance citizen participation under RCW 36.70A.140.

(8) The department shall develop, in collaboration with the department of ecology, the department of fish and wildlife, the department of natural resources, the department of health, the emergency management division of the military department, as well as any federally recognized tribe who chooses to voluntarily participate, and adopt by rule guidance that creates a model climate change and resiliency element that may be used by counties, cities, and multiple-county planning regions for developing and implementing climate change and resiliency plans and policies required by RCW 36.70A.070(9), subject to the following provisions:

(a) The model element must establish minimum requirements, and may include model options or voluntary cross-jurisdictional strategies, or both, for fulfilling the requirements of RCW 36.70A.070(9);

(b) The model element should provide guidance on identifying, designing, and investing in infrastructure that supports community resilience to climate impacts, including the protection, restoration, and enhancement of natural infrastructure as well as traditional infrastructure and protecting and enhancing natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(c) The model element should provide guidance on identifying and addressing natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfires, and other effects of reasonably anticipated changes to temperature and precipitation patterns; and

(d) The rule must recognize and promote as many cobenefits of climate resilience as possible such as climate change mitigation, salmon recovery, forest health, ecosystem services, and socioeconomic health and resilience.

NEW SECTION. Sec. 10. A new section is added to chapter 47.80 RCW to read as follows:

The department shall compile, maintain, and publish a summary of the per capita vehicle miles traveled annually in each city in the state, and in the unincorporated portions of each county in the state.

NEW SECTION. Sec. 11. A new section is added to chapter 90.58 RCW to read as follows:

The department shall update its shoreline master program guidelines to require shoreline master programs to address the impact of sea level rise and increased storm severity on people, property, and shoreline natural resources and the environment.

Sec. 12. RCW 86.12.200 and 1991 c 322 s 3 are each amended to read as follows:

The county legislative authority of any county may adopt a comprehensive flood control management plan for any drainage basin that is located wholly or partially within the county.

A comprehensive flood control management plan shall include the following elements:

(1) Designation of areas that are susceptible to periodic flooding, from inundation by bodies of water or surface water runoff, or both, including the river's meander belt or floodway;

(2) Establishment of a comprehensive scheme of flood control protection and improvements for the areas that are subject to such periodic flooding, that includes: (a) Determining the need for, and desirable location of, flood control improvements to protect or preclude flood damage to structures, works, and improvements, based upon a cost/benefit ratio between the expense of providing and maintaining these improvements and the benefits arising from these improvements; (b) establishing the level of flood protection that each portion of the system of flood control improvements will be permitted; (c) identifying alternatives to in-stream flood control work; (d) identifying areas where flood waters could be

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directed during a flood to avoid damage to buildings and other structures; and (e) identifying sources of revenue that will be sufficient to finance the comprehensive scheme of flood control protection and improvements;

(3) Establishing land use regulations that preclude the location of structures, works, or improvements in critical portions of such areas subject to periodic flooding, including a river's meander belt or floodway, and permitting only flood-compatible land uses in such areas;

(4) Establishing restrictions on construction activities in areas subject to periodic floods that require the flood proofing of those structures that are permitted to be constructed or remodeled; ~~((and))~~

(5) Establishing restrictions on land clearing activities and development practices that exacerbate flood problems by increasing the flow or accumulation of flood waters, or the intensity of drainage, on low-lying areas. Land clearing activities do not include forest practices as defined in chapter 76.09 RCW; and

(6) Consideration of climate change impacts, including the impact of sea level rise and increased storm severity on people, property, natural resources, and the environment.

A comprehensive flood control management plan shall be subject to the minimum requirements for participation in the national flood insurance program, requirements exceeding the minimum national flood insurance program that have been adopted by the department of ecology for a specific floodplain pursuant to RCW 86.16.031, and rules adopted by the department of ecology pursuant to RCW 86.26.050 relating to floodplain management activities. When a county plans under chapter 36.70A RCW, it may incorporate the portion of its comprehensive flood control management plan relating to land use restrictions in its comprehensive plan and development regulations adopted pursuant to chapter 36.70A RCW.

**NEW SECTION. Sec. 13.** A new section is added to chapter 43.21C RCW to read as follows:

The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city pursuant to RCW 36.70A.070(9) (d) or (e) in order to implement measures specified by the department of commerce pursuant to section 5 of this act are not subject to administrative or judicial appeals under this chapter.

**Sec. 14.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

(a) For rental housing, ~~((sixty))~~ 60 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, ~~((eighty))~~ 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(3) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain,

hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(4) "City" means any city or town, including a code city.

(5) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(6) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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

(8) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(9) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(10) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(11) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(12) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(13) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(14) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(15) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(16) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(17) "Minerals" include gravel, sand, and valuable metallic substances.

(18) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(19) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(20) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(21) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(22) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(23) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(24) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(25) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(26) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(27) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(28) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(29) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(30) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(31) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and

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duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

(32) "Per capita vehicle miles traveled" means the number of miles traveled using cars and light trucks in a calendar year divided by the number of residents in Washington. The calculation of this value excludes vehicle miles driven conveying freight.

(33) "Active transportation" means forms of pedestrian mobility including walking or running, the use of a mobility assistive device such as a wheelchair, bicycling and cycling irrespective of the number of wheels, and the use of small personal devices such as foot scooters or skateboards. Active transportation includes both traditional and electric assist bicycles and other devices. Planning for active transportation must consider and address accommodation pursuant to the Americans with disabilities act and the distinct needs of each form of active transportation.

(34) "Transportation system" means all infrastructure and services for all forms of transportation within a geographical area, irrespective of the responsible jurisdiction or transportation provider.

(35) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities and the equitable distribution of resources and benefits.

(36) "Active transportation facilities" means facilities provided for the safety and mobility of active transportation users including, but not limited to, trails, as defined in RCW 47.30.005, sidewalks, bike lanes, shared-use paths, and other facilities in the public right-of-way.

(37) "Green space" means an area of land, vegetated by natural features such as grass, trees, or shrubs, within an urban context and less than one acre in size that creates public value through one or more of the following attributes:

- (a) Is accessible to the public;
- (b) Promotes physical and mental health of residents;
- (c) Provides relief from the urban heat island effects;
- (d) Promotes recreational and aesthetic values;
- (e) Protects streams or water supply; or
- (f) Preserves visual quality along highway, road, or street corridors.

(38) "Green infrastructure" means a wide array of natural assets and built structures within an urban growth area boundary, including parks and other areas with protected tree canopy, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.

(39) "Wildland urban interface" means the geographical area where structures and other human development meets or intermingles with wildland vegetative fuels.

(40) "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.

(41)(a) "Vulnerable populations" means population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

(b) "Vulnerable populations" includes, but is not limited to: (i) Racial or ethnic minorities; (ii) Low-income populations; and (iii) Populations disproportionately impacted by environmental harms.

**Sec. 15.** RCW 36.70A.130 and 2022 c 287 s 1 and 2022 c 192 s 1 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ~~((ten))~~ 10-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per

year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440, provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, patterns of development occurring within the urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding ~~((twenty))~~ 20-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;

(ii) The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource

lands of long-term commercial significance;

(iii) Less than 15 percent of the areas added to the urban growth area are critical areas;

(iv) The areas added to the urban growth areas are suitable for urban growth;

(v) The transportation element and capital facility plan element have identified the transportation facilities, and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(vi) The urban growth area is not larger than needed to accommodate the growth planned for the succeeding 20-year planning period and a reasonable land market supply factor;

(vii) The areas removed from the urban growth area do not include urban growth or urban densities; and

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands.

(4) Except as otherwise provided in subsections (6) and (8) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) ~~((On))~~ Except as provided in subsection (10) of this section, on or before December 31, 2024, with the following review and, if needed, revision on or before June 30, 2034, and then every ~~((ten))~~ 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2025, and every ~~((ten))~~ 10 years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2026, and every ~~((ten))~~ 10 years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2027, and every ~~((ten))~~ 10 years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available

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funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW:

(i) Complying with the deadlines in this section; or

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas.

(b) A county or city that is fewer than ~~((twelve))~~ 12 months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ~~((ten))~~ 10 years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to

agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

(9)(a) Counties subject to planning deadlines established in subsection (5) of this section that are required or that choose to plan under RCW 36.70A.040 and that meet either criteria of (a)(i) or (ii) of this subsection, and cities with a population of more than 6,000 as of April 1, 2021, within those counties, must provide to the department an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan. Once a county meets the criteria in (a)(i) or (ii) of this subsection, the implementation progress report requirements remain in effect thereafter for that county and the cities therein with populations greater than 6,000 as of April 1, 2021, even if the county later no longer meets either or both criteria. A county is subject to the implementation progress report requirement if it meets either of the following criteria on or after April 1, 2021:

(i) The county has a population density of at least 100 people per square mile and a population of at least 200,000; or

(ii) The county has a population density of at least 75 people per square mile and an annual growth rate of at least 1.75 percent as determined by the office of financial management.

(b) The department shall adopt guidelines for indicators, measures, milestones, and criteria for use by counties and cities in the implementation progress report that must cover:

(i) The implementation of previously adopted changes to the housing element and any effect those changes have had on housing affordability and availability within the jurisdiction;

(ii) Permit processing timelines; and

(iii) Progress toward implementing any actions required to achieve reductions to meet greenhouse gas and vehicle miles traveled requirements as provided for in any element of the comprehensive plan under RCW 36.70A.070.

(c) If a city or county required to provide an implementation progress report under this subsection (9) has not implemented any specifically identified regulations, zoning and land use changes, or taken other legislative or administrative action necessary to implement any changes in the most recent periodic update in their comprehensive plan by the due date for the implementation progress report, the city or county must identify the need for such action in the implementation progress report. Cities and counties must adopt a work plan to implement any necessary regulations, zoning and land use changes, or take other legislative or administrative action identified in the implementation progress report and complete all work necessary for implementation within two years of submission of the implementation progress report.

(10) Any county or city that is required by section 4 of this act to include in its comprehensive plan a climate change and resiliency element and that is also required by subsection (5)(a) of this section to review and, if necessary, revise its comprehensive plan on or before December 31, 2024, must update its transportation element and incorporate a climate change and resiliency element into its comprehensive plan as part of the first implementation progress report required by subsection (9) of this section if funds are appropriated and distributed by December 31, 2027, as required under RCW 36.70A.070(10).

NEW SECTION. Sec. 16. A new section is added to chapter 36.70A RCW to read as follows:

(1) Notwithstanding the requirements of RCW 36.70A.070(10), it is the intent that jurisdictions subject to RCW

36.70A.130(5)(b) implement the requirements of this act on or before June 30, 2025. Any funding provided to cover applicable local government costs related to implementation of this act shall be considered timely.

(2) This section expires July 31, 2025.

**NEW SECTION. Sec. 17.** A new section is added to chapter 43.20 RCW to read as follows:

(1)(a) Beginning with water system plans initiated after June 30, 2025, the department shall ensure water system plans for group A community public water systems serving 1,000 or more connections include a climate resilience element at the time of approval.

(b) The department must update its water system planning guidebook to assist water systems in implementing the climate resilience element, including guidance on any available technical and financial resources.

(c) The department shall provide technical assistance to public water systems based on their system size, location, and water source, by providing references to existing state or federal risk management, climate resiliency, or emergency management and response tools that may be used to satisfy the climate resilience element.

(d) Subject to the availability of amounts appropriated for this specific purpose, the University of Washington climate impacts group shall assist the department in the development of tools for the technical assistance to be provided in (c) of this subsection.

(2) To fulfill the requirements of the climate resilience element, water systems must:

(a) Determine which extreme weather events pose significant challenges to their system and build scenarios to identify potential impacts;

(b) Assess critical assets and the actions necessary to protect the system from the consequences of extreme weather events on system operations; and

(c) Generate reports describing the costs and benefits of the system's risk reduction strategies and capital project needs.

(3) Climate readiness projects, including planning to meet the requirements of this section and actions to protect a water system from extreme weather events, including infrastructure and design projects, are eligible for financial assistance under RCW 70A.125.180. The department must develop grant and loan eligibility criteria and consider applications from water systems that identify climate readiness projects.

**Sec. 18.** RCW 70A.125.180 and 2020 c 20 s 1359 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the department shall provide financial assistance through a water system acquisition and rehabilitation program, hereby created. ~~((The program shall be jointly administered with the public works board and the department of commerce.))~~ ~~((agencies))~~ department shall adopt guidelines for the program using as a model the procedures and criteria of the drinking water revolving loan program authorized under RCW 70A.125.160. All financing provided through the program must be in the form of grants or loans that partially cover project costs, including projects and planning required under section 17 of this act. The maximum grant or loan to any eligible entity may not exceed ~~((twenty five))~~ 25 percent of the funds allocated to the appropriation in any fiscal year.

**NEW SECTION. Sec. 19.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "framework;" strike the remainder of the title and insert "amending RCW 36.70A.020, 36.70A.480, 36.70A.280, 36.70A.320, 36.70A.190, 86.12.200,

36.70A.030, and 70A.125.180; reenacting and amending RCW 36.70A.070 and 36.70A.130; adding new sections to chapter 36.70A RCW; adding a new section to chapter 70A.45 RCW; adding a new section to chapter 47.80 RCW; adding a new section to chapter 90.58 RCW; adding a new section to chapter 43.21C RCW; adding a new section to chapter 43.20 RCW; creating a new section; and providing an expiration date."

#### MOTION

Senator Boehnke moved that the following floor amendment no. 0342 by Senator Boehnke be adopted:

On page 1, beginning on line 20, after "emissions" strike "and per capita vehicle miles traveled."

On page 2, line 40, after "emissions" strike "and per capita vehicle miles traveled"

On page 6, beginning on line 4, after "activity" strike all material through "state" on line 6

On page 16, beginning on line 37, after "state;" strike all material through "state;" on line 40

Reletter the remaining subsection consecutively and correct any internal references accordingly.

On page 17, line 8, after "reductions" strike "or per capita vehicle miles traveled reductions"

On page 17, beginning on line 13, after "emissions" strike "or per capita vehicle miles traveled"

On page 21, beginning on line 16, strike all of subsection (2)

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

On page 21, line 34, after "in" strike "subsections (1) and (2)" and insert "subsection (1)"

On page 22, line 10, after "emissions" strike "and per capita vehicle miles traveled"

On page 22, beginning on line 16, after "emissions" strike "and per capita vehicle miles traveled"

On page 22, beginning on line 26, after "charge" strike all material through "traveled" on line 27

On page 30, beginning on line 12, strike all of section 10

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

On page 37, beginning on line 37, strike all of subsection (32)

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

On page 46, line 12, after "gas" strike "and vehicle miles traveled" and insert "~~((and vehicle miles traveled))~~"

On page 48, beginning on line 28, after "RCW;" strike "adding a new section to chapter 47.80 RCW;"

Senators Boehnke, Short and King spoke in favor of adoption of the amendment to the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0342 by Senator Boehnke on page 1, line 20 to striking floor amendment no. 0333.

The motion by Senator Boehnke did not carry and floor amendment no. 0342 was not adopted by voice vote.

#### MOTION

Senator Warnick moved that the following floor amendment no. 0340 by Senator Warnick be adopted:

On page 2, line 15, after "uses" insert "; encouraging the conservation of productive agricultural lands requires local



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governments to have a regulatory strategy that allows agricultural landowners to successfully engage in agriculture"

Senator Warnick spoke in favor of adoption of the amendment to the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0340 by Senator Warnick on page 2, line 15 to striking floor amendment no. 0333.

The motion by Senator Warnick did not carry and floor amendment no. 0340 was not adopted by voice vote.

## MOTION

Senator Boehnke moved that the following floor amendment no. 0341 by Senator Boehnke be adopted:

On page 6, beginning on line 4, after "activity" strike "and reduce per capita vehicle miles traveled within the jurisdiction, but without increasing greenhouse gas emissions elsewhere in the state"

Senators Boehnke and Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

## MOTION

Senator Boehnke demanded a roll call.

The President declared that one-sixth of the members supported the demand, and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Boehnke on page 6, line 4 to striking floor amendment no. 0333.

## ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Boehnke and the amendment was not adopted by the following vote: Yeas, 22; Nays, 27; Absent, 0; Excused, 0.

Voting yea: Senators Boehnke, Braun, Dozier, Fortunato, Gildon, Hawkins, Holy, King, MacEwen, McCune, Mullet, Muzzall, Padden, Rivers, Schoesler, Short, Torres, Van De Wege, Wagoner, Warnick, Wilson, J. and Wilson, L.

Voting nay: Senators Billig, Cleveland, Conway, Dhingra, Frame, Hasegawa, Hunt, Kauffman, Keiser, Kuderer, Lias, Lovelett, Lovick, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

## MOTION

Senator Short moved that the following floor amendment no. 0348 by Senator Short be adopted:

On page 6, line 13, after "to," insert "adoption of portions or all of the wildland urban interface code developed by the international code council or developing building and maintenance standards consistent with the firewise USA program or similar program designed to reduce wildfire risk,"

Senators Short and Lovelett spoke in favor of adoption of the

amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0348 by Senator Short on page 6, line 13 to striking floor amendment no. 0333.

The motion by Senator Short carried and floor amendment no. 0348 was adopted by voice vote.

## WITHDRAWAL OF AMENDMENT

On motion of Senator Short and without objection, floor amendment no. 0343 by Senator Short on page 6, line 15 to striking floor amendment no. 0333 was withdrawn.

## MOTION

Senator Short moved that the following floor amendment no. 0346 by Senator Short be adopted:

On page 20, after line 24, insert the following:  
"(7) Compliance with the provisions of this act is voluntary for rural counties as defined in RCW 82.14.370 and counties that abut an international border."

Senator Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0346 by Senator Short on page 20, after line 24 to striking floor amendment no. 0333.

The motion by Senator Short did not carry and floor amendment no. 0346 was not adopted by voice vote.

## MOTION

Senator Gildon moved that the following floor amendment no. 0349 by Senator Gildon be adopted:

On page 20, after line 24, insert the following:  
"(7) The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city to include in its comprehensive plan a climate change and resiliency element or the requirements to the land use element, capital facilities element, parks and recreation element, transportation element, and utilities element established by this act are not subject to administrative or judicial appeal to the growth management hearings board under RCW 36.70A.280, except that the actions taken by a county or city to include the requirements of this section may be subject to administrative or judicial appeal if at least 10 years has commenced since the jurisdiction's scheduled update of its comprehensive plan as established by RCW 36.70A.130(5)."

On page 25, after line 8, insert the following:

"(c) The provisions in this subsection take effect as follows:

(i) On December 31, 2034, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(ii) On June 30, 2035, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(iii) On June 30, 2036, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(iv) On June 30, 2037, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan,

Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties."

Senator Gildon spoke in favor of adoption of the amendment to the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0349 by Senator Gildon on page 20, after line 24 to striking floor amendment no. 0333.

The motion by Senator Gildon did not carry and floor amendment no. 0349 was not adopted by rising vote.

#### MOTION

Senator Short moved that the following floor amendment no. 0344 by Senator Short be adopted:

On page 21, after line 32, insert the following:

"(c) Any state agency developing guidelines for implementing any of the provisions of the climate change and resiliency element or its subelements must treat the provisions of the guidelines as if they are provisions of a rule so that the final provisions are compliant with the rule-making restrictions in the administrative procedure act, RCW 34.05.328, for significant legislative rules. Guidelines may not recommend that any local jurisdictions impose requirements that conflict with or exceed the rule-making limitations in RCW 34.05.328(1) (d), (e), (f), (g), and (h). State agency guidance manuals may not recommend requirements that conflict with or are contrary to state or federal law."

On page 30, after line 11, insert the following:

"(9) Any state agency developing a rule or guidance implementing any of the provisions of the climate change and resiliency element or its subelements must abide by the requirements of the administrative procedure act, RCW 34.05.328, for significant legislative rules. Guidance may not recommend that any local jurisdiction impose requirements that conflict with or exceed the rule-making limitations in RCW 34.05.328(1) (d), (e), (f), (g), and (h). State agency guidance manuals may not recommend requirements that conflict with or are contrary to state or federal law."

On page 30, line 23, after "environment." insert "Any state agency developing a rule or guidelines to implement the provisions of this section must abide by the requirements of the administrative procedure act, RCW 34.05.328, for significant legislative rules. Rules and guidelines implementing this section may not recommend that any local jurisdiction impose requirements that conflict with or exceed the rule-making limitations in RCW 34.05.328(1) (d), (e), (f), (g), and (h). State agency guidance manuals may not recommend requirements that conflict with or are contrary to state or federal law."

Senator Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0344 by Senator Short on page 21, after line 32 to striking floor amendment no. 0333.

The motion by Senator Short did not carry and floor amendment no. 0344 was not adopted by voice vote.

#### MOTION

Senator Torres moved that the following floor amendment no. 0339 by Senator Torres be adopted:

On page 22, line 13, after "targets." insert "If the department of commerce or a county, city, or town finds that the climate change and resiliency element and any implementing development regulations or rules have resulted in a reduction to zoned housing capacity, and the local jurisdiction identifies a shortage of housing, then the city, county, or town may adopt a resolution with such findings, send a copy of the resolution to the department of commerce, and on the day the resolution is adopted stop implementing the climate change and resiliency element and its implementing development regulations and rules until there is no longer a housing shortage in the city, county, or town."

Senator Torres spoke in favor of adoption of the amendment to the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0339 by Senator Torres on page 22, line 13 to striking floor amendment no. 0333.

The motion by Senator Torres did not carry and floor amendment no. 0339 was not adopted by voice vote.

#### MOTION

Senator Short moved that the following floor amendment no. 0345 by Senator Short be adopted:

On page 47, after line 6, insert the following:

"NEW SECTION. Sec. 17. A new section is added to chapter 36.70A RCW to read as follows:

Green spaces and green infrastructure may not be sited on any location that would cause a net loss of buildable land within the jurisdiction. A jurisdiction may allow for additional development elsewhere within the jurisdiction, including by adjusting urban growth area boundaries, in order to compensate for the use of buildable land for green spaces and green infrastructure. Required green spaces may not be extracted from private property through a development regulation or through permits. Required green spaces may only be established on public land or by purchase of such property."

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

Senator Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0345 by Senator Short on page 47, after line 6 to striking floor amendment no. 0333.

The motion by Senator Short did not carry and floor amendment no. 0345 was not adopted by voice vote.

#### MOTION

Senator Short moved that the following floor amendment no. 0347 by Senator Short be adopted:

Beginning on page 47, line 7, strike all of section 17

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

On page 48, beginning on line 30, after "43.21C RCW;" strike "adding a new section to chapter 43.20 RCW;"

Senator Short spoke in favor of adoption of the amendment to

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the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0347 by Senator Short on page 47, line 7 to striking floor amendment no. 0333.

The motion by Senator Short did not carry and floor amendment no. 0347 was not adopted by voice vote.

Senator Lovelett spoke in favor of adoption of the striking amendment as amended.

Senator Torres spoke against adoption of the striking amendment as amended.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 0333 by Senator Lovelett as amended to Engrossed Second Substitute House Bill No. 1181.

The motion by Senator Lovelett carried and striking floor amendment no. 0333 as amended was adopted by voice vote.

#### MOTION

On motion of Senator Lovelett, the rules were suspended, Engrossed Second Substitute House Bill No. 1181 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Lovelett spoke in favor of passage of the bill.

Senators Short, Warnick, Fortunato, Wilson, J., Braun and Wilson, L. spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1181 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1181 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Cleveland, Conway, Dhingra, Frame, Hasegawa, Hunt, Kauffman, Keiser, Kuderer, Liias, Lovelett, Lovick, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, Gildon, Hawkins, Holy, King, MacEwen, McCune, Muzzall, Padden, Rivers, Schoesler, Short, Torres, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1181, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 1:18 p.m., on motion of Senator Pedersen, the Senate was declared to be at ease subject to the call of the President.

Senator Hasegawa announced a meeting of the Democratic Caucus after the Committee on Rules meeting.

Senator Warnick announced a meeting of the Republican Caucus after the Committee on Rules meeting.

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#### AFTERNOON SESSION

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The Senate was called to order at 3:15 p.m. by President Heck.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1068, by House Committee on Labor & Workplace Standards (originally sponsored by Bronoske, Simmons, Ryu, Goodman, Berry, Bateman, Peterson, Taylor, Doglio, Gregerson, Wylie, Pollet, Davis, Santos, Ormsby and Fosse)

Concerning injured workers' rights during compelled medical examinations.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Labor & Commerce be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 51.36.070 and 2020 c 213 s 3 are each amended to read as follows:

(1)(a) Whenever the department or the self-insurer deems it necessary in order to (i) make a decision regarding claim allowance or reopening, (ii) resolve a new medical issue, an appeal, or case progress, or (iii) evaluate the worker's permanent disability or work restriction, a worker shall submit to examination by a physician or physicians selected by the department, with the rendition of a report to the person ordering the examination, the attending physician, and the injured worker.

(b) The examination must be at a place reasonably convenient to the injured worker, or alternatively utilize telemedicine if the department determines telemedicine is appropriate for the examination. For purposes of this subsection, "reasonably convenient" means at a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner. The department must address in rule how to accommodate the injured worker if no approved medical examiner in the specialty needed is available in that community.

(2) The department or self-insurer shall provide the physician performing an examination with all relevant medical records from the worker's claim file. The director, in his or her discretion, may charge the cost of such examination or examinations to the self-insurer or to the medical aid fund as the case may be. The cost of said examination shall include payment to the worker of reasonable expenses connected therewith.

(3) For purposes of this section, "examination" means a physical or mental examination by a medical care provider licensed to practice medicine, osteopathy, podiatry, chiropractic, dentistry, or psychiatry at the request of the department or self-insured employer (~~or by order of the board of industrial insurance appeals~~).

(4)(a) The worker has the right to record the audio, video, or both, of all examinations ordered under this section, RCW 51.32.110, or by the board of industrial insurance appeals.

(b) The worker is responsible for paying the costs of recording.  
(c) Upon request, the worker must provide one copy of the recording to the department or self-insured employer within 14 days of receiving the request, but in no case prior to the issuance of a written report of the examination.

(d) The worker must take reasonable steps to ensure the recording equipment does not interfere with the examination. The worker may not hold the recording equipment while the examination is occurring.

(e) The worker may not materially alter the recording. Benefits received as a result of any material alteration of the recording by the worker or done on the worker's behalf may be subject to repayment pursuant to RCW 51.32.240.

(f) The worker may not post the recording to social media.

(g) Recordings made under this subsection are deemed confidential pursuant to RCW 51.28.070.

(h) The worker has the right to have one person, who is at least the age of majority and who is of the worker's choosing, to be present to observe all examinations ordered under this section, RCW 51.32.110, or by the board of industrial insurance appeals. The observer must be unobtrusive and not interfere with the examination. The observer may not be the worker's legal representative, an employee of the legal representative, the worker's attending provider, or an employee of the worker's attending provider.

(5) This section applies prospectively to all claims regardless of the date of injury."

On page 1, line 2 of the title, after "examinations;" strike the remainder of the title and insert "and amending RCW 51.36.070."

#### MOTION

Senator King moved that the following floor amendment no. 0317 by Senators King and Robinson be adopted:

On page 2, line 6, after "(b)" insert "The worker or the worker's representative must provide notice to the entity scheduling the examination that the examination will be recorded no less than seven calendar days before the date of the examination. The department must adopt rules to define the notification process.

(c)"

Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators King and Keiser spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Kuderer, Hasegawa and Stanford spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0317 by Senators King and Robinson on page 2, line 6 to the committee striking amendment.

The motion by Senator King carried and floor amendment no. 0317 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor & Commerce as amended to Substitute House Bill No. 1068.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1068 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and King spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Wagoner, Senator Rivers was excused.

#### MOTION

On motion of Senator Nobles, Senator Van De Wege was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1068 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1068 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 16; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Cleveland, Conway, Dhingra, Frame, Gildon, Hasegawa, Holy, Hunt, Kauffman, Keiser, King, Liias, Lovick, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, Hawkins, Kuderer, Lovelett, MacEwen, McCune, Schoesler, Short, Torres, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senators Rivers and Van De Wege

SUBSTITUTE HOUSE BILL NO. 1068, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SENATE BILL NO. 5066,  
SENATE BILL NO. 5070,  
SENATE BILL NO. 5084,  
SENATE BILL NO. 5131,

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO.

5236,

SUBSTITUTE SENATE BILL NO. 5238,

SUBSTITUTE SENATE BILL NO. 5286,

SENATE BILL NO. 5390,

SUBSTITUTE SENATE BILL NO. 5453,

SUBSTITUTE SENATE BILL NO. 5499,

SECOND SUBSTITUTE SENATE BILL NO. 5518,

and SUBSTITUTE SENATE BILL NO. 5542.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1355, by House Committee on Finance (originally sponsored by Wylie, Slatter, Orcutt, Harris, Leavitt, Orwall, Walen, Christian, Couture, Rule, Senn, Stokesbary, Graham, Kloba, Reed, Paul, Donaghy, Pollet and Callan)

Updating property tax exemptions for service-connected disabled veterans and senior citizens.

The measure was read the second time.

#### MOTION

On motion of Senator Rolfes, the rules were suspended,

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Substitute House Bill No. 1355 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rolfes and Wilson, L. spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1355.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1355 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senators Rivers and Van De Wege

SUBSTITUTE HOUSE BILL NO. 1355, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

April 7, 2023

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL NO. 5088,  
SENATE BILL NO. 5113,  
SENATE BILL NO. 5163,

SUBSTITUTE SENATE BILL NO. 5170,  
SUBSTITUTE SENATE BILL NO. 5176,  
SUBSTITUTE SENATE BILL NO. 5229,  
SUBSTITUTE SENATE BILL NO. 5304,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5320,  
ENGROSSED SENATE BILL NO. 5336,  
SENATE BILL NO. 5385,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5512,  
SUBSTITUTE SENATE BILL NO. 5538,  
SUBSTITUTE SENATE BILL NO. 5547,  
SUBSTITUTE SENATE BILL NO. 5604,

SENATE CONCURRENT RESOLUTION NO. 8407,  
and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

On motion of Senator Pedersen, the Senate advanced to the sixth order of business.

SECOND READING

HOUSE BILL NO. 1345, by Representatives Farivar, Senn, Simmons, Bateman, Lekanoff, Pollet, Fosse and Davis

Concerning the contribution to costs of privileges by incarcerated individuals.

The measure was read the second time.

MOTION

Senator Wilson, C. moved that the following committee striking amendment by the Committee on Human Services be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 72.09.470 and 1995 1st sp.s. c 19 s 7 are each amended to read as follows:

To the greatest extent practical, all ~~((inmates))~~ incarcerated individuals shall contribute to the cost of privileges. The department may require incarcerated individuals to contribute to the cost of specific privileges designated by the department in accordance with standards that the department shall develop and adopt to ensure that incarcerated individuals contribute a portion of the department's costs directly associated with providing designated privileges. The department shall establish standards by which ~~((inmates))~~ incarcerated individuals shall contribute a portion of the department's capital costs of providing privileges, including television cable access, ~~((extended family visitation,))~~ weight lifting, and other recreational sports equipment and supplies. The standards shall also require ~~((inmates))~~ incarcerated individuals to contribute a ~~((significant))~~ portion of the department's operating costs directly associated with providing privileges, including staff and supplies. ~~((Inmate contributions))~~ Contributions by incarcerated individuals may be in the form of individual user fees assessed against an ~~((inmate's))~~ incarcerated individual's institution account, deductions from an ~~((inmate's))~~ incarcerated individual's gross wages or gratuities, or ~~((inmates))~~ collective contributions by incarcerated individuals to the institutional welfare/betterment fund. The department shall make every effort to maximize incarcerated individual ~~((inmate))~~ contributions to payment for privileges. The department shall not limit ~~((inmates'))~~ incarcerated individuals' financial support for privileges to contributions from the institutional welfare/betterment fund. The standards shall consider the assets available to the ~~((inmates))~~ incarcerated individuals, the cost of administering compliance with the contribution requirements, and shall promote a responsible work ethic."

On page 1, line 2 of the title, after "individuals;" strike the remainder of the title and insert "and amending RCW 72.09.470."

Senators Wilson, C. and Boehnke spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services to House Bill No. 1345.

The motion by Senator Wilson, C. carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Wilson, C., the rules were suspended, House Bill No. 1345 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wilson, C. and Boehnke spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1345 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1345 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 37; Nays, 10; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Boehnke, Cleveland, Conway, Dhingra, Fortunato, Frame, Hasegawa, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Wagoner, Wellman, Wilson, C. and Wilson, J.

Voting nay: Senators Braun, Dozier, Gildon, Hawkins, McCune, Schoesler, Short, Torres, Warnick and Wilson, L.

Excused: Senators Rivers and Van De Wege

HOUSE BILL NO. 1345, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1168, by House Committee on Appropriations (originally sponsored by Simmons, Ramel, Callan, Wylie, Davis and Ormsby)

Providing prevention services, diagnoses, treatment, and support for prenatal substance exposure.

The measure was read the second time.

#### MOTION

Senator Cleveland moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

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

(1) Fetal alcohol spectrum disorders are lifelong physical, developmental, behavioral, and intellectual disabilities caused by prenatal alcohol exposure;

(2) According to the federal centers for disease control and prevention, fetal alcohol spectrum disorders affect as many as one in 20 people in the United States;

(3) The health care authority estimates that one percent of births, or approximately 870 children each year, are born with fetal alcohol spectrum disorders;

(4) In addition to alcohol use, other substances consumed during pregnancy may result in prenatal substance exposure affecting the physical, developmental, behavioral, and intellectual abilities of the exposed child;

(5) Washington has limited diagnostic capacity and currently lacks the capacity to diagnose and treat every child who needs support and treatment due to prenatal substance exposure;

(6) Without appropriate treatment and supports, children born with fetal alcohol spectrum disorders and other prenatal substance disorders are likely to experience adverse outcomes. According to current statistics, these children face adverse outcomes such as:

(a) 61 percent of children with fetal alcohol spectrum disorders are suspended or expelled from school by age 12;

(b) 90 percent of persons with fetal alcohol spectrum disorders

develop comorbid mental health conditions; and

(c) 60 percent of youth with fetal alcohol spectrum disorders are involved in the justice system;

(7) Untreated and unsupported prenatal substance exposure results in higher costs for the state and worse outcomes for children and their families;

(8) Investing in prevention and earlier intervention, including diagnostic capacity, treatment, and services for children and supports for families and caregivers will improve school outcomes; and

(9) Effective prenatal substance exposure response requires effective and ongoing cross-agency strategic planning and coordination.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) By January 1, 2024, the authority, on behalf of clients or potential clients of the department of children, youth, and families as described in this subsection, shall contract with a provider with expertise in comprehensive prenatal substance exposure treatment and family supports to offer services to children over the age of three and families who are or have been involved in the child welfare system or who are at risk of becoming involved in the child welfare system. This contract shall maximize the number of families that can be served through referrals by authority employees and other community partners in order to keep families together, reduce the number of placements, and prevent adverse outcomes for impacted children.

(2) By January 1, 2025, the authority, on behalf of clients or potential clients of the department of children, youth, and families as described in this subsection, shall contract with up to three providers across the state, in addition to the contracted provider in subsection (1) of this section, to offer comprehensive treatment services for prenatal substance exposure and family supports for children who were prenatally exposed to substances and who are, or have been, involved in the child welfare system.

(3) Comprehensive treatment and family supports must be trauma-informed and may include:

(a) Occupational, speech, and language therapy;

(b) Behavioral health counseling and caregiver counseling;

(c) Sensory processing support;

(d) Educational advocacy, psychoeducation, social skills support, and groups;

(e) Linkages to community resources; and

(f) Family supports and education, including the programs for parents, caregivers, and families recommended by the federal centers for disease control and prevention.

(4) The authority shall contract with the University of Washington fetal alcohol and drug unit to support the providers under contract in subsections (1) and (2) of this section by:

(a) Creating education and training programs for providers working with children who had prenatal substance exposure; and

(b) Offering ongoing coaching and support in creating a safe and healing environment, free from judgment, where families are supported through the challenges of care for children with prenatal substance exposure.

(5) The authority, in collaboration with the department of children, youth, and families, shall work with the contracted providers and families to collect relevant outcome data and provide a report on the expansion of services under the contracts and the outcomes experienced by persons receiving services under this section. The authority shall submit the report to the legislature with any recommendations related to improving availability of and access to services and ways to improve outcomes by June 1, 2028.

**NEW SECTION. Sec. 3.** A new section is added to chapter 71.24 RCW to read as follows:

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(1) By June 1, 2024, the authority shall submit to the legislature recommendations on ways to increase access to diagnoses, treatment, services, and supports for children who were exposed to alcohol or other substances during pregnancy and their families and caregivers. In creating the recommendations, the authority shall consult with service providers, medical professionals with expertise in diagnosing and treating prenatal substance exposure, families of children who were exposed to alcohol or other substances during pregnancy, communities affected by prenatal substance exposure, and advocates.

(2) The recommendations adopted under subsection (1) of this section shall, at a minimum, address:

(a) Increasing the availability of evaluation and diagnosis services for children and youth for fetal alcohol spectrum disorders and other prenatal substance disorders, including assuring an adequate payment rate for the interdisciplinary team required for diagnosis and developing sufficient capacity in rural and urban areas so that every child is able to access diagnosis services; and

(b) Increasing the availability of treatment for fetal alcohol spectrum disorders and other prenatal substance disorders for all children and youth including all treatments and services recommended by the federal centers for disease control and prevention. The authority shall review all barriers to accessing treatment and make recommendations on removing those barriers, including recommendations related to the definition of medical necessity, prior authorization requirements for diagnosis and treatment services, and limitations of treatment procedure codes and insurance coverage.

**NEW SECTION. Sec. 4.** A new section is added to chapter 71.24 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the authority shall contract with a statewide nonprofit entity with expertise in fetal alcohol spectrum disorders and experience in supporting parents and caregivers to offer free support groups for individuals living with fetal alcohol spectrum disorders and their parents and caregivers.

**Sec. 5.** RCW 71.24.610 and 2018 c 201 s 4049 are each amended to read as follows:

The authority, the department of social and health services, the department (~~of health~~), the department of corrections, the department of children, youth, and families, and the office of the superintendent of public instruction shall execute an interagency agreement to ensure the coordination of identification, prevention, and intervention programs for children who have fetal alcohol exposure and other prenatal substance exposures, and for women who are at high risk of having children with fetal alcohol exposure or other prenatal substance exposures.

The interagency agreement shall provide a process for community advocacy groups to participate in the review and development of identification, prevention, and intervention programs administered or contracted for by the agencies executing this agreement.

**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, 2023, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "exposure;" strike the remainder of the title and insert "amending RCW 71.24.610; adding a new section to chapter 41.05 RCW; adding new sections to chapter 71.24 RCW; and creating new sections."

MOTION

Senator Robinson moved that the following floor amendment

no. 0313 by Senator Robinson be adopted:

On page 3, beginning on line 4, after "the" strike all material through "and" on line 6 and insert "provider referenced in subsection (1) of this section to support the providers under contract in subsection"

Senators Robinson and Muzzall spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0313 by Senator Robinson on page 3, line 4 to the committee striking amendment.

The motion by Senator Robinson carried and floor amendment no. 0313 was adopted by voice vote.

Senator Cleveland spoke in favor of adoption of the committee striking amendment as amended.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Substitute House Bill No. 1168.

The motion by Senator Cleveland carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

On motion of Senator Cleveland, the rules were suspended, Second Substitute House Bill No. 1168 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland and Muzzall spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1168 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1168 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senators Rivers and Van De Wege

SECOND SUBSTITUTE HOUSE BILL NO. 1168, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1143, by House Committee on Appropriations (originally sponsored by Berry, Walen, Reed, Peterson, Street, Bateman, Ramel, Senn, Callan, Doglio, Macri, Lekanoff, Duerr, Pollet, Davis, Kloba, Fosse and Ormsby)

Concerning requirements for the purchase or transfer of firearms.

The measure was read the second time.

### MOTION

Senator Dhingra moved that the following committee striking amendment by the Committee on Law & Justice be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.41.090 and 2019 c 3 s 3 are each amended to read as follows:

(1) In addition to the other requirements of this chapter, no dealer may deliver a ~~((pistol))~~ firearm to the purchaser thereof until:

(a) The purchaser ~~((produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (6) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license" does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance))~~ provides proof of completion of a recognized firearm safety training program within the last five years that complies with the requirements in section 2 of this act, or proof that the purchaser is exempt from the training requirement;

(b) The dealer is notified ~~((in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a pistol under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or (ii) the state))~~ by the Washington state patrol firearms background check program that the purchaser is eligible to possess a firearm under ((RCW 9.41.040, as provided in subsection (3)(b) of this section; or) state and federal law; and

(c) The requirements ~~((or))~~ and time periods in RCW 9.41.092 have been satisfied.

(2) ~~((In addition to the other requirements of this chapter, no dealer may deliver a semiautomatic assault rifle to the purchaser thereof until:~~

(a) The purchaser provides proof that he or she has completed a recognized firearm safety training program within the last five years that, at a minimum, includes instruction on:

- (i) Basic firearms safety rules;
- (ii) Firearms and children, including secure gun storage and talking to children about gun safety;
- (iii) Firearms and suicide prevention;
- (iv) Secure gun storage to prevent unauthorized access and use;
- (v) Safe handling of firearms; and
- (vi) State and federal firearms laws, including prohibited firearms transfers.

The training must be sponsored by a federal, state, county, or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The proof of training shall be in the form of a certification that states under the penalty of perjury the training included the minimum requirements; and

(b) The dealer is notified in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a firearm under RCW 9.41.040 and that the application to purchase is approved

by the chief of police or sheriff; or (ii) the state that the purchaser is eligible to possess a firearm under RCW 9.41.040, as provided in subsection (3)(b) of this section; or

(c) The requirements or time periods in RCW 9.41.092 have been satisfied.

~~((3)(a) Except as provided in (b) of this subsection, in))~~ In determining whether the purchaser ((meets the requirements of RCW 9.41.040)) is eligible to possess a firearm, the ((chief of police or sheriff, or the designee of either,)) Washington state patrol firearms background check program shall check with the ((national crime information center, including the)) national instant criminal background check system, provided for by the Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.), the Washington state patrol electronic database, the health care authority electronic database, the administrative office of the courts, LInX-NW, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 to possess a firearm.

~~((b) The state, through the legislature or initiative process, may enact a statewide firearms background check system equivalent to, or more comprehensive than, the check required by (a) of this subsection to determine that a purchaser is eligible to possess a firearm under RCW 9.41.040. Once a state system is established, a dealer shall use the state system and national instant criminal background check system, provided for by the Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.), to make criminal background checks of applicants to purchase firearms.~~

(4) In any case under this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the dealer shall hold the delivery of the pistol or semiautomatic assault rifle until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale, or the state pursuant to subsection (3)(b) of this section, shall confirm the existence of outstanding warrants within seventy two hours after notification of the application to purchase a pistol or semiautomatic assault rifle is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an offense other than an offense making a person ineligible under RCW 9.41.040 to possess a firearm.

(5) In any case where the chief or sheriff of the local jurisdiction, or the state pursuant to subsection (3)(b) of this section, has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a firearm, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a firearm, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a firearm, the local jurisdiction or the state may hold the sale and delivery of the pistol or semiautomatic assault rifle up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court, superior court, or municipal court for good cause shown. A dealer shall be notified of each hold placed on the sale by local law enforcement or the state and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

~~((6))~~ (3)(a) At the time of applying for the purchase of a ((pistol or semiautomatic assault rifle)) firearm, the purchaser shall sign ((in triplicate)) and deliver to the dealer an application containing:

- (i) His or her full name, residential address, date and place of



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birth, race, and gender;

- (ii) The date and hour of the application;
- (iii) The applicant's driver's license number or state identification card number;
- (iv) A description of the ~~((pistol or semiautomatic assault rifle))~~ firearm including the make, model, caliber and manufacturer's number if available at the time of applying for the purchase of ~~((a pistol or semiautomatic assault rifle))~~ the firearm. If the manufacturer's number is not available at the time of applying for the purchase of a ~~((pistol or semiautomatic assault rifle))~~ firearm, the application may be processed, but delivery of the ~~((pistol or semiautomatic assault rifle))~~ firearm to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the ~~((chief of police of the municipality or the sheriff of the county in which the purchaser resides, or the state pursuant to subsection (3)(b) of this section))~~ Washington state patrol firearms background check program; and

(v) A statement that the purchaser is eligible to purchase and possess a firearm under state and federal law~~((; and~~

~~((vi) If purchasing a semiautomatic assault rifle, a statement by the applicant under penalty of perjury that the applicant has completed a recognized firearm safety training program within the last five years, as required by subsection (2) of this section)).~~

(b) The ~~((application))~~ dealer shall ~~((contain))~~ provide the applicant with information that contains two warnings substantially stated as follows:

(i) CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution; and

(ii) CAUTION: The presence of a firearm in the home has been associated with an increased risk of death to self and others, including an increased risk of suicide, death during domestic violence incidents, and unintentional deaths to children and others.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms and firearms safety.

(c) The dealer shall, by the end of the business day, ~~((sign and attach his or her address and deliver a copy of the application and such other documentation as required under subsections (1) and (2) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident, or the state pursuant to subsection (3)(b) of this section))~~ transmit the information from the application through secure automated firearms e-check (SAFE) to the Washington state patrol firearms background check program. The ~~((triplicate))~~ original application shall be retained by the dealer for six years.

~~((d))~~ The dealer shall deliver the ~~((pistol or semiautomatic assault rifle))~~ firearm to the purchaser ~~((following))~~ once the requirements and period of time specified in this chapter ~~((unless the dealer is notified of an investigative hold under subsection (5) of this section in writing by the chief of police of the municipality, the sheriff of the county, or the state, whichever is applicable, or of the denial of the purchaser's application to purchase and the grounds thereof))~~ are satisfied. The application shall not be denied unless the purchaser is not eligible to purchase or possess the firearm under state or federal law or has not complied with the requirements of this section.

~~((d))~~ (c) The ~~((chief of police of the municipality or the sheriff of the county, or the state pursuant to subsection (3)(b) of this section))~~ Washington state patrol firearms background check program shall retain or destroy applications to purchase a ~~((pistol~~

~~or semiautomatic assault rifle))~~ firearm in accordance with the requirements of 18 U.S.C. Sec. 922.

~~((7)(a) To help offset the administrative costs of implementing this section as it relates to new requirements for semiautomatic assault rifles, the department of licensing may require the dealer to charge each semiautomatic assault rifle purchaser or transferee a fee not to exceed twenty five dollars, except that the fee may be adjusted at the beginning of each biennium to levels not to exceed the percentage increase in the consumer price index for all urban consumers, CPI-W, or a successor index, for the previous biennium as calculated by the United States department of labor.~~

~~((b) The fee under (a) of this subsection shall be no more than is necessary to fund the following:~~

~~((i) The state for the cost of meeting its obligations under this section;~~

~~((ii) The health care authority, mental health institutions, and other health care facilities for state mandated costs resulting from the reporting requirements imposed by RCW 9.41.097(1); and~~

~~((iii) Local law enforcement agencies for state mandated local costs resulting from the requirements set forth under RCW 9.41.090 and this section.~~

~~((8))~~ (4) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a firearm is guilty of false swearing under RCW 9A.72.040.

~~((9))~~ (5) This section does not apply to sales to licensed dealers for resale or to the sale of antique firearms.

NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW to read as follows:

(1) A person applying for the purchase or transfer of a firearm must provide proof of completion of a recognized firearms safety training program within the last five years that, at a minimum, includes instruction on:

- (a) Basic firearms safety rules;
- (b) Firearms and children, including secure gun storage and talking to children about gun safety;
- (c) Firearms and suicide prevention;
- (d) Secure gun storage to prevent unauthorized access and use;
- (e) Safe handling of firearms;
- (f) State and federal firearms laws, including prohibited firearms transfers and locations where firearms are prohibited;
- (g) State laws pertaining to the use of deadly force for self-defense; and

(h) Techniques for avoiding a criminal attack and how to manage a violent confrontation, including conflict resolution.

(2) The training must be sponsored by a federal, state, county, or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The proof of training shall be in the form of a certification that states under the penalty of perjury that the training included the minimum requirements.

(3) The training may include stories provided by individuals with lived experience in the topics listed in subsection (1)(a) through (g) of this section or an understanding of the legal and social impacts of discharging a firearm.

(4) The firearms safety training requirement of this section does not apply to:

- (a) A person who is a:
  - (i) General authority Washington peace officer as defined in RCW 10.93.020;
  - (ii) Limited authority Washington peace officer as defined in RCW 10.93.020 who as a normal part of their duties has arrest powers and carries a firearm;

(iii) Specially commissioned Washington peace officer as defined in RCW 10.93.020 who as a normal part of their duties has arrest powers and carries a firearm; or

(iv) Federal peace officer as defined in RCW 10.93.020 who as a normal part of their duties has arrest powers and carries a firearm; or

(b) A person who is an active duty member of the armed forces of the United States, an active member of the national guard, or an active member of the armed forces reserves who, as part of the applicant's service, has completed, within the last five years, a course of training in firearms proficiency or familiarization that included training on the safe handling and shooting proficiency with firearms.

**Sec. 3.** RCW 9.41.047 and 2020 c 302 s 60 are each amended to read as follows:

(1)(a) At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm under state or federal law, including if the person was convicted of possession under RCW 69.50.4011, 69.50.4013, 69.50.4014, or 69.41.030, or at the time a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW for mental health treatment, or at the time that charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the convicting or committing court, or court that dismisses charges, shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record. For purposes of this section a convicting court includes a court in which a person has been found not guilty by reason of insanity.

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

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the convicted or committed person, or the person whose charges are dismissed based on incompetency to stand trial, has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm,

by reason of having been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, or by reason of having been detained under RCW 71.05.150 or 71.05.153, or because the person's charges were dismissed based on incompetency to stand trial under RCW 10.77.088 and the court made a finding that the person has a history of one or more violent acts, may, upon discharge, petition the superior court to have his or her right to possess a firearm restored.

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

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

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

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

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

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

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

(e) If the petitioner seeks restoration after having been detained under RCW 71.05.150 or 71.05.153, the state shall bear the burden of proof to show, by a preponderance of the evidence, that the petitioner does not meet the restoration criteria in (c) of this subsection.

(f) When a person's right to possess a firearm has been restored under this subsection, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the department of licensing and the Washington state patrol criminal records division, with a copy of the person's driver's license or identicard, or comparable identification such as their name, address, and date of birth, and to the health care authority, and the national instant criminal background check system index, denied persons file. In the case of a person whose right to possess a firearm has been suspended for six months as provided in RCW 71.05.182, the department of licensing shall forward notification of the restoration order to the licensing authority, which, upon receipt of such notification, shall immediately lift the suspension, restoring the person's concealed pistol license.

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

**Sec. 4.** RCW 9.41.092 and 2019 c 3 s 4 are each amended to read as follows:

~~((+))~~ Except as otherwise provided in this chapter ~~((and except for semiautomatic assault rifles under subsection (2) of this section))~~, a licensed dealer may not deliver any firearm to a purchaser or transferee until ~~((the earlier of))~~:

~~((+))~~ (1) The results of all required background checks are known and the purchaser or transferee ~~((+))~~ (a) is not prohibited from owning or possessing a firearm under federal or state law

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and ~~((iii))~~ (b) does not have a voluntary waiver of firearm rights currently in effect; ~~((e))~~ and

~~((b))~~ (2) Ten business days have elapsed from the date the licensed dealer requested the background check. ~~((However, for sales and transfers of pistols if the purchaser or transferee does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, then the time period in this subsection shall be extended from ten business days to sixty days.~~

~~(2) Except as otherwise provided in this chapter, a licensed dealer may not deliver a semiautomatic assault rifle to a purchaser or transferee until ten business days have elapsed from the date of the purchase application or, in the case of a transfer, ten business days have elapsed from the date a background check is initiated.)~~

**Sec. 5.** RCW 9.41.094 and 2019 c 3 s 7 are each amended to read as follows:

A signed application to purchase a ~~((pistol or semiautomatic assault rifle))~~ firearm shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release ~~((to an inquiring court or law enforcement agency,))~~ information relevant to the applicant's eligibility to purchase a ~~((pistol or semiautomatic assault rifle))~~ firearm to an inquiring court ~~((e))~~, law enforcement agency, or the Washington state patrol firearms background check program.

**Sec. 6.** RCW 9.41.097 and 2019 c 3 s 8 are each amended to read as follows:

(1) The health care authority, mental health institutions, and other health care facilities shall, upon request of a court, law enforcement agency, or the state, supply such relevant information as is necessary to determine the eligibility of a person to possess a firearm ~~((e))~~, to be issued a concealed pistol license under RCW 9.41.070, or to purchase a ~~((pistol or semiautomatic assault rifle))~~ firearm under RCW 9.41.090.

(2) Mental health information received by: (a) The department of licensing pursuant to RCW 9.41.047 or 9.41.173; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police or sheriff pursuant to RCW 9.41.090 or 9.41.173; (d) a court or law enforcement agency pursuant to subsection (1) of this section; or (e) the Washington state patrol firearms background check program pursuant to RCW 9.41.090, shall not be disclosed except as provided in RCW 42.56.240(4).

**Sec. 7.** RCW 9.41.0975 and 2019 c 3 s 9 are each amended to read as follows:

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license or alien firearm license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license or alien firearm license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license or alien firearm license;

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license or alien firearm license;

(g) For issuing a dealer's license to a person ineligible for such a license; or

(h) For failing to issue a dealer's license to a person eligible for

such a license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license or alien firearm license wrongfully refused;

(b) Directing ~~((a law enforcement agency))~~ the Washington state patrol firearms background check program to approve an application to purchase a ~~((pistol or semiautomatic assault rifle))~~ firearm wrongfully denied;

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or alien firearm license or in the wrongful denial of a purchase application for a ~~((pistol or semiautomatic assault rifle))~~ firearm be corrected; or

(d) Directing a law enforcement agency to approve a dealer's license wrongfully denied.

The application for the writ may be made in the county in which the application for a concealed pistol license or alien firearm license or an application to purchase a ~~((pistol or semiautomatic assault rifle))~~ firearm was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

**Sec. 8.** RCW 9.41.110 and 2019 c 3 s 10 are each amended to read as follows:

(1) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any pistol without being licensed as provided in this section.

(2) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any firearm other than a pistol without being licensed as provided in this section.

(3) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any ammunition without being licensed as provided in this section.

(4) The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licensing effective for not more than one year from the date of issue permitting the licensee to sell firearms within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in ~~((RCW 9.41.010 through 9.41.810))~~ this chapter. A licensing authority shall forward a copy of each license granted to the department of licensing. The department of licensing shall notify the department of revenue of the name and address of each dealer licensed under this section.

(5)(a) A licensing authority shall, within thirty days after the filing of an application of any person for a dealer's license, determine whether to grant the license. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card, or has not been a resident of the state for the previous consecutive ninety days, the licensing authority shall have up to sixty days to determine whether to issue a license. No person shall qualify for a license under this section without first receiving a federal firearms license and undergoing fingerprinting and a background check. In addition, no person ineligible to possess a firearm under RCW 9.41.040 or ineligible for a concealed pistol license under RCW 9.41.070 shall qualify for a dealer's license.

(b) A dealer shall require every employee who may sell a

firearm in the course of his or her employment to undergo fingerprinting and a background check. An employee must be eligible to possess a firearm, and must not have been convicted of a crime that would make the person ineligible for a concealed pistol license, before being permitted to sell a firearm. Every employee shall comply with requirements concerning purchase applications and restrictions on delivery of ~~((pistols or semiautomatic assault rifles))~~ firearms that are applicable to dealers.

(6)(a) Except as otherwise provided in (b) of this subsection, the business shall be carried on only in the building designated in the license. For the purpose of this section, advertising firearms for sale shall not be considered the carrying on of business.

(b) A dealer may conduct business temporarily at a location other than the building designated in the license, if the temporary location is within Washington state and is the location of a gun show sponsored by a national, state, or local organization, or an affiliate of any such organization, devoted to the collection, competitive use, or other sporting use of firearms in the community. Nothing in this subsection (6)(b) authorizes a dealer to conduct business in or from a motorized or towed vehicle.

In conducting business temporarily at a location other than the building designated in the license, the dealer shall comply with all other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and this section. The license of a dealer who fails to comply with the requirements of RCW 9.41.080 and 9.41.090 and subsection (8) of this section while conducting business at a temporary location shall be revoked, and the dealer shall be permanently ineligible for a dealer's license.

(7) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises in the area where firearms are sold, or at the temporary location, where it can easily be read.

(8)(a) No ~~((pistol or semiautomatic assault rifle))~~ firearm may be sold: (i) In violation of any provisions of ~~((RCW 9.41.010 through 9.41.810))~~ this chapter; nor (ii) ~~((may a pistol or semiautomatic assault rifle be sold))~~ under any circumstances unless the purchaser is personally known to the dealer or shall present clear evidence of his or her identity.

(b) A dealer who sells or delivers any firearm in violation of RCW 9.41.080 is guilty of a class C felony. In addition to any other penalty provided for by law, the dealer is subject to mandatory permanent revocation of his or her dealer's license and permanent ineligibility for a dealer's license.

(c) The license fee for pistols shall be one hundred twenty-five dollars. The license fee for firearms other than pistols shall be one hundred twenty-five dollars. The license fee for ammunition shall be one hundred twenty-five dollars. Any dealer who obtains any license under subsection (1), (2), or (3) of this section may also obtain the remaining licenses without payment of any fee. The fees received under this section shall be deposited in the state general fund.

(9)(a) A true record ~~((in triplicate))~~ shall be made of every pistol or semiautomatic assault rifle sold, in a book kept for the purpose, the form of which may be prescribed by the director of licensing and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, and place of birth of the purchaser, and a statement signed by the purchaser that he or she is not ineligible under state or federal law to possess a firearm. The dealer shall retain the transfer record for six years.

(b) ~~((One copy shall within six hours be sent by certified mail to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident, or the state pursuant~~

~~to RCW 9.41.090; the duplicate the dealer shall within seven days send to the director of licensing; the triplicate the dealer shall retain for six years.))~~ The dealer shall transmit the information from the firearm transfer application through secure automated firearms e-check (SAFE) to the Washington state patrol firearms background check program. The Washington state patrol firearms background check program shall transmit the application information for pistol and semiautomatic assault rifle transfer applications to the director of licensing daily. The original application shall be retained by the dealer for six years.

(10) Subsections (2) through (9) of this section shall not apply to sales at wholesale.

(11) The dealer's licenses authorized to be issued by this section are general licenses covering all sales by the licensee within the effective period of the licenses. The department shall provide a single application form for dealer's licenses and a single license form which shall indicate the type or types of licenses granted.

(12) Except as otherwise provided in ~~((RCW 9.41.090))~~ this chapter, every city, town, and political subdivision of this state is prohibited from requiring the purchaser to secure a permit to purchase or from requiring the dealer to secure an individual permit for each sale.

**Sec. 9.** RCW 9.41.1135 and 2020 c 28 s 4 are each amended to read as follows:

(1) Beginning on the date that is thirty days after the Washington state patrol issues a notification to dealers that a state firearms background check system is established within the Washington state patrol under RCW 43.43.580, a dealer shall use the Washington state patrol firearms background check ~~((system))~~ program to conduct background checks for all firearms transfers. A dealer may not sell or transfer a firearm to an individual unless the dealer first contacts the Washington state patrol firearms background check program for a background check to determine the eligibility of the purchaser or transferee to possess a firearm under state and federal law and the requirements and time periods established in RCW 9.41.090 and 9.41.092 have been satisfied. ~~((When an applicant applies for the purchase or transfer of a pistol or semiautomatic assault rifle, a dealer shall comply with all requirements of this chapter that apply to the sale or transfer of a pistol or semiautomatic rifle. The purchase or transfer of a firearm that is not a pistol or semiautomatic assault rifle must be processed in the same manner and under the same requirements of this chapter that apply to the sale or transfer of a pistol, except that the provisions of RCW 9.41.129, and the requirement in RCW 9.41.110(9)(b) concerning transmitting application records to the director of licensing, shall not apply to these transactions.))~~

(2) A dealer shall charge a purchaser or transferee a background check fee in an amount determined by the Washington state patrol and remit the proceeds from the fee to the Washington state patrol on a monthly basis. The background check fee does not apply to any background check conducted in connection with a pawnbroker's receipt of a pawned firearm or the redemption of a pawned firearm.

(3) This section does not apply to sales or transfers to licensed dealers or to the sale or transfer of an antique firearm.

NEW SECTION. **Sec. 10.** 2019 c 244 s 1 is repealed.

NEW SECTION. **Sec. 11.** This act takes effect January 1, 2024.

NEW SECTION. **Sec. 12.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

On page 1, line 6 of the title, after "procedures;" strike the remainder of the title and insert "amending RCW 9.41.090, 9.41.047, 9.41.092, 9.41.094, 9.41.097, 9.41.0975, 9.41.110, and

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9.41.1135; adding a new section to chapter 9.41 RCW; creating a new section; repealing 2019 c 244 s 1; and providing an effective date."

POINT OF INQUIRY

MOTION

Senator Wagoner moved that the following floor amendment no. 0356 by Senator Wagoner be adopted:

On page 7, line 4, after "training," strike "or"

On page 7, at the beginning of line 6, after "training" insert ", or a public middle school, junior high school, or high school as part of the general curriculum"

Senator Wagoner spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Dhingra spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0356 by Senator Wagoner on page 7, line 4 to the committee striking amendment.

The motion by Senator Wagoner did not carry and floor amendment no. 0356 was not adopted by voice vote.

MOTION

Senator Fortunato moved that the following floor amendment no. 0351 by Senator Fortunato be adopted:

On page 7, line 26, strike "or" and insert "(v) Licensed armed private investigator under chapter 18.165 RCW or licensed armed security guard under 18.170 RCW; or"

Senator Fortunato spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Dhingra spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0351 by Senator Fortunato on page 7, line 26 to the committee striking amendment.

The motion by Senator Fortunato did not carry and floor amendment no. 0351 was not adopted by rising vote.

MOTION

Senator Fortunato moved that the following floor amendment no. 0357 by Senator Fortunato be adopted:

On page 7, line 26, strike "or", and insert "(v) Member of a gun club or shooting sport organization or association including but not limited to: The international defensive pistol association, the United States practical shooting association, the international practical shooting confederation, the black rifle league, hunter education, the cowboy single action shooting society, the scholastic action shooting society, the civilian marksmanship program, the national rifle league, action shooting international, the scholastic shooting sports foundation, USA shooting, any Olympic match athlete, or any other shooting society or club that teaches and requires gun safety for membership; or"

Senator Fortunato spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Dhingra spoke against adoption of the amendment to the committee striking amendment.

Senator Fortunato: "Will Senator Dhingra yield to a question?"

President Heck: "Senator Dhingra, Do you yield?"

Senator Dhingra: "Yes."

Senator Fortunato: "Does this bill require a certification card of any sort, or certificate?"

Senator Dhingra: "Yes, it does require that the training be consistent with the training that is under the statute, and you have to make sure or prove that that is indeed compatible. Because we want to make sure that there is consistent training, that is correct."

Senator Fortunato: "But it does not require specifically the issuance of a certificate saying that they completed this course, is that correct? It says the course have to meet this requirement, but it doesn't require a certificate?"

President Heck: "Senator Fortunato, she answered the question. Whether it was to your satisfaction or not is a judgement for you to make but we're not going to get into back and forth."

The President declared the question before the Senate to be the adoption of floor amendment no. 0357 by Senator Fortunato on page 7, line 26 to the committee striking amendment.

The motion by Senator Fortunato did not carry and floor amendment no. 0357 was not adopted by voice vote.

MOTION

Senator Padden moved that the following floor amendment no. 0334 by Senator Padden be adopted:

On page 7, after line 33, insert the following:

"(5) Notwithstanding subsections (1) and (2) of this section, certification of completion of a hunter education training program established under RCW 77.32.155 shall satisfy the firearms safety training program requirement of this section."

Senators Padden and Wilson, L. spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Dhingra spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0334 by Senator Padden on page 7, after line 33 to the committee striking amendment.

The motion by Senator Padden did not carry and floor amendment no. 0334 was not adopted by voice vote.

MOTION

Senator Wilson, L. moved that the following floor amendment no. 0336 by Senator Wilson, L. be adopted:

On page 10, line 25, after "transferee" insert "who does not provide a valid concealed pistol license"

On page 11, after line 3, insert the following:

"(3) Except as otherwise provided in this chapter, a licensed dealer may not deliver any firearm to a purchaser or transferee who provides a valid concealed pistol license until the results of all required background checks are known and the purchaser or transferee (a) Is not prohibited from owning or possessing a

firearm under federal or state law and (b) does not have a voluntary waiver of firearm rights currently in effect."

Senators Wilson, L. and Fortunato spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Dhingra spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0336 by Senator Wilson, L. on page 10, line 25 to the committee striking amendment.

The motion by Senator Wilson, L. did not carry and floor amendment no. 0336 was not adopted by voice vote.

#### MOTION

Senator Padden moved that the following floor amendment no. 0335 by Senator Padden be adopted:

On page 17, line 2, after "**Sec. 11.**" strike all material through "2024." and insert "(1) This act takes effect on the date that the federal court of appeals for the ninth circuit issues an opinion that interprets and applies the "historical tradition of firearm regulation" test, established by the *United States Supreme Court in N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022), to a firearm law or regulation.

(2) The attorney general's office must provide written notice of the effective date 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 attorney general's office."

On page 17, line 11, after "providing" strike "an" and insert "a contingent"

Senator Padden spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Dhingra spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 0335 by Senator Padden on page 17, line 2 to the committee striking amendment.

The motion by Senator Padden did not carry and floor amendment no. 0335 was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Law & Justice to Engrossed Second Substitute House Bill No. 1143.

The motion by Senator Dhingra carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Dhingra, the rules were suspended, Engrossed Second Substitute House Bill No. 1143 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dhingra, Kuderer and Nobles spoke in favor of passage of the bill.

Senators Padden, Wilson, L., Fortunato and Muzzall spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1143 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1143 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Cleveland, Conway, Dhingra, Frame, Hasegawa, Hunt, Kauffman, Keiser, Kuderer, Lias, Lovelett, Lovick, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, Gildon, Hawkins, Holy, King, McCune, Muzzall, Padden, Schoesler, Short, Torres, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senators MacEwen, Rivers and Van De Wege

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1143, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1577, by House Committee on Local Government (originally sponsored by Schmick)

Concerning municipal officers' beneficial interest in contracts.

The measure was read the second time.

#### MOTION

On motion of Senator Torres, the rules were suspended, Substitute House Bill No. 1577 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Torres and Lovelett spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1577.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1577 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lias, Lovelett, Lovick, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senators MacEwen, Rivers and Van De Wege

SUBSTITUTE HOUSE BILL NO. 1577, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 4:56 p.m., on motion of Senator Pedersen, the Senate

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adjourned until 9:00 o'clock a.m. Saturday, April 8, 2023.

Senator Hasegawa announced a meeting of the Democratic Caucus immediately upon adjournment.

DENNY HECK, President of the Senate

Senator Warnick announced there would be no meeting of the Republican Caucus.

SARAH BANNISTER, Secretary of the Senate

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