NINETY SIXTH DAY

MORNING SESSION

Senate Chamber, Olympia
Friday, April 14, 2023

The Senate was called to order at 10 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 with the exceptions of Senators Conway and Wilson, J.

The Sergeant at Arms Color Guard consisting of Pages Mr. Samuel Schaibe and Miss Marisa Dunfee presented the Colors. Page Miss Katherine Pamplin led the Senate in the Pledge of Allegiance.

The invocation was offered by Ms. Jasneet Kaur, Outreach Coordinator, Pacific Northwest Gurdwara Council and guest of Senators Dhingra and Shewmake.

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.

MESSAGE FROM THE HOUSE

April 13, 2023

MR. PRESIDENT:
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

HOUSE BILL NO. 1002,
SECOND SUBSTITUTE HOUSE BILL NO. 1009,
SECOND SUBSTITUTE HOUSE BILL NO. 1028,
SECOND SUBSTITUTE HOUSE BILL NO. 1039,
HOUSE BILL NO. 1049,
HOUSE BILL NO. 1066,
SUBSTITUTE HOUSE BILL NO. 1068,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1106,
HOUSE BILL NO. 1114,
SECOND SUBSTITUTE HOUSE BILL NO. 1168,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1170,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1181,
SUBSTITUTE HOUSE BILL NO. 1207,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1222,
SUBSTITUTE HOUSE BILL NO. 1289,
HOUSE BILL NO. 1301,
HOUSE BILL NO. 1312,
SUBSTITUTE HOUSE BILL NO. 1326,
SUBSTITUTE HOUSE BILL NO. 1346,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1369,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1466,
SECOND SUBSTITUTE HOUSE BILL NO. 1491,
SUBSTITUTE HOUSE BILL NO. 1500,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1503,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1515,
SECOND SUBSTITUTE HOUSE BILL NO. 1534,
HOUSE BILL NO. 1542,
SUBSTITUTE HOUSE BILL NO. 1562,
HOUSE BILL NO. 1564,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1576,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1600,
SUBSTITUTE HOUSE BILL NO. 1621,
HOUSE BILL NO. 1622,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1694,
HOUSE BILL NO. 1696,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1758,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1766,
ENGROSSED HOUSE BILL NO. 1797,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

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

MOTION

Senator Shewmake moved adoption of the following resolution:

By Senators Shewmake, Fortunato, Hasegawa, Kauffman, Kuderer, Lovelett, Stanford, Torres, and Wagoner

WHEREAS, Sikhism is a religion founded in the Punjab region of South Asia over five centuries ago and introduced to the United States in the 19th century; and

WHEREAS, Sikhism is the fifth largest religion in the world, with nearly 30,000,000 adherents from around the world, including approximately 700,000 members in the United States; and

WHEREAS, Sikh families in the United States pursue diverse professions and walks of life, making rich contributions to the economic vibrancy of the United States; and

WHEREAS, Washington State takes pride in being a place where all faiths and cultures are welcomed, respected, and celebrated; and

WHEREAS, During the month of April, the Sikh community celebrates Vaisakhi, also known as Khalsa Day, which marks the beginning of the harvest season and the Sikh New Year; and

WHEREAS, Vaisakhi is one of the most religiously significant days in Sikh history, commemorating the creation of the Khalsa, a fellowship of devout Sikhs, by Guru Gobind Singh in 1699;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the state of Washington wish our Sikh American community a very joyous Vaisakhi Celebration.

Senators Shewmake and Dhingra spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8638.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced The Honorable Satpal Sidhu, County Executive, Whatcom County; The Honorable Satwinder Kaur, Councilmember, City of Kent; and other members and representatives of the Sikh community who were seated in the gallery and guests of Senator Shewmake and Dhingra.

MOTION

At 10:13 a.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.

Senator Short announced a meeting of the Republican Caucus.

The Senate was called to order at 11:40 a.m. by the President of the Senate, Lt. Governor Heck presiding.

MOTION

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

SECOND READING

ENGROSSED HOUSE BILL NO. 1846, by Representatives Fey, Barkis, Lekanoff, Ramel, Hutchins, Tharinger and Caldier

Addressing vessel procurement at the Washington state ferries.

The measure was read the second time.

MOTION

Senator Pedersen moved that the following amendment no. 0434 by Senator Lovelett be adopted:

On page 1, after line 14, insert the following:

"Washington state values strong environmental and workplace standards, including surface water management, and the legislature intends that any contracts awarded through the vessel procurement process align with these values."

Senator Lovelett spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 0434 by Senator Lovelett on page 1, after line 14 to Engrossed House Bill No. 1846.

The motion by Senator Pedersen carried and amendment no. 0434 was adopted by voice vote.

MOTION

On motion of Senator Liias, the rules were suspended, Engrossed House Bill No. 1846 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 Liias and King spoke in favor of passage of the bill.

MOTIONS

On motion of Senator Wagoner, Senator Wilson, J. was excused.

On motion of Senator Nobles, Senator Conway was excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1846 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1846 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, 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, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, L.

Excused: Senators Conway and Wilson, J.

ENGROSSED HOUSE BILL NO. 1846, 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. 1853, by House Committee on Transportation (originally sponsored by Fey)

Making certain corrective changes resulting from the enactment of chapter 182, Laws of 2022 (transportation resources).

The measure was read the second time.

MOTION

Senator Liias moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** During the regular legislative session of 2022, the legislature passed Engrossed Substitute Senate Bill No. 5974 (chapter 182, Laws of 2022), a significant transportation resources bill intended to provide needed transportation funding throughout the state. However, since the enactment of that act, certain drafting errors and omissions were identified within the act resulting in some provisions being enacted contrary to legislative intent. Additionally, some corrective changes were identified that would better conform certain provisions with original legislative intent. Therefore, it is the intent of the legislature to simply correct manifest drafting errors and omissions and adopt corrective changes in order to conform certain provisions with the original legislative intent of Engrossed Substitute Senate Bill No. 5974 (chapter 182, Laws of 2022). It is not the intent of the legislature to alter the intended substantive policy enacted in Engrossed Substitute Senate Bill No. 5974 (chapter 182, Laws of 2022), but rather to make certain corrective changes.

Sec. 2. RCW 46.17.015 and 2022 c 182 s 207 are each amended to read as follows:

(1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall

pay a 25 cent license plate technology fee in addition to any other fees and taxes required by law. The license plate technology fee must be distributed under RCW 46.68.370.

(2) A vehicle registered under RCW 46.16A.455 or 46.17.330 is not subject to the license plate technology fee, except for a vehicle ((~~registered under RCW 46.16A.455(3)~~)) subject to the fee under RCW 46.17.355.

(3) The revenue generated from ((~~the license plate technology fee imposed on vehicles registered under RCW 46.16A.455(3)~~)) subsection (2) of this section must be deposited in the move ahead WA account created in RCW 46.68.510.

Sec. 3. RCW 46.17.025 and 2022 c 182 s 208 are each amended to read as follows:

(1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a 50 cent license service fee in addition to any other fees and taxes required by law. The license service fee must be distributed under RCW 46.68.220.

(2) A vehicle registered under RCW 46.16A.455 or 46.17.330 is not subject to the license service fee, except for a vehicle ((~~registered under RCW 46.16A.455(3)~~)) subject to the fee under RCW 46.17.355.

(3) The revenue generated from ((~~the license service fee imposed on vehicles registered under RCW 46.16A.455(3)~~)) subsection (2) of this section must be deposited in the move ahead WA account created in RCW 46.68.510.

Sec. 4. RCW 81.104.170 and 2019 c 273 s 12 are each amended to read as follows:

(1) Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, high capacity transportation corridor areas, and regional transit authorities may submit an authorizing proposition to the voters and if approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter, solely for the purpose of providing high capacity transportation service.

(2) The tax authorized pursuant to this section is in addition to the tax authorized by RCW 82.14.030 and must be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district.

(a) Except for the tax imposed under (b) of this subsection by regional transit authorities that include a county with a population of more than ((~~one million five hundred thousand~~)) 1,500,000, the maximum rate of such tax must be approved by the voters and may not exceed one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The maximum rate of such tax that may be imposed may not exceed nine-tenths of one percent in any county that imposes a tax under RCW 82.14.340, or within a regional transit authority if any county within the authority imposes a tax under RCW 82.14.340.

(b) The maximum rate of such tax that may be imposed by a regional transit authority that includes a county with a population of more than ((~~one million five hundred thousand~~)) 1,500,000 must be approved by the voters and may not exceed 1.4 percent. If a regional transit authority imposes the tax authorized under this subsection (2)(b) in excess of 0.9 percent, the authority may not receive any state grant funds provided in an omnibus transportation appropriations act except transit coordination grants created in chapter 11, Laws of 2015 3rd sp. sess. and regional mobility grant program funds. To be eligible to receive regional mobility grant program funds, a regional transit authority must have adopted, at a minimum, a zero-fare policy that allows passengers 18 years of age and younger to ride free of charge on all modes provided by the authority by October 1, 2022.

(3)(a) The exemptions in RCW 82.08.820 and 82.12.820 are for the state portion of the sales and use tax and do not extend to the tax authorized in this section.

(b) The exemptions in RCW 82.08.962 and 82.12.962 are for the state and local sales and use taxes and include the tax authorized by this section.

(c) The exemptions in RCW 82.14.532 are for the local sales and use taxes and include the tax authorized by this section.

Sec. 5. RCW 81.104.175 and 2018 c 81 s 1 are each amended to read as follows:

(1) A regional transit authority that includes a county with a population of more than ((~~one million five hundred thousand~~)) 1,500,000 may impose a regular property tax levy in an amount not to exceed ((~~twenty-five~~)) 25 cents per ((~~thousand dollars~~)) $1,000 of the assessed value of property in the regional transit authority district in accordance with the terms of this section.

(2) Any tax imposed under this section must be used for the purpose of providing high capacity transportation service, as set forth in a proposition that is approved by a majority of the registered voters that vote on the proposition.

(3) Property taxes imposed under this section may be imposed for the period of time required to pay the cost to plan, design, construct, operate, and maintain the transit facilities set forth in the approved proposition. Property taxes pledged to repay bonds may be imposed at the pledged amount until the bonds are retired. After the bonds are retired, property taxes authorized under this section must be:

(a) Reduced to the level required to operate and maintain the regional transit authority's transit facilities; or

(b) Terminated, unless the taxes have been extended by public vote.

(4) The limitations in RCW 84.52.043 do not apply to the tax authorized in this section.

(5) The limitation in RCW 84.55.010 does not apply to the first levy imposed under this section.

(6) If a regional transit authority imposes the tax authorized under subsection (1) of this section, the authority may not receive any state grant funds provided in an omnibus transportation appropriations act except transit coordination grants created in chapter 11, Laws of 2015 3rd sp. sess. and regional mobility grant program funds. To be eligible to receive regional mobility grant program funds, a regional transit authority must have adopted, at a minimum, a zero-fare policy that allows passengers 18 years of age and younger to ride free of charge on all modes provided by the authority by October 1, 2022.

(7) Property taxes imposed under this section may not be imposed on less than a whole parcel.

Sec. 6. RCW 47.04.380 and 2022 c 182 s 417 are each amended to read as follows:

(1) The legislature finds that many communities across Washington state have not equitably benefited from investments in the active transportation network. The legislature also finds that legacy state transportation facilities designed primarily for vehicle use caused disconnections in safe routes for people who walk, bike, and roll to work and to carry out other daily activities.

(2) To address these investment gaps, and to honor the legacy of community advocacy of Sandy Williams, the Sandy Williams connecting communities program is established within the department. The purpose of the program is to improve active transportation connectivity in communities by:

(a) Providing safe, continuous routes for pedestrians, bicyclists, and other nonvehicle users carrying out their daily activities;

(b) Mitigating for the health, safety, and access impacts of

transportation infrastructure that bisects communities and creates obstacles in the local active transportation network;

(c) Investing in greenways providing protected routes for a wide variety of nonvehicular users; and

(d) Facilitating the planning, development, and implementation of projects and activities that will improve the connectivity and safety of the active transportation network.

(3) The department must select projects to propose to the legislature for funding. In selecting projects, the department must consider, at a minimum, the following criteria:

(a) Access to a transit facility, community facility, commercial center, or community-identified assets;

(b) The use of minority and women-owned businesses and community-based organizations in planning, community engagement, design, and construction of the project;

(c) Whether the project will serve:

(i) Overburdened communities as defined in RCW 70A.02.010 to mean a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020;

(ii) Vulnerable populations as defined in RCW 70A.02.010 to mean population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to adverse socioeconomic factors, such as unemployment, high housing, and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and sensitivity factors, such as low birth weight and higher rates of hospitalization. Vulnerable populations include, but are not limited to: Racial or ethnic minorities, low-income populations, populations disproportionately impacted by environmental harms, and populations of workers experiencing environmental harms;

(iii) Household incomes at or below 200 percent of the federal poverty level; and

(iv) People with disabilities;

(d) Environmental health disparities, such as those indicated by the diesel pollution burden portion of the Washington environmental health disparities map developed by the department of health, or other similar indicators;

(e) Location on or adjacent to tribal lands or locations providing essential services to tribal members;

(f) Crash experience involving pedestrians and bicyclists; and

(g) Identified need by the community, for example in the state active transportation plan or a regional, county, or community plan.

(4) It is the intent of the legislature that the Sandy Williams connecting communities program comply with the requirements of chapter 314, Laws of 2021.

(5) The department shall submit a report to the transportation committees of the legislature by December 1, 2022, and each December 1st thereafter identifying the selected connecting communities projects for funding by the legislature. The report must also include the status of previously funded projects.

(6) This section expires July 1, 2027.

Sec. 7. RCW 47.04.390 and 2022 c 182 s 419 are each amended to read as follows:

(1) The department shall establish a statewide school-based bicycle education grant program. The grant will support two programs: One for elementary and middle school; and one for junior high and high school aged youth to develop the skills and street safety knowledge to be more confident bicyclists for transportation and/or recreation. In development of the grant program, the department is encouraged to consult with the environmental justice council and the office of equity.

(2)(a) For the elementary and middle school program, the department shall contract with a nonprofit organization with relevant reach and experience, including a statewide footprint and demonstrable experience deploying bicycling and road safety education curriculum via a train the trainer model in schools. The selected nonprofit shall identify partner schools that serve target populations, based on the criteria in subsection (3) of this section. Partner schools shall receive from the nonprofit: In-school bike and pedestrian safety education curriculum, materials, equipment guidance and consultation, and physical education teacher trainings. Youth grades three through eight are eligible for the program.

(b) Selected school districts shall receive and maintain a fleet of bicycles for the youth in the program. Youth and families participating in the school-base bicycle education grant program shall have an opportunity to receive a bike, lock, helmet, and lights free of cost.

(3) For the junior high and high school program, the department shall contract with a nonprofit organization with relevant reach and experience, including a statewide footprint; demonstrable experience developing and managing youth-based programming serving youth of color in an after-school and/or community setting; and deploying bicycling and road safety education curriculum via a train the trainer model. The selected nonprofit shall use the equity-based criteria in subsection (4) of this section to identify target populations and partner organizations including, but not limited to, schools, community-based organizations, housing authorities, and parks and recreation departments, that work with the eligible populations of youth ages 14 to 18. Partner organizations shall receive from the nonprofit: Education curriculum, materials, equipment including, but not limited to, bicycles, helmets, locks, and lights, guidance and consultation, and initial instructor/volunteer training, as well as ongoing support.

(4) In selecting schools and partner organizations for the school-based bicycle education grant program, the department and nonprofit must consider, at a minimum, the following criteria:

(a) Population impacted by poverty, as measured by free and reduced lunch population or 200 percent federal poverty level;

(b) People of color;

(c) People of Hispanic heritage;

(d) People with disabilities;

(e) Environmental health disparities, such as those indicated by the diesel pollution burden portion of the Washington environmental health disparities map developed by the department of health, or other similar indicators;

(f) Location on or adjacent to an Indian reservation;

(g) Geographic location throughout the state;

(h) Crash experience involving pedestrians and bicyclists;

(i) Access to a community facility or commercial center; and

(j) Identified need in the state active transportation plan or a regional, county, or community plan.

(5) The department shall submit a report for both programs to the transportation committees of the legislature by December 1, 2022, and each December 1st thereafter identifying the selected programs and school districts for funding by the legislature. The report must also include the status of previously funded programs.

Sec. 8. RCW 46.68.480 and 2022 c 182 s 430 are each amended to read as follows:

The Cooper Jones active transportation safety account is created in the state treasury. All receipts from penalties collected under RCW 46.63.170 shall be deposited into the account. Expenditures from the account may be used only to fund grant

projects or programs for bicycle, pedestrian, and nonmotorist safety improvement administered by the Washington traffic safety commission. By December 1, 2024, and every two years thereafter, the commission shall report to the transportation committees of the legislature regarding the activities funded from the account. The account is subject to allotment procedures under chapter 43.88 RCW. Moneys in the account may be spent only after appropriation.

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 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 JUDY transportation future funding program account, the transportation improvement

account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' 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 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 JUDY transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' 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 47.04.010 and 2015 3rd sp.s. c 10 s 3 are each reenacted and amended to read as follows:

The following words and phrases, wherever used in this title, shall have the meaning as in this section ascribed to them, unless where used the context thereof shall clearly indicate to the contrary or unless otherwise defined in the chapter of which they are a part:

(1) "Alley." A highway within the ordinary meaning of alley not designated for general travel and primarily used as a means of access to the rear of residences and business establishments;

(2) "Arterial highway." Every highway, as herein defined, or portion thereof designated as such by proper authority;

(3) "Business district." The territory contiguous to and including a highway, as herein defined, when within any ((~~six hundred~~)) 600 feet along such highway there are buildings in use for business or industrial purposes((~~,~~)) including, but not limited to, hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least ((~~three hundred~~)) 300 feet of frontage on one side or ((~~three hundred~~)) 300 feet collectively on both sides of the highway;

(4) "Center line." The line, marked or unmarked parallel to and equidistant from the sides of a two-way traffic roadway of a highway except where otherwise indicated by painted lines or markers;

(5) "Center of intersection." The point of intersection of the center lines of the roadways of intersecting highways;

(6) "City street." Every highway as herein defined, or part thereof located within the limits of incorporated cities and towns, except alleys;

(7) "Combination of vehicles." Every combination of motor vehicle and motor vehicle, motor vehicle and trailer, or motor vehicle and semitrailer;

(8) "Commercial vehicle." Any vehicle the principal use of which is the transportation of commodities, merchandise, produce, freight, animals, or passengers for hire;

(9) "County road." Every highway as herein defined, or part thereof, outside the limits of incorporated cities and towns and which has not been designated as a state highway, or branch thereof;

(10) "Crosswalk." The portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line ten feet therefrom, except as modified by a marked crosswalk;

(11) "Highway." Every way, lane, road, street, boulevard, and every way or place in the state of Washington open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns;

(12) "Intersection area." (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

(b) Where a highway includes two roadways ((~~thirty~~)) 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways ((~~thirty~~)) 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection;

(c) The junction of an alley with a street or highway shall not constitute an intersection;

(13) "Intersection control area." The intersection area as herein

defined, together with such modification of the adjacent roadway area as results from the arc or curb corners and together with any marked or unmarked crosswalks adjacent to the intersection;

(14) "Laned highway." A highway the roadway of which is divided into clearly marked lanes for vehicular traffic;

(15) "Local authorities." Every county, municipal, or other local public board or body having authority to adopt local police regulations under the Constitution and laws of this state;

(16) "Marked crosswalk." Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface thereof;

(17) "Metal tire." Every tire, the bearing surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material;

(18) "Motor truck." Any motor vehicle, as herein defined, designed or used for the transportation of commodities, merchandise, produce, freight, or animals;

(19) "Motor vehicle." Every vehicle, as herein defined, which is in itself a self-propelled unit;

(20) "Multiple lane highway." Any highway the roadway of which is of sufficient width to reasonably accommodate two or more separate lanes of vehicular traffic in the same direction, each lane of which shall be not less than the maximum legal vehicle width, and whether or not such lanes are marked;

(21) "Operator." Every person who drives or is in actual physical control of a vehicle as herein defined;

(22) "Peace officer." Any officer authorized by law to execute criminal process or to make arrests for the violation of the statutes generally or of any particular statute or statutes relative to the highways of this state;

(23) "Pedestrian." Any person afoot or who is using a wheelchair, power wheelchair as defined in RCW 46.04.415, or a means of conveyance propelled by human power other than a bicycle;

(24) "Person." Every natural person, firm, copartnership, corporation, association, or organization;

(25) "Personal wireless service." Any federally licensed personal wireless service;

(26) "Personal wireless service facilities." Unstaffed facilities that are used for the transmission or reception, or both, of personal wireless services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures;

(27) "Pneumatic tires." Every tire of rubber or other resilient material designed to be inflated with compressed air to support the load thereon;

(28) "Private road or driveway." Every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons;

(29) "Railroad." A carrier of persons or property upon vehicles, other than streetcars, operated upon stationary rails, the route of which is principally outside incorporated cities and towns;

(30) "Railroad sign or signal." Any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

(31) "Residence district." The territory contiguous to and including the highway, as herein defined, not comprising a business district, as herein defined, when the property on such highway for a continuous distance of ((~~three hundred~~)) 300 feet or more on either side thereof is in the main improved with residences or residences and buildings in use for business;

(32) "Roadway." The paved, improved, or proper driving portion of a highway designed, or ordinarily used for vehicular travel;

(33) "Safety zone." The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is marked or indicated by painted marks, signs, buttons, standards, or otherwise so as to be plainly discernible;

(34) "Sidewalk." That property between the curb lines or the lateral lines of a roadway, as herein defined, and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a highway and dedicated to use by pedestrians;

(35) "Solid tire." Every tire of rubber or other resilient material which does not depend upon inflation with compressed air for the support of the load thereon;

(36) "State highway." Every highway as herein defined, or part thereof, which has been designated as a state highway, or branch thereof, by legislative enactment;

(37) "Streetcar." A vehicle other than a train, as herein defined, for the transporting of persons or property and operated upon stationary rails principally within incorporated cities and towns;

(38) "Structurally deficient." A state bridge that is classified as in poor condition under the state bridge condition rating system and is reported by the state to the national bridge inventory as having a deck, superstructure, or substructure rating of four or below. Structurally deficient bridges are characterized by deteriorated conditions of significant bridge elements and potentially reduced load carrying capacity. Bridges deemed structurally deficient typically require significant maintenance and repair to remain in service, and require major rehabilitation or replacement to address the underlying deficiency;

(39) "Traffic." Pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel;

(40) "Traffic control signal." Any traffic device, as herein defined, whether manually, electrically, or mechanically operated, by which traffic alternately is directed to stop or proceed or otherwise controlled;

(41) "Traffic devices." All signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic;

(42) "Train." A vehicle propelled by steam, electricity, or other motive power with or without cars coupled thereto, operated upon stationary rails, except streetcars;

(43) "Vehicle." Every device capable of being moved upon a highway and in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting power wheelchairs, as defined in RCW 46.04.415, or devices moved by human or animal power or used exclusively upon stationary rails or tracks;

(44) "Active transportation" includes 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-assisted 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;

(45) "Complete streets" means an approach to planning, designing, building, operating, and maintaining streets that enable safe access along and across the street for all people, including pedestrians, bicyclists, motorists, and transit riders of all ages and abilities. It incorporates principles of a safe system approach;

(46) "Population center" includes incorporated cities and

towns, including their urban growth areas, and census-designated places;

(47) "Safe system approach" means an internationally recognized holistic and proactive approach to road safety intended to systematically reduce fatal and serious injury crash potential; as described by the federal highway administration, the approach is based on the following elements: Safe roads, safe speeds, safe vehicles, safe road users, and postcrash care. The safe system approach is incorporated through policies and practices of state agencies and local governments with appropriate jurisdiction;

(48) "Shared-use path," also known as a "multiuse path," means a facility designed for active transportation use and physically separated from motorized vehicular traffic within the highway right-of-way or on an exclusive right-of-way with minimal crossflow by motor vehicles. Shared-use paths are primarily used by pedestrians and people using bicycles or micromobility devices, including those who use nonmotorized or motorized wheeled mobility or assistive devices. With appropriate design considerations, equestrians may also be accommodated by a shared-use path facility.

Words and phrases used herein in the past, present, or future tense shall include the past, present, and future tenses; words and phrases used herein in the masculine, feminine, or neuter gender shall include the masculine, feminine, and neuter genders; and words and phrases used herein in the singular or plural shall include the singular and plural; unless the context thereof shall indicate to the contrary.

Sec. 12. RCW 47.66.140 and 2022 c 182 s 422 are each amended to read as follows:

(1) The department shall establish a transit support grant program for the purpose of providing financial support to transit agencies for operating and capital expenses only. Public transit agencies must maintain or increase their local sales tax authority on or after January 1, 2022, and may not delay or suspend the collection of voter-approved sales taxes that were approved on or before January 1, 2022, in order to qualify for the grants.

(a) Grants for transit agencies must be prorated based on the amount expended for operations in the most recently published report of "Summary of Public Transportation" published by the department.

(b) No transit agency may receive more than 35 percent of these distributions.

(c) Fuel type may not be a factor in the grant selection process.

(2) To be eligible to receive a grant, the transit agency must have adopted, at a minimum, a zero-fare policy that allows passengers 18 years of age and younger to ride free of charge on all modes provided by the agency. Transit agencies must submit documentation of a zero-fare policy for 18 years of age and under by October 1, 2022, to be eligible for the 2023-2025 biennium. Transit agencies that submit such fare policy documentation following the October 1, 2022, deadline shall become eligible for the next biennial distribution. To the extent practicable, transit agencies shall align implementation of youth zero-fare policies with equity and environmental justice principles consistent with recommendations from the environmental justice council, and ensure low-barrier accessibility of the program to all youth.

(3) The department shall, for the purposes of the "Summary of Public Transportation" report, require grantees to report the number of trips that were taken under this program.

(4) For the purposes of this section, "transit agency" or "agency" means a city transit system under RCW 35.58.2721 or chapter 35.95A RCW, a county public transportation authority under chapter 36.57 RCW, a metropolitan municipal corporation transit system under chapter 36.56 RCW, a public transportation benefit area under chapter 36.57A RCW, an unincorporated transportation benefit area under RCW 36.57.100, or any special purpose district formed to operate a public transportation system.

Sec. 13. RCW 43.392.040 and 2022 c 182 s 429 are each amended to read as follows:

(1) Interagency electric vehicle coordinating council responsibilities include, but are not limited to:

(a) Development of a statewide transportation electrification strategy to ensure market and infrastructure readiness for all new vehicle sales;

(b) Identification of all electric vehicle infrastructure grant-related funding to include existing and future opportunities, including state, federal, and other funds, and also nongrant-related funding, including revenues generated by an electric utility from credits under the clean fuels program for transportation electrification programs or projects pursuant to RCW 70A.535.080(2);

(c) Coordination of grant funding criteria across agency grant programs to most efficiently distribute state and federal electric vehicle-related funding in a manner that is most beneficial to the state, advances best practices, and recommends additional criteria that could be useful in advancing transportation electrification;

(d) Development of a robust public and private outreach plan that includes engaging with:

(i) Community organizers and the environmental justice council to develop community-driven programs to address zero emissions transportation needs and priorities in overburdened communities; and

(ii) Local governments to explore procurement opportunities and work with local government and community programs to support electrification;

(e) Creation of an industry electric vehicle advisory committee; and

(f) Ensuring the statewide transportation electrification strategy, grant distribution, programs, and activities associated with advancing transportation electrification benefit vulnerable and overburdened communities.

(2) The council shall provide an annual report to the appropriate committees of the legislature summarizing electric vehicle implementation progress, gaps, and resource needs.

NEW SECTION. **Sec. 14.** Sections 4 and 5 of this act are remedial in nature and apply retroactively to July 1, 2022.

NEW SECTION. **Sec. 15.** RCW 47.24.060 is recodified as a section in chapter 47.04 RCW.

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.

NEW SECTION. **Sec. 18.** Sections 2 and 3 of this act take effect October 1, 2023."

On page 1, line 3 of the title, after "resources);" strike the remainder of the title and insert "amending RCW 46.17.015, 46.17.025, 81.104.170, 81.104.175, 47.04.380, 47.04.390, 46.68.480, 43.84.092, 43.84.092, 47.66.140, and 43.392.040; reenacting and amending RCW 47.04.010; adding a new section to chapter 47.04 RCW; creating new sections; recodifying RCW 47.24.060; providing effective dates; and providing an expiration date."

MOTION

Senator Liias moved that the following amendment no. 0435 by Senator Liias be adopted:

On page 23, after line 20, insert the following:

"NEW SECTION. **Sec. 14.** A new section is added to chapter 70A.535 RCW to read as follows:

The clean fuels transportation investment account is created in the state treasury. All receipts to the state from clean fuel credits generated from transportation investments, including those listed under RCW 70A.535.050(3), must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used by the department of transportation for transportation purposes, including activities and projects that reduce greenhouse gas emissions and decarbonize the transportation sector."

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

On page 24, line 5, after "47.04.010;" insert "adding a new section to chapter 70A.535 RCW;"

Senators Liias and King 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 amendment no. 0435 by Senator Liias on page 23, after line 20 to the committee striking amendment.

The motion by Senator Liias carried and amendment no. 0435 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 Transportation as amended to Engrossed Substitute House Bill No. 1853.

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

MOTION

On motion of Senator Liias, the rules were suspended, Engrossed Substitute House Bill No. 1853 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 Liias and King 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. 1853 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1853 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Dhingra, Frame, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, 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 Dozier, Fortunato, Gildon, MacEwen, McCune, Padden, Rivers, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, L.

Excused: Senators Conway and Wilson, J.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1853, 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

SENATE BILL NO. 5768, by Senators Keiser, Dhingra, Cleveland, Frame, Hunt, Kuderer, Lovelett, Nobles, Pedersen, Randall, Robinson, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Protecting access to abortion medications by authorizing the department of corrections to acquire, sell, deliver, distribute, and dispense abortion medications.

The measure was read the second time.

MOTION

Senator Gildon moved that the following amendment no. 0441 by Senator Gildon be adopted:

On page 2, beginning on line 14, after "licensing" strike all material through "from" on line 15 and insert "requirements such as"

Beginning on page 3, line 13, strike all of section 3

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

On page 1, beginning on line 3 of the title, after "medications;" strike "amending RCW 18.64.046;"

Senator Gildon spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 0441 by Senator Gildon on page 2, line 14 to Senate Bill No. 5768.

The motion by Senator Gildon did not carry and amendment no. 0441 was not adopted by voice vote.

MOTION

Senator Braun moved that the following amendment no. 0438 by Senator Braun be adopted:

On page 2, after line 31, insert the following:

"(c) Notwithstanding RCW 82.04.030, the department must pay business and occupation tax on wholesale sales of abortion medications pursuant to RCW 82.04.060."

Senators Braun and Rivers spoke in favor of adoption of the amendment.

Senator Robinson spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 0438 by Senator Braun on page 2, line 28 to Senate Bill No. 5768.

The motion by Senator Braun did not carry and amendment no. 0438 was not adopted by voice vote.

MOTION

Senator Wilson, L. moved that the following amendment no. 0438 by Senator Wilson, L. be adopted:

On page 2, after line 31, insert the following:

"(c) Notwithstanding RCW 82.04.030, the department must pay business and occupation tax on wholesale sales of abortion medications pursuant to RCW 82.04.060."

Senators Wilson, L. and Braun spoke in favor of adoption of

the amendment.

Senator Frame spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 0438 by Senator Wilson, L. on page 2, after line 31 to Senate Bill No. 5768.

The motion by Senator Wilson, L. did not carry and amendment no. 0438 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following amendment no. 0442 by Senator Rivers be adopted:

On page 2, line 34, after "(6)" insert "The department may not purchase additional abortion medications absent express legislative authority and appropriation in the omnibus operating appropriations act.

(7)"

Correct any internal references accordingly.

Senators Rivers, MacEwen, Padden and Fortunato spoke in favor of adoption of the amendment.

Senator Kuderer spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 0442 by Senator Rivers on page 2, line 34 to Senate Bill No. 5768.

The motion by Senator Rivers did not carry and amendment no. 0442 was not adopted by voice vote.

MOTION

Senator Padden moved that the following amendment no. 0436 by Senator Padden be adopted:

On page 4, after line 40, insert the following:

"NEW SECTION. **Sec. 4.** A new section is added to chapter 18.130 RCW to read as follows:

If the United States food and drug administration rescinds approval for mifepristone, any licensee subject to this chapter must obtain written informed consent from a patient indicating that they understand the side effects of the drug, including heavy bleeding, hemorrhaging, cramping, infection, sepsis, and other severe outcomes, and that the drug is not approved by the food and drug administration before prescribing or dispensing the drug."

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

On page 1, line 4 of the title, after "72.09 RCW;" insert "adding a new section to chapter 18.130 RCW;"

Senator Padden spoke in favor of adoption of the amendment.

Senator Randall spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 0436 by Senator Padden on page 4, after line 40 to Senate Bill No. 5768.

The motion by Senator Padden did not carry and amendment no. 0436 was not adopted by voice vote.

MOTION

Senator Boehnke moved that the following amendment no. 0439 by Senator Boehnke be adopted:

On page 5, after line 9, insert the following:

"NEW SECTION. **Sec. 7.** This act expires June 30, 2027."

On page 1, line 5 of the title, after "sections;" insert "providing an expiration date;"

Senator Boehnke spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 0439 by Senator Boehnke on page 5, after line 9 to Senate Bill No. 5768.

The motion by Senator Boehnke did not carry and amendment no. 0439 was not adopted by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 5768 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Dhingra and Trudeau spoke in favor of passage of the bill.

Senators Wilson, L., Wagoner, Fortunato and Rivers spoke against passage of the bill.

MOTION

On motion of Senator Wagoner, Senator Muzzall was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5768.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5768 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Cleveland, 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, Padden, Rivers, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SENATE BILL NO. 5768, 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

March 29, 2023

MR. PRESIDENT:
The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5123 with the following amendment(s): 5123-S.E AMH SCHM LEON 835; 5123-S.E AMH ROBE LEON 833

On page 1, line 5, after "chapter" strike "49.44" and insert "49.94"

On page 1, line 19, after "chapter" strike "49.44" and insert "49.94"

Correct the title.

On page 2, beginning on line 20, after "applicant" strike "applying for a position that requires" and insert "seeking:

(a) A position requiring"

On page 2, line 22, after "clearance" strike "or" and insert ";

(b) A position with a general authority Washington law enforcement agency as defined in RCW 10.93.020;

(c) A position with a fire department, fire protection district, or regional fire protection service authority;

(d) A position as a first responder not included under (b) or (c) of this subsection, including a dispatcher position with a public or private 911 emergency communications system or a position responsible for the provision of emergency medical services;

(e) A position as a corrections officer with a jail, detention facility, or the department of corrections, including any position directly responsible for the custody, safety, and security of persons confined in those facilities;

(f) A position"

On page 2, beginning on line 22, after "industries" strike ", or any other" and insert "; or

(g) A"

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Keiser moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5123 and ask the House to recede therefrom.

Senators Keiser and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5123 and ask the House to recede therefrom.

The motion by Senator Keiser carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5123 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 12, 2023

MR. PRESIDENT:
The House passed SECOND SUBSTITUTE SENATE BILL NO. 5412 with the following amendment(s): 5412-S2 AMH ENGR H1755.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.21C.229 and 2020 c 87 s 1 are each amended to read as follows:

(1) ((~~In order~~)) The purpose of this section is to accommodate infill and housing development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW((~~, a~~)).

(2) A city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the requirements of this chapter.((~~ An exemption adopted under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a).~~)) An exemption may be adopted by a city or county under this subsection if it meets the following criteria:

(a) It categorically exempts government action related to development proposed to fill in an urban growth area, designated according to RCW 36.70A.110, where current density and intensity of use in the area is roughly equal to or lower than called for in the goals and policies of the applicable comprehensive plan and the development is either:

(i) Residential development;

(ii) Mixed-use development; or

(iii) Commercial development up to ((~~sixty-five thousand~~)) 65,000 square feet, excluding retail development;

(b) It does not exempt government action related to development that is inconsistent with the applicable comprehensive plan or would clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan;

(c) The local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws; and

(d)(i) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption; or

(ii) The city or county has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section.

((~~(2) Any~~)) (3) All project actions that propose to develop one or more residential housing units within the incorporated areas in an urban growth area designated pursuant to RCW 36.70A.110 or middle housing within the unincorporated areas in an urban growth area designated pursuant to RCW 36.70A.110, and that meet the criteria identified in (a) and (b) of this subsection, are categorically exempt from the requirements of this chapter. For purposes of this section, "middle housing" has the same meaning as in RCW 36.70A.030 as amended by chapter . . . (Engrossed Second Substitute House Bill No. 1110), Laws of 2023. Jurisdictions shall satisfy the following criteria prior to the adoption of the categorical exemption under this subsection (3):

(a) The city or county shall find the proposed development is consistent with all development regulations implementing an applicable comprehensive plan adopted according to chapter 36.70A RCW by the jurisdiction in which the development is proposed, with the exception of any development regulation that is inconsistent with applicable provisions of chapter 36.70A RCW; and

(b) The city or county has prepared environmental analysis that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section and analyzes multimodal transportation impacts, including impacts to neighboring jurisdictions, transit facilities, and the state transportation system.

(i) Such environmental analysis shall include documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment have been adequately addressed for the development exempted. The requirements may be addressed in locally adopted comprehensive plans, subarea plans, adopted development regulations, other applicable local ordinances and regulations, or applicable state and federal regulations. The city, town, or county must document its consultation with the department of transportation on impacts to state-owned transportation facilities including consideration of whether mitigation is necessary for impacts to transportation

facilities.

(ii) Before finalizing the environmental analysis pursuant to (b)(i) of this subsection (3), the local government shall provide a minimum of 60 days' notice to affected tribes, relevant state agencies, other jurisdictions that may be impacted, and the public. If a local government identifies that mitigation measures are necessary to address specific probable adverse impacts, the local government must address those impacts by requiring mitigation identified in the environmental analysis pursuant to this subsection (3)(b) through locally adopted comprehensive plans, subarea plans, development regulations, or other applicable local ordinances and regulations. Mitigation measures shall be detailed in an associated environmental determination.

(iii) The categorical exemption is effective 30 days following action by a local government pursuant to (b)(ii) of this subsection (3).

(4) All project actions that propose to develop one or more residential housing or middle housing units within a city west of the crest of the Cascade mountains with a population of 700,000 or more are categorically exempt from the requirements of this chapter.

(5) Any categorical exemption adopted by a city or county under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). Nothing in this section shall invalidate categorical exemptions or environmental review procedures adopted by a local government under a planned action pursuant to RCW 43.21C.440. However, any categorical exemption adopted by a city or county under this section shall be subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Salomon moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5412 and ask the House to recede therefrom.

Senators Salomon and Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Salomon that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5412 and ask the House to recede therefrom.

The motion by Senator Salomon carried and the Senate refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 5412 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 11, 2023

MR. PRESIDENT:
The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5440 with the following amendment(s): 5440-S2.E AMH FARI H1930.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that defendants referred for services related to competency to stand trial requiring admission into a psychiatric facility are currently facing unprecedented wait times in jail for admission. The situation has been exacerbated by closure of forensic beds and workforce shortages related to COVID-19, and treatment capacity limits related to social distancing requirements. Moreover, a backlog of criminal prosecutions that were held back during the first two years of the pandemic due to capacity limitations in courts, prosecuting attorneys offices, and jails, are now being filed, causing a surge in demand for competency services which exceeds the state's capacity to make a timely response. In partial consequence, as of January 2023, wait times for admission to western state hospital for competency services, directed to be completed within seven days by order of the United States district court for western Washington, have risen to over ten months, while wait times for admission to eastern state hospital for the same services have risen to over five months. The state's forensic bed capacity forecast model indicates that if the state continues to receive competency referrals from local superior, district, and municipal courts at the same volume, the state will rapidly fall farther behind.

The legislature further finds that historical investments and policy changes have been made in behavioral health services over the past five years, designed to both increase capacity to provide competency to stand trial services and to reduce the need for them by creating opportunities for diversion, prevention, and improved community health. New construction at western state hospital is expected to result in the opening of 58 forensic psychiatric beds in the first quarter of 2023, while emergency community hospital contracts are expected to allow for the discharge or transfer of over 50 civil conversion patients occupying forensic state hospital beds over the same period. Sixteen beds for civil conversion patients will open at Maple Lane school in the first quarter of 2023, with 30 additional beds for patients acquitted by reason of insanity expected to open by late 2023 or early 2024. Over a longer time period, 350 forensic beds are planned to open within a new forensic hospital on western state hospital campus between 2027 and 2029. Policy and budget changes have increased capacity for assisted outpatient treatment, 988 crisis response, use of medication for opioid use disorders in jails and community settings, reentry services, and mental health advance directives, and created new behavioral health facility types, supportive housing, and supportive employment services. Forensic navigator services, outpatient competency restoration programs, and other specialty forensic services are now available and continuing to be deployed in phase two *Trueblood* settlement regions.

The legislature further finds that despite these investments there is a need for everyone to come together to find solutions to both reduce demand for forensic services and to increase their supply. The state needs collaboration from local governments and other entities to identify any and all facilities that can be used to provide services to patients connected to the forensic system, to reduce the flow of competency referrals coming from municipal, district, and superior courts, and to improve availability and effectiveness of behavioral health services provided outside the criminal justice system.

Sec. 2. RCW 10.77.010 and 2022 c 288 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

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

(2) "Authority" means the Washington state health care authority.

(3) "Clinical intervention specialist" means a licensed professional with prescribing authority who is employed by or contracted with the department to provide direct services, enhanced oversight and monitoring of the behavioral health status

of in-custody defendants who have been referred for evaluation or restoration services related to competency to stand trial and who coordinate treatment options with forensic navigators, the department, and jail health services.

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

(((~~(4)~~))) (5) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

(((~~(5)~~))) (6) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(((~~(6)~~))) (7) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(((~~(7)~~))) (8) "Department" means the state department of social and health services.

(((~~(8)~~))) (9) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(((~~(9)~~))) (10) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(((~~(10)~~))) (11) "Developmental disabilities professional" means a person who has specialized training and ((~~three years of~~)) experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(((~~(11)~~))) (12) "Developmental disability" means the condition as defined in RCW 71A.10.020(((~~(5)~~))).

(((~~(12)~~))) (13) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(((~~(13)~~))) (14) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(((~~(14)~~))) (15) "Genuine doubt as to competency" means that there is reasonable cause to believe, based upon actual interactions with or observations of the defendant or information provided by counsel, that a defendant is incompetent to stand trial.

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

(((~~(15)~~))) (17) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

(((~~(16)~~))) (18) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

(((~~(17)~~))) (19) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(((~~(18)~~))) (20) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(((~~(19)~~))) (21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

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

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

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

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

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

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

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

(((~~(20)~~))) (22) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

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

(c) A psychiatric advanced registered nurse practitioner, as defined in RCW 71.05.020; or

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

(((~~(21)~~))) (23) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

(((~~(22)~~))) (24) "Secretary" means the secretary of the department of social and health services or his or her designee.

(((~~(23)~~))) (25) "Treatment" means any currently standardized medical or mental health procedure including medication.

(((~~(24)~~))) (26) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others.

(((~~(25)~~))) (27) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal

injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

Sec. 3. RCW 10.77.060 and 2022 c 288 s 2 are each amended to read as follows:

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

(b)(i) Whenever there is a doubt as to competency, the court on its own motion or on the motion of any party shall first review the allegations of incompetency. The court shall make a determination of whether sufficient facts have been provided to form a genuine doubt as to competency based on information provided by counsel, judicial colloquy, or direct observation of the defendant. If a genuine doubt as to competency exists, the court shall either appoint or request the secretary to designate a qualified expert or professional person, who shall be approved by the prosecuting attorney, to evaluate and report upon the mental condition of the defendant.

(ii) Nothing in this subsection (1)(b) is intended to require a waiver of attorney-client privilege. Defense counsel may meet the requirements under this subsection (1)(b) by filing a declaration stating that they have reason to believe that a competency evaluation is necessary, and stating the basis on which the defendant is believed to be incompetent, without further detail required.

(c) The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, long-term services or supports, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. If the court is advised by any party that the defendant may have a developmental disability, the evaluation must be performed by a developmental disabilities professional and the evaluator shall have access to records of the developmental disabilities administration of the department. If the court is advised by any party that the defendant may have dementia or another relevant neurocognitive disorder, the evaluator shall have access to records of the aging and long-term support administration of the department.

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

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

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

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

(h) If the defendant ordered to be evaluated under this subsection (1) is charged with a serious traffic offense under RCW 9.94A.030, or a felony version of a serious traffic offense, the prosecutor may make a motion to modify the defendant's conditions of release to include a condition prohibiting the defendant from driving during the pendency of the competency evaluation period.

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

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

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

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

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

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

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense,

an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

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

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

(5) In the event that a person remains in jail more than 21 days after service on the department of a court order to transport the person to a facility designated by the department for inpatient competency restoration treatment, upon the request of any party and with notice to all parties, the department shall perform a competency to stand trial status check to determine if the circumstances of the person have changed such that the court should authorize an updated competency evaluation. The status update shall be provided to the parties and the court. Status updates may be provided at reasonable intervals.

(6) If a finding of the competency evaluation under this section or under RCW 10.77.084 is that the individual is not competent due to an intellectual or developmental disability, dementia, or traumatic brain injury, the evaluator shall notify the department, which shall refer the individual to the developmental disabilities administration or the aging and long-term support administration of the department for review of eligibility for services. Information about availability of services must be provided to the forensic navigator.

(7) If the expert or professional person appointed to perform a competency evaluation in the community is not able to complete the evaluation after two attempts at scheduling with the defendant, the department shall submit a report to the court and parties and include a date and time for another evaluation which must be at least four weeks later. The court shall provide notice to the defendant of the date and time of the evaluation. If the defendant fails to appear at that appointment, the court shall issue a warrant for the failure to appear and recall the order for competency evaluation.

Sec. 4. RCW 10.77.068 and 2022 c 288 s 3 are each amended to read as follows:

(1)(a) The legislature establishes a performance target of seven days or fewer to extend an offer of admission to a defendant in pretrial custody for inpatient competency evaluation or inpatient competency restoration services, when access to the services is legally authorized.

(b) The legislature establishes a performance target of 14 days or fewer for the following services related to competency to stand trial, when access to the services is legally authorized:

(i) To complete a competency evaluation in jail and distribute the evaluation report; and

(ii) To extend an offer of admission to a defendant ordered to be committed to ((~~a state hospital~~)) the department for placement in a facility operated by or contracted by the department following dismissal of charges based on incompetency to stand trial under RCW 10.77.086.

(c) The legislature establishes a performance target of 21 days or fewer to complete a competency evaluation in the community and distribute the evaluation report.

(2)(a) A maximum time limit of seven days as measured from the department's receipt of the court order, or a maximum time limit of 14 days as measured from signature of the court order, whichever is shorter, is established to complete the services specified in subsection (1)(a) of this section, subject to the limitations under subsection (9) of this section.

(b) A maximum time limit of 14 days as measured from the department's receipt of the court order, or a maximum time limit of 21 days as measured from signature of the court order, whichever is shorter, is established to complete the services specified in subsection (1)(b) of this section, subject to the limitations under subsection (9) of this section.

(3) The legislature recognizes that these targets may not be achievable in all cases, but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy and quality of competency services.

(4) It shall be a defense to an allegation that the department has exceeded the maximum time limits for completion of competency services described in subsection (2) of this section if the department can demonstrate by a preponderance of the evidence that the reason for exceeding the maximum time limits was outside of the department's control including, but not limited to, the following circumstances:

(a) Despite a timely request, the department has not received necessary medical information regarding the current medical status of a defendant;

(b) The individual circumstances of the defendant make accurate completion of an evaluation of competency to stand trial dependent upon review of mental health, substance use disorder, or medical history information which is in the custody of a third party and cannot be immediately obtained by the department, provided that completion shall not be postponed for procurement of information which is merely supplementary;

(c) Additional time is needed for the defendant to no longer show active signs and symptoms of impairment related to substance use so that an accurate evaluation may be completed;

(d) The defendant is medically unavailable for competency evaluation or admission to a facility for competency restoration;

(e) Completion of the referral requires additional time to accommodate the availability or participation of counsel, court personnel, interpreters, or the defendant;

(f) The defendant asserts legal rights that result in a delay in the provision of competency services; or

(g) An unusual spike in the receipt of evaluation referrals or in the number of defendants requiring restoration services has occurred, causing temporary delays until the unexpected excess demand for competency services can be resolved.

(5) The department shall provide written notice to the court when it will not be able to meet the maximum time limits under subsection (2) of this section and identify the reasons for the delay and provide a reasonable estimate of the time necessary to complete the competency service. Good cause for an extension for the additional time estimated by the department shall be presumed absent a written response from the court or a party received by the department within seven days.

(6) The department shall:

(a) Develop, document, and implement procedures to monitor the clinical status of defendants admitted to a state hospital for competency services that allow the state hospital to accomplish early discharge for defendants for whom clinical objectives have been achieved or may be achieved before expiration of the commitment period;

(b) Investigate the extent to which patients admitted to a state hospital under this chapter overstay time periods authorized by law and take reasonable steps to limit the time of commitment to authorized periods; and

(c) Establish written standards for the productivity of forensic evaluators and utilize these standards to internally review the performance of forensic evaluators.

(7) Following any quarter in which a state hospital has failed to meet one or more of the performance targets or maximum time limits under subsection (1) or (2) of this section, the department shall report to the executive and the legislature the extent of this

deviation and describe any corrective action being taken to improve performance. This report shall be made publicly available. An average may be used to determine timeliness under this subsection.

(8) The department shall report annually to the legislature and the executive on the timeliness of services related to competency to stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.

(9) This section does not create any new entitlement or cause of action related to the timeliness of competency to stand trial services, nor can it form the basis for contempt sanctions under chapter 7.21 RCW or a motion to dismiss criminal charges.

Sec. 5. RCW 10.77.074 and 2019 c 326 s 2 are each amended to read as follows:

(1) Subject to the limitations described in subsection (2) of this section, a court may appoint an impartial forensic navigator employed by or contracted by the department to assist individuals who have been referred for competency evaluation and shall appoint a forensic navigator in circumstances described under section 10 of this act.

(2) A forensic navigator must assist the individual to access services related to diversion and community outpatient competency restoration. The forensic navigator must assist the individual, prosecuting attorney, defense attorney, and the court to understand the options available to the individual and be accountable as an officer of the court for faithful execution of the responsibilities outlined in this section.

(3) The duties of the forensic navigator include, but are not limited to, the following:

(a) To collect relevant information about the individual, including behavioral health services and supports available to the individual that might support placement in outpatient restoration, diversion, or some combination of these;

(b) To meet with, interview, and observe the individual;

(c) To assess the individual for appropriateness for assisted outpatient treatment under chapter 71.05 RCW;

(d) To present information to the court in order to assist the court in understanding the treatment options available to the individual to support the entry of orders for diversion from the forensic mental health system or for community outpatient competency restoration, ((~~and~~)) to facilitate that transition; ((~~and (d)~~)) (e) To provide regular updates to the court and parties of the status of the individual's participation in diversion services and be responsive to inquiries by the parties about treatment status;

(f) When the individual is ordered to receive community outpatient restoration, to provide services to the individual including:

(i) Assisting the individual with attending appointments and classes relating to outpatient competency restoration;

(ii) Coordinating access to housing for the individual;

(iii) Meeting with the individual on a regular basis;

(iv) Providing information to the court concerning the individual's progress and compliance with court-ordered conditions of release, which may include appearing at court hearings to provide information to the court;

(v) Coordinating the individual's access to community case management services and mental health services;

(vi) Assisting the individual with obtaining prescribed medication and encouraging adherence with prescribed medication;

(vii) Assessing the individual for appropriateness for assisted outpatient treatment under chapter 71.05 RCW and coordinating the initiation of an assisted outpatient treatment order if appropriate as part of a diversion program plan;

(viii) Planning for a coordinated transition of the individual to a case manager in the community behavioral health system;

(((~~(viii)~~))) (ix) Attempting to follow-up with the individual to check whether the meeting with a community-based case manager took place;

(((~~(ix)~~))) (x) When the individual is a high utilizer, attempting to connect the individual with high utilizer services; and

(((~~(x)~~))) (xi) Attempting to check up on the individual at least once per month for up to sixty days after coordinated transition to community behavioral health services, without duplicating the services of the community-based case manager;

(g) If the individual is an American Indian or Alaska Native who receives medical, behavioral health, housing, or other supportive services from a tribe within this state, to notify and coordinate with the tribe and Indian health care provider. Notification shall be made in person or by telephonic or electronic communication to the tribal contact listed in the authority's tribal crisis coordination plan as soon as possible.

(4) Forensic navigators may submit ((~~nonclinical~~)) recommendations to the court regarding treatment and restoration options for the individual, which the court may consider and weigh in conjunction with the recommendations of all of the parties.

(5) Forensic navigators shall be deemed officers of the court for the purpose of immunity from civil liability.

(6) The signed order for competency evaluation from the court shall serve as authority for the forensic navigator to be given access to all records held by a behavioral health, educational, or law enforcement agency or a correctional facility that relates to an individual. Information that is protected by state or federal law, including health information, shall not be entered into the court record without the consent of the individual or their defense attorney.

(7) Admissions made by the individual in the course of receiving services from the forensic navigator may not be used against the individual in the prosecution's case in chief.

(8) A court may not issue an order appointing a forensic navigator unless the department certifies that there is adequate forensic navigator capacity to provide these services at the time the order is issued.

Sec. 6. RCW 10.77.084 and 2016 sp.s. c 29 s 410 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section. Beginning October 1, 2023, if the defendant is charged with a serious traffic offense under RCW 9.94A.030, or a felony version of a serious traffic offense, the court may order the clerk to transmit an order to the department of licensing for revocation of the defendant's driver's license for a period of one year.

(b) The court may order a defendant who has been found to be incompetent to undergo competency restoration treatment at a facility designated by the department if the defendant is eligible under RCW 10.77.086 or 10.77.088. At the end of each competency restoration period or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing, except that if the opinion of the professional person is that the defendant remains incompetent and the hearing is held before the

expiration of the current competency restoration period, the parties may agree to waive the defendant's presence, to remote participation by the defendant at a hearing, or to presentation of an agreed order in lieu of a hearing. The facility shall promptly notify the court and all parties of the date on which the competency restoration period commences and expires so that a timely hearing date may be scheduled.

(c) If, following notice and hearing or entry of an agreed order under (b) of this subsection, the court finds that competency has been restored, the court shall lift the stay entered under (a) of this subsection. If the court finds that competency has not been restored, the court shall dismiss the proceedings without prejudice, except that the court may order a further period of competency restoration treatment if it finds that further treatment within the time limits established by RCW 10.77.086 or 10.77.088 is likely to restore competency, and a further period of treatment is allowed under RCW 10.77.086 or 10.77.088.

(d) If at any time during the proceeding the court finds, following notice and hearing, a defendant is not likely to regain competency, the court shall dismiss the proceedings without prejudice and refer the defendant for civil commitment evaluation or proceedings if appropriate under RCW 10.77.065, 10.77.086, or 10.77.088.

(e) Beginning October 1, 2023, if the court issues an order directing revocation of the defendant's driver's license under (a) of this subsection, and the court subsequently finds that the defendant's competency has been restored, the court shall order the clerk to transmit an order to the department of licensing for reinstatement of the defendant's driver's license. The court may direct the clerk to transmit an order reinstating the defendant's driver's license before the end of one year for good cause upon the petition of the defendant.

(2) If the defendant is referred for evaluation by a designated crisis responder under this chapter, the designated crisis responder shall provide prompt written notification of the results of the evaluation and whether the person was detained. The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.

(3) The fact that the defendant is unfit to proceed does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

(4) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.

(5) At or before the conclusion of any commitment period provided for by this section, the facility providing evaluation and treatment shall provide to the court a written report of evaluation which meets the requirements of RCW 10.77.060(3). For defendants charged with a felony, the report following the second competency restoration period or first competency restoration period if the defendant's incompetence is determined to be solely due to a developmental disability or the evaluator concludes that the defendant is not likely to regain competency must include an assessment of the defendant's future dangerousness which is evidence-based regarding predictive validity.

Sec. 7. RCW 10.77.086 and 2022 c 288 s 4 are each amended to read as follows:

(1) If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event for a period of no longer than 90 days, the court shall commit the defendant to the custody of the secretary for inpatient competency restoration, or may alternatively order the defendant to receive outpatient competency restoration based on a recommendation from a forensic navigator and input from the parties.

(a) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

(i) Adhere to medications or receive prescribed intramuscular medication;

(ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

(b) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration.

(c) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management. The court may order regular urinalysis testing. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(d) If a defendant fails to comply with the restrictions of the outpatient restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration placement and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration. The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under (d)(i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be reduced by the time period spent in active treatment within the outpatient competency restoration program, excluding time periods in which the defendant was absent from the program and all time from notice of termination of the outpatient competency restoration period through the defendant's admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate the outpatient competency restoration placement.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to the designated inpatient competency restoration facility. If medical clearance is required by the designated competency restoration facility before admission, the peace officer must transport the defendant to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance once a bed is available at the designated inpatient competency restoration facility. The signed outpatient competency restoration order of the court shall serve as authority for the detention of the defendant under this subsection. This subsection does not preclude voluntary transportation of the

defendant to a facility for inpatient competency restoration or for medical clearance, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the defendant's admission for inpatient competency restoration before the close of the next judicial day. The court shall schedule a hearing within five days to review the conditions of release of the defendant and anticipated release from treatment and issue appropriate orders.

(e) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient competency restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(2) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial competency restoration period is 45 days if the defendant is referred for inpatient competency restoration, or 90 days if the defendant is referred for outpatient competency restoration, provided that if the outpatient competency restoration placement is terminated and the defendant is subsequently admitted to an inpatient facility, the period of inpatient treatment during the first competency restoration period under this subsection shall not exceed 45 days.

(3) If the court determines or the parties agree before the initial competency restoration period or at any subsequent stage of the proceedings that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo an initial or further period of competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection (5) of this section.

(4) On or before expiration of the initial competency restoration period the court shall conduct a hearing to determine whether the defendant is now competent to stand trial. If the court finds by a preponderance of the evidence that the defendant is incompetent to stand trial, the court may order an extension of the competency restoration period for an additional period of 90 days, but the court must at the same time set a date for a new hearing to determine the defendant's competency to stand trial before the expiration of this second restoration period. The defendant, the defendant's attorney, and the prosecutor have the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third competency restoration period if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension.

(5) ((~~At~~)) (a) Except as provided in (b) of this subsection, at the hearing upon the expiration of the second competency restoration period, or at the end of the first competency restoration period if the defendant is ineligible for a second or third competency restoration period under subsection (4) of this section, if the jury or court finds that the defendant is incompetent to stand trial, the court shall dismiss the charges without prejudice and order the defendant to be committed to ((~~a state hospital~~)) the department for placement in a facility operated or contracted by the department for up to 120 hours if the defendant has not undergone competency restoration services or has engaged in outpatient competency restoration services and up to 72 hours if the defendant engaged in inpatient competency restoration services starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. ((~~However, the~~)) If at the time the order to dismiss the charges without prejudice is entered by the court the defendant is already in a facility operated or contracted by the department, the 72-hour or 120-hour period shall instead begin upon department receipt of the court order.

(b) The court shall not dismiss the charges if the court or jury finds that: (((~~(a)~~))) (i) The defendant (((~~(i)~~))) (A) is a substantial danger to other persons; or (((~~(ii)~~))) (B) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (((~~(b)~~))) (ii) there is a substantial probability that the defendant will regain competency within a reasonable period of time. If the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

(6) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility or is actively participating in an outpatient competency restoration program and is in addition to reasonable time for transport to or from the facility.

Sec. 8. RCW 10.77.086 and 2022 c 288 s 4 are each amended to read as follows:

(1) If the defendant is charged with a felony that is not a qualifying class C felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event for a period of no longer than 90 days, the court shall commit the defendant to the custody of the secretary for inpatient competency restoration, or may alternatively order the defendant to receive outpatient competency restoration based on a recommendation from a forensic navigator and input from the parties.

(2)(a) For a defendant who is determined to be incompetent and whose highest charge is a qualifying class C felony, the court shall first consider all available and appropriate alternatives to inpatient competency restoration. If such placement does not exist, is not appropriate, or is not available in a timely manner, the court shall commit the defendant to the custody of the secretary for inpatient competency restoration. Available and appropriate alternatives includes diversion to a community-based program and dismissal of charges, commitment under chapter 71.05 RCW, or outpatient competency restoration.

(b) If the defendant is subject to an order under chapter 71.05 RCW or proceedings under chapter 71.05 RCW have been initiated, there is a rebuttable presumption that there is no compelling state interest in ordering competency restoration treatment.

(3)(a) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

(i) Adhere to medications or receive prescribed intramuscular medication;

(ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

(b) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration.

(c) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency

restoration program, which must include the defendant being subject to medication management. The court may order regular urinalysis testing. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(d) If a defendant fails to comply with the restrictions of the outpatient restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration placement and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration. The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under (d)(i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be reduced by the time period spent in active treatment within the outpatient competency restoration program, excluding time periods in which the defendant was absent from the program and all time from notice of termination of the outpatient competency restoration period through the defendant's admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate the outpatient competency restoration placement.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to the designated inpatient competency restoration facility. If medical clearance is required by the designated competency restoration facility before admission, the peace officer must transport the defendant to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance once a bed is available at the designated inpatient competency restoration facility. The signed outpatient competency restoration order of the court shall serve as authority for the detention of the defendant under this subsection. This subsection does not preclude voluntary transportation of the defendant to a facility for inpatient competency restoration or for medical clearance, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the defendant's admission for inpatient competency restoration before the close of the next judicial day. The court shall schedule a hearing within five days to review the conditions of release of the defendant and anticipated release from treatment and issue appropriate orders.

(e) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient competency restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(((~~(2)~~))) (4)(a) For a defendant whose highest charge is a class C felony that is not a qualifying class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial competency restoration period is 45 days if the defendant is referred for inpatient competency restoration, or 90 days if the defendant is referred for outpatient competency restoration, provided that if the outpatient competency restoration placement is terminated and the defendant is subsequently admitted to an inpatient facility, the period of inpatient treatment during the first competency restoration period under this subsection shall not exceed 45 days.

(((~~(3)~~))) (b) For a defendant whose highest charge is a qualifying class C felony, the maximum time allowed for competency restoration is 45 days if the defendant is referred for inpatient competency restoration, or 90 days if the defendant is referred for outpatient competency restoration. The court may order any combination of inpatient and outpatient competency restoration under this subsection, but the total period of inpatient competency restoration may not exceed 45 days.

(c) For any defendant with a felony charge that is admitted for competency restoration with an accompanying court order for involuntary medication under RCW 10.77.092, and the defendant is found not competent to stand trial following that period of restoration, charges shall be dismissed pursuant to subsection (7) of this section.

(5) If the court determines or the parties agree before the initial competency restoration period or at any subsequent stage of the proceedings that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo an initial or further period of competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection (((~~(5)~~))) (7) of this section.

(((~~(4) On~~))) (6) For a defendant charged with a felony that is not a qualifying class C felony, on or before expiration of the initial competency restoration period the court shall conduct a hearing to determine whether the defendant is now competent to stand trial. If the court finds by a preponderance of the evidence that the defendant is incompetent to stand trial, the court may order an extension of the competency restoration period for an additional period of 90 days, but the court must at the same time set a date for a new hearing to determine the defendant's competency to stand trial before the expiration of this second restoration period. The defendant, the defendant's attorney, and the prosecutor have the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third competency restoration period if the defendant's incompetence has been determined by the secretary to be solely the result of ((~~a~~)) an intellectual or developmental disability, dementia, or traumatic brain injury which is such that competence is not reasonably likely to be regained during an extension.

(((~~(5) At~~))) (7)(a) Except as provided in (b) of this subsection, at the hearing upon the expiration of the second competency restoration period, or at the end of the first competency restoration period if the defendant is ineligible for a second or third competency restoration period under subsection (4) or (6) of this section, if the jury or court finds that the defendant is incompetent to stand trial, the court shall dismiss the charges without prejudice and order the defendant to be committed to ((~~a state hospital~~)) the department for placement in a facility operated or contracted by the department for up to 120 hours if the defendant has not undergone competency restoration services or has engaged in outpatient competency restoration services, and up to 72 hours if the defendant engaged in inpatient competency restoration services starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. ((~~However,~~)) If at the time the order to dismiss the charges without prejudice is entered by the court the defendant is already in a facility operated or contracted by the department, the 72-hour or 120-hour period shall instead begin upon department receipt of the court order.

(b) For a defendant charged with a felony that is not a

qualifying class C felony, the court shall not dismiss the charges if the court or jury finds that: (((~~(a)~~))) (i) The defendant (((~~(i)~~))) (A) is a substantial danger to other persons; or (((~~(ii)~~))) (B) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (((~~(b)~~))) (ii) there is a substantial probability that the defendant will regain competency within a reasonable period of time. If the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

(((~~(6)~~))) (8) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility or is actively participating in an outpatient competency restoration program and is in addition to reasonable time for transport to or from the facility.

(9) "Qualifying class C felony" means any class C felony offense except: (a) Assault in the third degree under RCW 9A.36.031(1) (d) or (f); (b) felony physical control of a vehicle under RCW 46.61.504(6); (c) felony hit and run resulting in injury under RCW 46.52.020(4)(b); (d) hate crime offense under RCW 9A.36.080; (e) any class C felony offense with a domestic violence designation; (f) any class C felony sex offense as defined in RCW 9.94A.030; and (g) any class C felony offense with a sexual motivation allegation.

Sec. 9. RCW 10.77.088 and 2022 c 288 s 5 are each amended to read as follows:

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

(a) Shall dismiss the proceedings without prejudice and detain the defendant ((~~for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW~~)) pursuant to subsection (5) of this section, unless the prosecutor objects to the dismissal and provides notice of a motion for an order for competency restoration treatment, in which case the court shall schedule a hearing within seven days.

(b)(i) At the hearing, the prosecuting attorney must establish that there is a compelling state interest to order competency restoration treatment for the defendant. The court may consider prior criminal history, prior history in treatment, prior history of violence, the quality and severity of the pending charges, any history that suggests whether competency restoration treatment is likely to be successful, in addition to the factors listed under RCW 10.77.092. If the prosecuting attorney proves by a preponderance of the evidence that there is a compelling state interest in ordering competency restoration treatment, then the court shall issue an order in accordance with subsection (2) of this section.

(ii) If the defendant is subject to an order under chapter 71.05 RCW or proceedings under chapter 71.05 RCW have been initiated, there is a rebuttable presumption that there is no compelling state interest in ordering competency restoration treatment. Beginning October 1, 2023, if the defendant is charged with a serious traffic offense under RCW 9.94A.030, the court may order the clerk to transmit an order to the department of licensing for revocation of the defendant's driver's license for a period of one year. The court shall direct the clerk to transmit an order to the department of licensing reinstating the defendant's driver's license if the defendant is subsequently restored to competency, and may do so at any time before the end of one year for good cause upon the petition of the defendant.

(2)(a) If a court finds pursuant to subsection (1)(b) of this section that there is a compelling state interest in pursuing competency restoration treatment, the court shall ((~~commit the defendant to the custody of the secretary for inpatient competency restoration, or may alternatively~~)) order the defendant to receive outpatient competency restoration ((~~based on a recommendation from a forensic navigator and input from the parties~~)) consistent with the recommendation of the forensic navigator, unless the court finds that an order for outpatient competency restoration is inappropriate considering the health and safety of the defendant and risks to public safety.

(((~~(a)~~))) (b) To be eligible for an order for outpatient competency restoration, a defendant must be ((~~clinically appropriate and be~~)) willing to:

(i) Adhere to medications or receive prescribed intramuscular medication;

(ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

(((~~(b)~~))) (c) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration under subsection (3) of this section.

(((~~(c)~~))) (d) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management. The court may order regular urinalysis testing. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(((~~(d)~~))) (e) If a defendant fails to comply with the restrictions of the outpatient competency restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration placement and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration. The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under (((~~(d)~~))) (e)(i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be reduced by the time period spent in active treatment within the outpatient competency restoration program, excluding time periods in which the defendant was absent from the program and all time from notice of termination of the outpatient competency restoration period through the defendant's admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate the outpatient competency restoration placement.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to the designated inpatient competency restoration facility. If medical clearance is required by the designated competency restoration facility before admission, the peace officer must transport the defendant to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance once a bed is available at the designated inpatient competency restoration facility. The signed outpatient

competency restoration order of the court shall serve as authority for the detention of the defendant under this subsection. This subsection does not preclude voluntary transportation of the defendant to a facility for inpatient competency restoration or for medical clearance, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the defendant's admission for inpatient competency restoration before the close of the next judicial day. The court shall schedule a hearing within five days to review the conditions of release of the defendant and anticipated release from treatment and issue appropriate orders.

((~~(e)~~)) (f) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(g) If the court does not order the defendant to receive outpatient competency restoration under (a) of this subsection, the court shall commit the defendant to the department for placement in a facility operated or contracted by the department for inpatient competency restoration.

(3) The placement under subsection (2) of this section shall not exceed 29 days if the defendant is ordered to receive inpatient competency restoration, and shall not exceed 90 days if the defendant is ordered to receive outpatient competency restoration. The court may order any combination of this subsection, but the total period of inpatient competency restoration may not exceed 29 days.

(4) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection (5) of this section.

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

(b) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to 120 hours if the defendant has not undergone competency restoration services or has engaged in outpatient competency restoration services and up to 72 hours if the defendant engaged in inpatient competency restoration services, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The 120-hour or 72-hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the 120-hour or 72-hour period.

(6) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092 and found by the court to be not competent, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least 24 hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

(7) If at any time the court dismisses charges under subsections (1) through (6) of this section, the court shall make a finding as to whether the defendant has a history of one or more violent acts. If the court so finds, the defendant is barred from the possession of firearms until a court restores his or her right to possess a firearm under RCW 9.41.047. The court shall state to the defendant and provide written notice that the defendant is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

(8) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility or is actively participating in an outpatient competency restoration program and is in addition to reasonable time for transport to or from the facility.

NEW SECTION. **Sec. 10.** A new section is added to chapter 10.77 RCW to read as follows:

(1) In counties with a forensic navigator program, a forensic navigator shall:

(a) Meet, interview, and observe all defendants charged with a qualifying class C felony as defined in RCW 10.77.086(9) or a nonfelony who have had two or more competency evaluations in the preceding 24 months on separate charges or cause numbers and determine the defendants' willingness to engage with services under this section; and

(b) Provide a diversion program plan to the parties in each case that includes a recommendation for a diversion program to defense counsel and the prosecuting attorney. Services under a diversion program may include a referral for assisted outpatient treatment under chapter 71.05 RCW.

(2) If the parties agree on the diversion program recommended by the forensic navigator, the prosecutor shall request dismissal of the criminal charges.

(3)(a) For defendants charged with a nonfelony, if the parties do not agree on the diversion program, the defense may move the court for an order dismissing the criminal charges without prejudice and referring the defendant to the services described in the diversion program. The court shall hold a hearing on this motion within 10 days. The court shall grant the defense motion if it finds by a preponderance of the evidence that the defendant is amenable to the services described in the diversion program and can safely receive services in the community.

(b)(i) For defendants charged with a qualifying class C felony as defined in RCW 10.77.086, if the parties do not agree on the diversion program, the defense may move the court for an order referring the defendant for a 30-day trial period in the diversion program with periodic monitoring reports provided to the court and parties. The court shall hold a hearing on this motion within 10 days. The court shall grant the motion if it finds by a preponderance of the evidence that the defendant is amenable to the services described in the diversion program and likely to engage in the program.

(ii) Following the 30-day trial period, if the court finds by a preponderance of the evidence that the defendant meaningfully engaged in the diversion program, the court shall dismiss the criminal charges without prejudice and refer the defendant to the services described in the diversion program.

(4) Individuals who receive a dismissal of charges and referral to services described in a diversion program shall have a forensic navigator assigned to assist them for up to six months while engaging in the services described in the diversion program. The forensic navigator shall provide monthly status updates to the parties regarding the individual's status in the diversion program.

(5) Forensic navigators shall collaborate with available *Trueblood* settlement diversion programs if they are accessible in

the geographic location where criminal charges are currently filed.

Sec. 11. RCW 10.77.092 and 2014 c 10 s 2 are each amended to read as follows:

(1) For purposes of determining whether a court may authorize involuntary medication for the purpose of competency restoration pursuant to RCW 10.77.084 and for maintaining the level of restoration in the jail following the restoration period, a pending charge involving any one or more of the following crimes is a serious offense per se in the context of competency restoration:

(a) Any violent offense, sex offense, serious traffic offense, and most serious offense, as those terms are defined in RCW 9.94A.030;

(b) Any offense, except nonfelony counterfeiting offenses, included in crimes against persons in RCW 9.94A.411;

(c) Any offense contained in chapter 9.41 RCW (firearms and dangerous weapons);

(d) Any offense listed as domestic violence in RCW 10.99.020;

(e) Any offense listed as a harassment offense in chapter 9A.46 RCW, except for criminal trespass in the first or second degree;

(f) Any violation of chapter 69.50 RCW that is a class B felony; or

(g) Any city or county ordinance or statute that is equivalent to an offense referenced in this subsection.

(2) Anytime the secretary seeks a court order authorizing the involuntary medication for purposes of competency restoration pursuant to RCW 10.77.084, the secretary's petition must also seek authorization to continue involuntary medication for purposes of maintaining the level of restoration in the jail or juvenile detention facility following the restoration period.

(3)(a) In a particular case, a court may determine that a pending charge not otherwise defined as serious by state or federal law or by a city or county ordinance is, nevertheless, a serious offense within the context of competency restoration treatment when the conduct in the charged offense falls within the standards established in (b) of this subsection.

(b) To determine that the particular case is a serious offense within the context of competency restoration, the court must consider the following factors and determine that one or more of the following factors creates a situation in which the offense is serious:

(i) The charge includes an allegation that the defendant actually inflicted bodily or emotional harm on another person or that the defendant created a reasonable apprehension of bodily or emotional harm to another;

(ii) The extent of the impact of the alleged offense on the basic human need for security of the citizens within the jurisdiction;

(iii) The number and nature of related charges pending against the defendant;

(iv) The length of potential confinement if the defendant is convicted; and

(v) The number of potential and actual victims or persons impacted by the defendant's alleged acts.

NEW SECTION. **Sec. 12.** A new section is added to chapter 10.77 RCW to read as follows:

(1) When an individual has a prescription for an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the individual to treat a serious mental illness by a state hospital or other state facility or a behavioral health agency or other certified medical provider, and the individual is medically stable on the drug, a jail or juvenile detention facility shall continue prescribing the prescribed drug and may not require the substitution of a different drug in a given therapeutic class, except under the following circumstances:

(a) The substitution is for a generic version of a name brand drug and the generic version is chemically identical to the name brand drug; or

(b) The drug cannot be prescribed for reasons of drug recall or removal from the market, or medical evidence indicating no therapeutic effect of the drug.

(2) This section includes but is not limited to situations in which the individual returns to a jail or juvenile detention facility directly after undergoing treatment at a state hospital, behavioral health agency, outpatient competency restoration program, or prison.

(3) The department shall establish a program to reimburse jails and juvenile detention facilities for the costs of any drugs the jail or juvenile detention facility does not otherwise have available and must continue prescribing under this section.

NEW SECTION. **Sec. 13.** A new section is added to chapter 10.77 RCW to read as follows:

(1) Following a competency evaluation under RCW 10.77.060, individuals who are found not competent to stand trial and not restorable due to an intellectual or developmental disability, dementia, or traumatic brain injury, shall not be referred for competency restoration services unless the highest current criminal charge is a violent offense or sex offense as defined in RCW 9.94A.030. A defendant with a prior finding under this subsection may only be referred for competency restoration services if the highest charge under the new proceedings is a violent offense or sex offense as defined in RCW 9.94A.030.

(2) The department shall develop a process for connecting individuals who have been found not competent to stand trial due to an intellectual or developmental disability, dementia, or traumatic brain injury to available wraparound services and supports in community-based settings, which may include residential supports. The process shall include provisions for individuals who are current clients of the department's developmental disabilities administration or aging and long-term support administration and for individuals who are not current clients of the department.

(a) For current clients of the developmental disabilities administration and aging and long-term support administration, the department's assigned case manager shall:

(i) Coordinate with the individual's services providers to determine if the individual can return to the same or like services, or determine appropriate new community-based services. This shall include updating the individual's service plan and identifying and coordinating potential funding for any additional supports to stabilize the individual in community-based settings funded by the developmental disabilities administration or aging and long-term support administration so that the individual does not lose existing services, including submitting any exceptions to rule for additional services;

(ii) Conduct a current service eligibility assessment and send referral packets to all community-based service providers for services for which the individual is eligible; and

(iii) Connect with the individual's assigned forensic navigator and determine if the individual is eligible for any diversion, supportive housing, or case management programs as a *Trueblood* class member, and assist the individual to access these services.

(b) For individuals who have not established eligibility for the department's support services, the department shall:

(i) Conduct an eligibility determination for services and send referral packets to service providers for all relevant community-based services for which the individual is eligible. This process must include identifying and coordinating funding for any additional supports that are needed to stabilize the individual in any community-based setting funded by the developmental

disabilities administration or aging and long-term support administration, including submitting any necessary exceptions to rule for additional services; and

(ii) Connect with the individual's assigned forensic navigator and determine if the individual is eligible for any diversion, supportive housing, or case management programs as a *Trueblood* class member, if additional specialized services are available to supplement diversion program services, and assist the individual to access these services.

(3) The department shall offer to transition the individual in services either directly from the jail or as soon thereafter as may be practicable, without maintaining the individual at an inpatient facility for longer than is clinically necessary. Nothing in this subsection prohibits the department from returning the individual to their home or to another less restrictive setting if such setting is appropriate, which may include provision of supportive services to help the person maintain stability. The individual is not required to accept developmental disabilities administration, aging and long-term support administration, or other diversionary services as a condition of having the individual's criminal case dismissed without prejudice, provided the individual meets the criteria of subsection (1) of this section.

(4) Subject to the availability of funds appropriated for this specific purpose, the department shall develop a program for individuals who have been involved with the criminal justice system and who have been found under RCW 10.77.084 as incompetent to stand trial and not restorable due to an intellectual or developmental disability, traumatic brain injury, or dementia and who do not meet criteria under other programs in this section. The program must involve wraparound services and housing supports appropriate to the needs of the individual. It is sufficient to meet the criteria for participation in this program if the individual has recently been the subject of criminal charges that were dismissed without prejudice and was found incompetent to stand trial due to an intellectual or developmental disability, traumatic brain injury, or dementia.

NEW SECTION. **Sec. 14.** The University of Washington shall implement a pilot project to provide short-term stabilization and transition support for individuals found incompetent to stand trial due to an intellectual or developmental disability who are or have been *Trueblood* class members. The project will be implemented in three phases, beginning December 1, 2023, using an interdisciplinary approach across various settings and overlapping with existing resources, including those available to *Trueblood* class members and services and supports they are eligible to receive from the department of social and health services. The department of social and health services shall collaborate with the University of Washington on this project, including assistance in identifying resources available to class members and determination of eligibility. By November 30, 2026, the University of Washington shall submit a report to the appropriate fiscal and policy committees of the legislature on the pilot project, including the pilot project's outcomes, data analysis, evaluation, and recommendations for improvement. In addition, the University of Washington shall report on the background of current and former *Trueblood* class members with intellectual and developmental disabilities. The department of social and health services shall share data as needed to assist in report development.

NEW SECTION. **Sec. 15.** Subject to the availability of funds appropriated for this specific purpose, the health care authority shall require the programs it contracts with to increase compensation for staff in outpatient competency restoration programs to provide compensation at competitive levels to improve recruitment and allow for the full implementation of outpatient competency restoration programs.

NEW SECTION. **Sec. 16.** A new section is added to chapter 10.77 RCW to read as follows:

An outpatient competency restoration program must include access to a prescriber.

NEW SECTION. **Sec. 17.** A new section is added to chapter 10.77 RCW to read as follows:

(1) Subject to the security and background investigation requirements of the jail, jails shall allow clinical intervention specialists to have access to individuals who are referred to receive services under this chapter and to all records relating to the health or conduct of the individual while incarcerated. Clinical intervention specialists shall support jail health services in providing direct services, enhanced oversight and monitoring of the behavioral health status of participating individuals. Clinical intervention specialists shall work collaboratively with jail health services to ensure appropriate prescriptions, medication compliance monitoring, and access to supportive behavioral health services to the individuals. Clinical intervention specialists shall coordinate with forensic navigators and the department to assist forensic navigators in making recommendations for appropriate placements, which may include recommendations for participation in an outpatient competency restoration program or a diversion program designed for the needs of the individual. The clinical intervention specialist shall notify the department if a participating individual appears to have stabilized in their behavioral health such that a new competency evaluation is appropriate to reassess the individual's need for competency restoration treatment.

(2) The department shall establish a memorandum of understanding and any contracts needed with the jail to address the terms and conditions of allowing access to defendants and their records subject to the requirements of this section.

NEW SECTION. **Sec. 18.** A new section is added to chapter 10.77 RCW to read as follows:

The department shall collect data so that information can be retrieved based on unique individuals, their complete Washington criminal history and referrals for forensic services.

NEW SECTION. **Sec. 19.** A new section is added to chapter 10.77 RCW to read as follows:

(1) The department shall coordinate with cities, counties, hospitals, and other public and private entities to identify locations that may be commissioned or renovated for use in treating clients committed to the department for competency evaluation, competency restoration, civil conversion, or treatment following acquittal by reason of insanity.

(2) The department may provide capital grants to entities to accomplish the purposes described in subsection (1) of this section subject to provision of funding provided for this specific purpose.

NEW SECTION. **Sec. 20.** (1) By January 1, 2024, the health care authority shall implement a pilot project in phase one *Trueblood* settlement regions, by creating three behavioral health crisis systems regional coordinator positions in the Pierce, southwest, and Spokane behavioral health administrative services organization regions. The purpose of the pilot project is to support and assist key participants across the various local voluntary, involuntary, and forensic behavioral health systems to better understand the intersection of these systems, their essential role in and across the system, and how to effectively navigate impacted individuals to the best options based on their circumstances and needs, including by increasing the utilization of assisted outpatient treatment, outpatient competency restoration services, and diversion programs for people living with behavioral health conditions who are involved or likely to have involvement with the criminal legal system.

(2) In carrying out this pilot project, the behavioral health crisis systems regional coordinator shall familiarize themselves with key cross-system participants within the region, including but not limited to:

(a) Department of social and health services personnel and contractors, including those implementing the responsibilities outlined in chapter 10.77 RCW and Titles 71, 71A, and 74 RCW;

(b) Health care authority personnel and contractors, including those implementing the responsibilities outlined in chapter 10.77 RCW and Title 71 RCW;

(c) Behavioral health administrative services organization personnel and contractors implementing the functions outlined in RCW 71.24.045;

(d) Managed care organizations, including personnel implementing the responsibilities outlined in chapter 71.24 RCW and Title 74 RCW;

(e) Participants in the criminal legal system, including: Municipal, district, and superior court personnel; prosecutors; defense counsel representing people for whom there is a doubt as to competency; law enforcement agency personnel; and municipal and county jails;

(f) Local governments and tribal governments located within the region; and

(g) Community-based wraparound service providers, including housing and other supports for people involved in the behavioral health or criminal legal systems.

(3) The behavioral health crisis systems regional coordinators shall develop a robust understanding of the local voluntary, involuntary, and forensic behavioral health systems within the county or counties located within the behavioral health administrative services organization's region, including all system actors, policies, procedures, and programs across the state-operated and regional behavioral health, criminal legal, local government, and social services systems. The behavioral health crisis systems regional coordinators shall also:

(a) Identify challenges within these systems and develop strategies for improved coordination and access to services across systems;

(b) Work with local jurisdictions and the behavioral health administrative services organization, including the assisted outpatient treatment program coordinator established in RCW 71.24.045, to establish or improve assisted outpatient treatment programs, including increased utilization of assisted outpatient treatment for expanded populations;

(c) Work with local jurisdictions and the behavioral health administrative services organization to increase utilization of arrest and jail diversion programs;

(d) Work with local jurisdictions and the behavioral health administrative services organization to increase utilization of outpatient competency restoration program services; and

(e) Provide recommendations on statutory and regulatory changes needed to improve coordination and access to services across behavioral health systems to the joint legislative and executive committee on behavioral health established within the office of financial management in the omnibus appropriations act for the 2023-2025 biennium.

(4) By September 30, 2025, the health care authority shall provide a preliminary report to the appropriate fiscal and policy committees of the legislature on the progress and outcomes of the pilot project, including steps taken to address identified challenges and improve coordination and access to behavioral health services within each region, and steps taken to establish or improve access to, and expanded utilization of, assisted outpatient treatment, arrest and jail diversion program services, and outpatient competency restoration program services within each region. The report shall also include any recommended statutory changes that are needed to facilitate improved coordination and access to services across behavioral health systems. The authority shall submit a final report by September 1, 2026.

(5) The health care authority, the department of social and health services, and regional managed care organizations shall provide the behavioral health crisis systems regional coordinators with any information that supports the systems improvement work of the behavioral health crisis systems regional coordinator.

(6) This section expires June 30, 2027.

Sec. 21. RCW 10.77.065 and 2019 c 325 s 5006 are each amended to read as follows:

(1)(a)(i) The expert conducting the evaluation shall provide his or her report and recommendation to the court in which the criminal proceeding is pending. For a competency evaluation of a defendant who is released from custody, if the evaluation cannot be completed within twenty-one days due to a lack of cooperation by the defendant, the evaluator shall notify the court that he or she is unable to complete the evaluation because of such lack of cooperation.

(ii) A copy of the report and recommendation shall be provided to the designated crisis responder, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(iv) of this subsection. Upon request, the evaluator shall also provide copies of any source documents relevant to the evaluation to the designated crisis responder.

(iii) Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within two working days or less following the final evaluation of the defendant. If the defendant is discharged to the custody of a local correctional facility, the local correctional facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication and an involuntary medication order by the court has not been entered.

(iv) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the behavioral health administrative services organization, a professional person at the behavioral health administrative services organization to receive the report and recommendation.

(v) Upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator of the name of the professional person, or person designated under (a)(iv) of this subsection, to receive the report and recommendation.

(b) If the evaluator concludes, under RCW 10.77.060(3)(f), the person should be evaluated by a designated crisis responder under chapter 71.05 RCW, the court shall order such evaluation be conducted prior to release from confinement when the person is acquitted or convicted and sentenced to confinement for twenty-four months or less, or when charges are dismissed pursuant to a finding of incompetent to stand trial.

(2) The designated crisis responder shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (1)(a) of this section.

(3) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the designated crisis responder under subsection (2) of this section to the secretary.

(4) A facility conducting a civil commitment evaluation under RCW 10.77.086(((~~(4)~~))) (7) or 10.77.088(((~~(1)(c)(ii)~~))) (5)(b) that makes a determination to release the person instead of filing a civil commitment petition must provide written notice to the prosecutor and defense attorney at least twenty-four hours prior to release. The notice may be given by email, facsimile, or other means reasonably likely to communicate the information immediately.

(5) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may also be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

Sec. 22. RCW 71.05.280 and 2022 c 210 s 15 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be committed for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of a behavioral health disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of a behavioral health disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.086(((~~(4)~~))) (7), and has committed acts constituting a felony, and as a result of a behavioral health disorder, presents a substantial likelihood of repeating similar acts.

(a) In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime;

(b) For any person subject to commitment under this subsection where the charge underlying the finding of incompetence is for a felony classified as violent under RCW 9.94A.030, the court shall determine whether the acts the person committed constitute a violent offense under RCW 9.94A.030; or

(4) Such person is gravely disabled.

Sec. 23. RCW 71.05.290 and 2022 c 210 s 16 are each amended to read as follows:

(1) At any time during a person's 14-day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated crisis responder may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2)(a)(i) The petition shall summarize the facts which support the need for further commitment and shall be supported by affidavits based on an examination of the patient and signed by:

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

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a substance use disorder professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner.

(b) The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(((~~(4)~~))) (7), then the professional person in charge of the treatment facility or his or her professional designee or the designated crisis responder may directly file a petition for 180-day treatment under RCW 71.05.280(3), or for 90-day treatment under RCW 71.05.280 (1), (2), or (4). No petition for initial detention or 14-day detention is required before such a petition may be filed.

Sec. 24. RCW 71.05.300 and 2020 c 302 s 43 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. The clerk shall set a trial setting date as provided in RCW 71.05.310 on the next judicial day after the date of filing the petition and notify the designated crisis responder. The designated crisis responder shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health administrative services organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health administrative services organization administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) The attorney for the detained person shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and, if the petition is for commitment for mental health treatment, his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, psychiatrist, or other professional person, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW 10.77.086(((~~(4)~~))) (7), the appointed professional person under this section shall be a developmental disabilities professional.

Sec. 25. RCW 71.05.425 and 2021 c 264 s 19 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(4)(c)

following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(((~~(4)~~))) (7) to the following:

(i) The chief of police of the city, if any, in which the person will reside;

(ii) The sheriff of the county in which the person will reside; and

(iii) The prosecuting attorney of the county in which the criminal charges against the committed person were dismissed.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(((~~(4)~~))) (7):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(((~~(4)~~))) (7) preceding commitment under RCW 71.05.280(3) or 71.05.320(4)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings;

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter; and

(iv) The chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of the person on the date of the applicable offense.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(((~~(4)~~))) (7) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person escaped and in which the person resided immediately before the person's arrest and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(((~~(4)~~))) (7) preceding commitment under RCW 71.05.280(3) or 71.05.320(4) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 70.02.230(2)(o). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department of social and health services learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department of social and health services by the requesting party. The requesting party shall furnish the department of social and health services with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

Sec. 26. RCW 71.09.025 and 2009 c 409 s 2 are each amended to read as follows:

(1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in RCW 71.09.020(((~~(16)~~))), the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county in which an action under this chapter may be filed pursuant to RCW 71.09.030 and the attorney general, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to RCW 10.77.086(((~~(4)~~))) (7); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to RCW 10.77.020(3).

(b) The agency shall provide the prosecuting agency with all relevant information including but not limited to the following information:

(i) A complete copy of the institutional records compiled by the department of corrections relating to the person, and any such out-of-state department of corrections' records, if available;

(ii) A complete copy, if applicable, of any file compiled by the indeterminate sentence review board relating to the person;

(iii) All records relating to the psychological or psychiatric evaluation and/or treatment of the person;

(iv) A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

(v) A current mental health evaluation or mental health records review.

(c) The prosecuting agency has the authority, consistent with RCW 72.09.345(((~~(3)~~))) (4), to obtain all records relating to the person if the prosecuting agency deems such records are necessary to fulfill its duties under this chapter. The prosecuting agency may only disclose such records in the course of performing its duties pursuant to this chapter, unless otherwise authorized by law.

(d) The prosecuting agency has the authority to utilize the inquiry judge procedures of chapter 10.27 RCW prior to the filing of any action under this chapter to seek the issuance of compulsory process for the production of any records necessary for a determination of whether to seek the civil commitment of a person under this chapter. Any records obtained pursuant to this process may only be disclosed by the prosecuting agency in the course of performing its duties pursuant to this chapter, or unless otherwise authorized by law.

(2) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(3) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services.

Sec. 27. RCW 71.09.030 and 2009 c 409 s 3 are each amended to read as follows:

(1) A petition may be filed alleging that a person is a sexually violent predator and stating sufficient facts to support such allegation when it appears that: (a) A person who at any time previously has been convicted of a sexually violent offense is about to be released from total confinement; (b) a person found to have committed a sexually violent offense as a juvenile is about to be released from total confinement; (c) a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial is about to be released, or has been released, pursuant to RCW 10.77.086(((~~(4)~~))) (7); (d) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released, or has been released, pursuant to RCW 10.77.020(3), 10.77.110 (1) or (3), or 10.77.150; or (e) a person who at any time previously has been convicted of a sexually violent offense and has since been released from total confinement and has committed a recent overt act.

(2) The petition may be filed by:

(a) The prosecuting attorney of a county in which:

(i) The person has been charged or convicted with a sexually violent offense;

(ii) A recent overt act occurred involving a person covered under subsection (1)(e) of this section; or

(iii) The person committed a recent overt act, or was charged or convicted of a criminal offense that would qualify as a recent overt act, if the only sexually violent offense charge or conviction occurred in a jurisdiction other than Washington; or

(b) The attorney general, if requested by the county prosecuting attorney identified in (a) of this subsection. If the county prosecuting attorney requests that the attorney general file and prosecute a case under this chapter, then the county shall charge the attorney general only the fees, including filing and jury fees, that would be charged and paid by the county prosecuting attorney, if the county prosecuting attorney retained the case.

Sec. 28. RCW 71.09.060 and 2009 c 409 s 6 are each amended to read as follows:

(1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under RCW 71A.12.230 may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in RCW 71.09.020(((~~(15)(c)~~))) (18)(c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to be or has been released pursuant to RCW 10.77.086(((~~(4)~~))) (7), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW 10.77.086(((~~(4)~~))) (7) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) Except as otherwise provided in this chapter, the state shall comply with RCW 10.77.220 while confining the person. During all court proceedings where the person is present, the person shall be detained in a secure facility. If the proceedings last more than one day, the person may be held in the county jail for the duration of the proceedings, except the person may be returned to the department's custody on weekends and court holidays if the court deems such a transfer feasible. The county shall be entitled to reimbursement for the cost of housing and transporting the person pursuant to rules adopted by the secretary. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter.

NEW SECTION. **Sec. 29.** Sections 7 and 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec. 30.** (1) Section 7 of this act expires when section 8 of this act takes effect.

(2) The department of social and health services shall provide

written notice of the expiration date of section 7 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

NEW SECTION. **Sec. 31.** Section 13 of this act takes effect December 1, 2023.

NEW SECTION. **Sec. 32.** 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."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Dhingra moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5440 and ask the House to recede therefrom.

Senators Dhingra and Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Dhingra that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5440 and ask the House to recede therefrom.

The motion by Senator Dhingra carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5440 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 12, 2023

MR. PRESIDENT:
The House passed SECOND SUBSTITUTE SENATE BILL NO. 5048 with the following amendment(s): 5048-S2 AMH ENGR H1872.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Beginning on September 1, 2023, institutions of higher education must provide enrollment and registration in college in the high school courses in which a student is eligible to receive college credit available at no cost for students in the ninth, 10th, 11th, or 12th grade at public high schools.

(2) Beginning with the 2023-2025 omnibus operating appropriation act, the legislature must pass an omnibus operating appropriations act that appropriates to the state board of community and technical colleges and each of the public four-year institutions of higher education state funding for college in high school courses administered at public secondary schools.

(3) State appropriations for the college in the high school program to the institutions of higher education shall be calculated as follows: The total college in the high school courses administered in the prior academic year, funded at $300 per student up to a maximum rate of:

(a) $6,000 per college in the high school course administered by a state university as defined in RCW 28B.10.016;

(b) $5,000 per college in the high school course administered by a regional university or the state college; or

(c) $3,500 per college in the high school course administered by a community or technical college.

(4) Beginning with fiscal year 2025 the rate per college in the high school course administered must be adjusted annually for inflation as measured by the consumer price index.

(5) State appropriations must be based on the total number of college in the high school courses administered by an institution of higher education for the academic year immediately prior to the current fiscal year. The state appropriation is based on course administration data submitted annually by October 15th to the office of financial management and legislative fiscal staff.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Community or technical college" has the same meaning as provided for under RCW 28B.50.030.

(b) "Course" means a class taught under a contract between an institution of higher education and a single high school teacher on an articulated subject in which the student is eligible to receive college credit.

(c) "High school" means a public school, as defined in RCW 28A.150.010, that serves students in any of grades nine through 12.

(d) "Institutions of higher education" has the same meaning as provided for under RCW 28B.10.016.

(e) "College in the high school" is the program created under RCW 28A.600.287.

Sec. 2. RCW 28A.600.287 and 2021 c 71 s 1 are each amended to read as follows:

(1) College in the high school is a dual credit program located on a high school campus or in a high school environment in which a high school student is able to earn both high school and college credit by completing college level courses with a passing grade. A college in the high school program must meet the accreditation requirements in RCW 28B.10.035 and the requirements in this section.

(2) A college in the high school program may include both academic and career and technical education.

(3) Ninth, 10th, 11th, and 12th grade students, and students who have not yet received a high school diploma or its equivalent and are eligible to be in the ninth, 10th, 11th, or 12th grades, may participate in a college in the high school program.

(4) A college in the high school program must be governed by a local contract between an institution of higher education and a school district, charter school, or state-tribal compact school, in compliance with the rules adopted by the superintendent of public instruction under this section. The local contract must include the qualifications for students to enroll in a program course.

(5)(((~~(a) An institution of higher education may charge tuition fees per credit to each student enrolled in a program course as established in this subsection (5).~~

~~(b)(i) The maximum per college credit tuition fee for a program course is $65 per college credit adjusted for inflation using the implicit price deflator for that fiscal year, using fiscal year 2021 as the base, as compiled by the bureau of labor statistics, United States department of labor for the state of Washington.~~

~~(ii) Annually by July 1st, the office of the superintendent of public instruction must calculate the maximum per college credit tuition fee and post the fee on its website.~~

~~(c) The funds received by an institution of higher education under this subsection (5) are not tuition or operating fees and may be retained by the institution of higher education.~~

~~(6)~~)) Enrollment information on persons registered under this section must be maintained by the institution of higher education separately from other enrollment information and may not be included in official enrollment reports, nor may such persons be considered in any enrollment statistics that would affect higher education budgetary determinations.

(((~~(7)~~))) (6) Each school district, charter school, and state-tribal compact school must award high school credit to a student

enrolled in a program course if the student successfully completes the course. If no comparable course is offered by the school district, charter school, or state-tribal compact school, the chief administrator shall determine how many credits to award for the successful completion of the program course. The determination must be made in writing before the student enrolls in the program course. The awarded credit must be applied toward graduation requirements and subject area requirements. Evidence of successful completion of each program course must be included in the student's high school records and transcript.

(((~~(8) An~~)) (7) Each institution of higher education ((~~must award~~)) offering college in the high school must:

(a) Award college credit to a student enrolled in a program course ((~~if the student successfully completes the course. The awarded college credit must be applied toward general education requirements or degree requirements at the institution of higher education. Evidence of successful completion of each program course must be included in the student's college transcript~~)) and provide evidence of completion of each program course on the student's college transcript;

(b) Grant undergraduate college credit as appropriate and applicable to the student's degree requirements; and

(c) Provide course equivalencies for college in the high school courses and policy for awarding credit on the institution's website.

(((~~(9)~~)) (8)(a) A high school that offers a college in the high school program must provide general information about the program to all students in grades eight through 12 and to the parents and guardians of those students.

(b) A high school that offers a college in the high school program must include the following information about program courses in a notification to parents and guardians of students in grades eight through 12, including by email and in beginning of the year packets, and in the high school catalogue or equivalent:

(i) There is no fee for students to enroll in a program course ((~~to earn only high school credit. Fees apply for students who choose to enroll in a program course to earn both high school and college credit;~~

~~(ii) A description and breakdown of the fees charged to students to earn college credit;~~

~~(iii) A description of fee payment and financial assistance options available to students; and~~

~~(iv)~~)) for high school credit or for students to enroll in a program course for both high school and college credit; and

(ii) A notification that ((~~paying for~~)) enrolling in a program course for college credit automatically starts an official college transcript with the institution of higher education offering the program course regardless of student performance in the program course, and that college credit earned upon successful completion of a program course may count only as elective credit if transferred to another institution of higher education.

(((~~(10)~~)) (9) Full-time and part-time faculty at institutions of higher education, including adjunct faculty, are eligible to teach program courses.

(((~~(11) Students enrolled in a program course may pay college in the high school fees with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.~~

~~(12)~~)) (10) The superintendent of public instruction shall adopt rules for the administration of this section. The rules must be jointly developed by the superintendent of public instruction, the state board for community and technical colleges, the student achievement council, and the public baccalaureate institutions. The association of Washington school principals must be consulted during the rules development. The rules must outline quality and eligibility standards that are informed by nationally recognized standards or models. In addition, the rules must encourage the maximum use of the program and may not narrow or limit the enrollment options.

(((~~(13)~~)) (11)(a) State universities, regional universities, and the state college, as defined in RCW 28B.10.016, offering college in the high school courses shall coordinate with an organization representing the presidents of the public four-year institutions of higher education, and the community and technical colleges offering college in the high school courses shall coordinate with the state board for community and technical colleges to each prepare a report, each disaggregated by institution of higher education, that includes:

(i) Data about student participation rates, award of high school credit, award of postsecondary credit at an institution of higher education, academic performance, and subsequent enrollment in an institution of higher education;

(ii) Geographic data on college in the high school courses, including the name, number, location of courses, and student enrollment disaggregated by school districts and high schools;

(iii) Data on college in the high school student demographics, including race, ethnicity, gender, and receipt of free or reduced price lunch; and

(iv) Recommendations on additional categories of data reporting and disaggregation.

(b) Beginning September 1, 2024, and each year thereafter, the reports must be submitted to the appropriate committees of the legislature in accordance with RCW 43.01.036.

(12) The definitions in this subsection apply throughout this section((~~.~~)), unless the context clearly requires otherwise:

(a) "Charter school" means a school established under chapter 28A.710 RCW.

(b) "High school" means a public school, as defined in RCW 28A.150.010, that serves students in any of grades nine through 12.

(c) "Institution of higher education" has the same meaning as in RCW 28B.10.016, and also means a public tribal college located in Washington and accredited by the northwest commission on colleges and universities or another accrediting association recognized by the United States department of education.

(d) "Program course" means a college course offered in a high school under a college in the high school program.

(e) "State-tribal compact school" means a school established under chapter 28A.715 RCW.

Sec. 3. RCW 28B.76.730 and 2021 c 71 s 6 are each amended to read as follows:

(1) The legislature recognizes that dual credit programs reduce both the cost and time of attendance to obtain a postsecondary degree. The legislature intends to reduce barriers and increase access to postsecondary educational opportunities for low-income students by removing the financial barriers for dual enrollment programs for students.

(2) The office, in consultation with the institutions of higher education and the office of the superintendent of public instruction, shall create the Washington dual enrollment scholarship pilot program. The office shall administer the Washington dual enrollment scholarship pilot program and may adopt rules as necessary.

(3) Eligible students are those who meet the following requirements:

(a) Qualify for the free or reduced-price lunch program;

(b) Are enrolled in one or more dual credit programs, as defined in RCW 28B.15.821, such as ((~~college in the high school and~~)) running start; and

(c) Have at least a 2.0 grade point average.

(4) Subject to availability of amounts appropriated for this specific purpose, beginning with the 2019-20 academic year, the office may award scholarships to eligible students. The scholarship award must be as follows((:

~~(a) For~~)) for eligible students enrolled in running start:

(((~~(i)~~))) (a) Mandatory fees, as defined in RCW 28A.600.310(2), prorated based on credit load;

(((~~(ii)~~))) (b) Course fees or laboratory fees as determined appropriate by college or university policies to pay for specified course related costs;

(((~~(iii)~~))) (c) A textbook voucher to be used at the institution of higher education's bookstore where the student is enrolled. For every credit per quarter the student is enrolled, the student shall receive a textbook voucher for ten dollars, up to a maximum of fifteen credits per quarter, or the equivalent, per year; and

(((~~(iv)~~))) (d) Apprenticeship materials as determined appropriate by the college or university to pay for specific course-related material costs, which may include occupation-specific tools, work clothes, rain gear, or boots.

((~~(b) An eligible student enrolled in a college in the high school program may receive a scholarship for tuition fees as set forth under RCW 28A.600.287.~~))

(5) The Washington dual enrollment scholarship pilot program must apply after the fee waivers for low-income students under RCW 28A.600.310 ((~~and subsidies under RCW 28A.600.290~~)) are provided for.

NEW SECTION. **Sec. 4.** RCW 28A.600.290 (College in the high school program—Funding) and 2021 c 71 s 2, 2015 c 202 s 3, 2012 c 229 s 801, & 2009 c 450 s 3 are each repealed.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Mullet moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5048.

Senators Mullet and Holy spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Mullet that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5048.

The motion by Senator Mullet carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5048 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5048, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5048, as amended by the House, 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, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SECOND SUBSTITUTE SENATE BILL NO. 5048, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 12, 2023

MR. PRESIDENT:
The House passed SENATE BILL NO. 5069 with the following amendment(s): 5069 AMH WYLI CLOD 253

On page 2, at the beginning of line 2, strike "health under RCW 15.125.020 and" and insert "agriculture under RCW 15.125.020, by the department of health under RCW"

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Senate Bill No. 5069.

Senators Rivers and Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rivers that the Senate concur in the House amendment(s) to Senate Bill No. 5069.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5069 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5069, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5069, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 8; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Braun, Cleveland, Dhingra, Dozier, Frame, Gildon, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, Mullet, Nguyen, Nobles, Pedersen, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, L.

Voting nay: Senators Boehnke, Fortunato, Hasegawa, Hawkins, McCune, Padden, Randall and Trudeau

Excused: Senators Conway, Muzzall and Wilson, J.

SENATE BILL NO. 5069, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2023

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5078 with the following amendment(s): 5078-S AMH CRJ H1752.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that the irresponsible, dangerous, and unlawful business practices by firearms industry members contributes to the illegal use of firearms and not only constitutes a public nuisance as declared in chapter 7.48 RCW, but that the effects of that nuisance exacerbate the public health crisis of gun violence in this state. The Washington state medical association, the Washington health alliance, and the voters of Washington, most recently through approval of Initiative 1639 in 2016, have all noted that crisis.

(2) The legislature further finds that public nuisance was established in state law by Washington's territorial legislature in 1875 and has been interpreted by the state supreme court for more than 100 years to enjoin the operation of illegal businesses as nuisance by individuals suffering special injury. Since at least 1895, public nuisance has included manufacturing and storing gunpowder and other highly explosive substances.

(3) Firearm industry members profit from the sale, manufacture, distribution, importing, and marketing of lethal products that are frequently used to threaten, injure, and kill people in Washington, and which cause enormous harms to individuals' and communities' health, safety, and well-being, as well as economic opportunity and vitality. While manufacturers have incorporated features and technology resulting in more deadly and destructive firearms, and products designed to be used with and for firearms, some actors in the firearm industry have implemented irresponsible and dangerous sales, distribution, importing, and marketing practices, including contributing to the development of an illegal secondary market for these increasingly dangerous products. Such practices lead to grave public harms and also provide an unfair business advantage to irresponsible firearm industry members over more responsible competitors who take reasonable precautions to protect others' lives and well-being.

(4) The federal protection of lawful commerce in arms act (PLCAA) recognizes the ability of states to enact and enforce statutes regulating the sale and marketing of firearms and related products, and expressly provides that causes of action may proceed where there are violations of such statutes.

(5) The legislature intends to ensure a level playing field for responsible firearm industry members, to incentivize firearm industry members to establish and implement safe and responsible business practices, and to ensure that the attorney general and members of the public in Washington who are harmed by a firearm industry member's violation of law may bring legal action to seek appropriate justice and fair remedies for those harms in court.

NEW SECTION. **Sec. 2.** A new section is added to chapter 7.48 RCW to read as follows:

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

(a) "Firearm industry member" means a person engaged in the wholesale or retail sale, manufacturing, distribution, importing, or marketing of a firearm industry product, or any officer or agent to act on behalf of such a person or who acts in active concert or participation with such a person.

(b) "Firearm industry product" means a product that meets any of the following conditions:

(i) The firearm industry product was sold, made, distributed, or marketed in this state;

(ii) The firearm industry product was intended to be sold, made, distributed, or marketed in this state; or

(iii) The firearm industry product was used or possessed in this state, and it was reasonably foreseeable that the product would be used or possessed in this state.

(c) "Firearm trafficker" means a person who acquires, transfers, or attempts to acquire or transfer a firearm for purposes of unlawful commerce including, but not limited to, a subsequent transfer to another individual who is prohibited from possessing the firearm industry product under state or federal law.

(d) "Person" means any natural person, firm, corporation, company, partnership, society, joint stock company, municipality or other political subdivision of the state, or any other entity or association.

(e) "Product" means:

(i) A firearm;

(ii) Ammunition;

(iii) A component part of a firearm or ammunition, including a completed frame or receiver or unfinished frame or receiver, as defined in RCW 9.41.010;

(iv) An accessory or device that is designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm, if the device is marketed or sold to the public and that is designed, intended, or able to be used to increase a firearm's rate of fire, concealability, magazine capacity, or destructive capacity, or to increase the firearm's stability and handling when the firearm is repeatedly fired;

(v) A machine or device that is marketed or sold to the public that is designed, intended, or able to be used to manufacture or produce a firearm or any other product listed in this subsection (1)(e).

(f) "Reasonable controls" means reasonable procedures, safeguards, and business practices, including but not limited to screening, security, and inventory practices, that are designed and implemented to do all of the following:

(i) Prevent the sale or distribution of a firearm industry product to a straw purchaser, a firearm trafficker, a person prohibited from possessing a firearm under state or federal law, or a person who the firearm industry member has reasonable cause to believe is at substantial risk of using a firearm industry product to harm themselves or unlawfully harm another, or of unlawfully possessing or using a firearm industry product;

(ii) Prevent the loss of a firearm industry product or theft of a firearm industry product from a firearm industry member; and

(iii) Ensure that the firearm industry member complies with all provisions of state and federal law and does not otherwise promote the unlawful sale, manufacture, distribution, importing, possession, marketing, or use of a firearm industry product.

(g) "Straw purchaser" means a person who wrongfully purchases or obtains a firearm industry product on behalf of a third party. "Straw purchaser" does not include one who makes a bona fide gift to a person who is not prohibited by law from possessing a firearm industry product. For the purposes of this subsection (1)(g), a gift is not a "bona fide gift" if the third party has offered or given the purchaser or transferee a service or thing of value in connection with the transaction.

(2) This section applies to a firearm industry member engaged in the manufacture, distribution, importation, marketing, or wholesale or retail sale of a firearm industry product.

(3) A firearm industry member shall not knowingly create, maintain, or contribute to a public nuisance in this state through the sale, manufacturing, distribution, importing, or marketing of a firearm industry product.

(4) A firearm industry member shall establish, implement, and enforce reasonable controls regarding its manufacture, sale, distribution, importing, use, and marketing of firearm industry products.

(5) A firearm industry member shall take reasonable

precautions to ensure the firearm industry member does not sell or distribute a firearm industry product to a downstream distributor or retailer of firearm industry products that fails to establish and implement reasonable controls.

(6) A firearm industry member shall not manufacture, distribute, import, market, offer for wholesale, or offer for retail sale a firearm industry product that is:

(a) Designed, sold, or marketed in a manner that foreseeably promotes conversion of legal firearm industry products into illegal firearm industry products; or

(b) Designed, sold, or marketed in a manner that is targeted at minors or individuals who are legally prohibited from purchasing or possessing firearms.

(7) A violation of this section is a public nuisance.

(8) The legislature finds that the acts or 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.

(9) A firearm industry member's conduct in violation of any provision of this section constitutes a proximate cause of the public nuisance if the harm is a reasonably foreseeable effect of the conduct, notwithstanding any intervening actions, including but not limited to criminal actions by third parties. This subsection is not intended to establish a causation requirement for a claim brought by the attorney general pursuant to the consumer protection act, chapter 19.86 RCW.

(10) Whenever it appears to the attorney general that a firearm industry member has engaged in or is engaging in conduct in violation of this section, the attorney general may commence an action to seek and obtain any remedies available for violations of this chapter, and may also seek and obtain punitive damages up to an amount not to exceed three times the actual damages sustained by the state, reasonable attorneys' fees, and costs of the action.

(11) Whenever the attorney general believes that any person (a) may be in possession, custody, or control of any information which he or she believes to be relevant to the subject matter of an investigation of a possible violation of this section, or (b) may have knowledge of any information which the attorney general believes relevant to the subject matter of such an investigation, the attorney general may, prior to the institution of a civil proceeding thereon, execute in writing and cause to be served upon such a person, a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of such demands pertaining to such documentary material or information, subject to the provisions of RCW 19.86.110 (2) through (9). Any person or entity that receives a civil investigative demand issued pursuant to RCW 19.86.110 and that has an objection to answering in whole or in part may avail themselves of the procedural protections afforded in RCW 19.86.110(8). Further, the attorney general shall not share with a law enforcement agency conducting a criminal investigation any materials or information obtained via a response to a civil investigative demand issued pursuant to RCW 19.86.110 unless such information or materials are required to be disclosed pursuant to issuance of a search warrant.

(12) The attorney general's authority to investigate a possible violation of this section and commence a legal action in response to a violation of this section shall not be construed or implied to deny, abrogate, limit, or impair any person's right to bring a private right of action in response to a violation of this section pursuant to (a) RCW 7.48.200 and 7.48.210, to seek damages, abatement, or any other remedy available for a public nuisance, or (b) chapter 19.86 RCW, to seek damages, equitable relief, or any other remedy available under the consumer protection act.

(13) To prevail in an action under this section, the party seeking relief is not required to demonstrate that the firearm industry member acted with the purpose to engage in a public nuisance or otherwise cause harm to the public.

(14) Nothing in this section shall be construed or implied to deny, abrogate, limit, or impair in any way any of the following:

(a) The right of the attorney general to pursue a legal action under any other law, including chapter 19.86 RCW; or

(b) An obligation or requirement placed on a firearm industry member by any other law.

(15) Nothing in this section shall be construed or implied to deny, abrogate, limit, or impair any statutory or common law right, remedy, or prohibition otherwise available to any party, including the attorney general.

NEW SECTION. **Sec. 3.** This act is known as the firearm industry responsibility and gun violence victims' access to justice act.

NEW SECTION. **Sec. 4.** 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."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5078.

Senator Pedersen spoke in favor of the motion.

Senator Padden spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Pedersen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5078.

The motion by Senator Pedersen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5078 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5078, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5078, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 20; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Cleveland, Dhingra, Frame, Hasegawa, Hunt, Kauffman, Keiser, Kuderer, Liias, Lovelett, Lovick, 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, MacEwen, McCune, Mullet, Padden, Rivers, Schoesler, Short, Torres, Van De Wege, Wagoner, Warnick and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5078, as amended by the House, 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.

MOTIONS

On motion of Senator Pedersen, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

At 12:50 p.m., on motion of Senator Pedersen, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by the President of the Senate, Lt. Governor Heck presiding.

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. 5058,
SUBSTITUTE SENATE BILL NO. 5114,
SENATE BILL NO. 5323,
SENATE BILL NO. 5330,
SUBSTITUTE SENATE BILL NO. 5358,
SENATE BILL NO. 5392,
SENATE BILL NO. 5606,
SUBSTITUTE SENATE BILL NO. 5687,
and SENATE JOINT MEMORIAL NO. 8001.

MESSAGE FROM THE HOUSE

April 5, 2023

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5101 with the following amendment(s): 5101-S AMH CSJR H1731.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.728 and 2021 c 311 s 19 and 2021 c 266 s 2 are each reenacted and amended to read as follows:

(1) No ((~~person~~)) incarcerated individual serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(a) An ((~~offender~~)) incarcerated individual may earn early release time as authorized by RCW 9.94A.729;

(b) An ((~~offender~~)) incarcerated individual may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, ((~~offenders~~)) incarcerated individuals may leave a correctional facility when in the custody of a corrections officer or officers;

(c)(i) The secretary may authorize an extraordinary medical placement for an ((~~offender~~)) incarcerated individual when all of the following conditions exist:

(A) The ((~~offender~~)) incarcerated individual has ((~~a medical condition that is serious and is expected to require costly care or treatment~~)) been assessed by two physicians and is determined to be one of the following:

(I) Affected by a permanent or degenerative medical condition to such a degree that the individual does not presently, and likely will not in the future, pose a threat to public safety; or

(II) In ill health and is expected to die within six months and does not presently, and likely will not in the future, pose a threat to public safety;

(B) The ((~~offender poses a~~)) incarcerated individual has been assessed as low risk to the community ((~~because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so~~)) at the time of release; and

(C) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(ii) An ((~~offender~~)) incarcerated individual sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(iii) The secretary shall require electronic monitoring for all ((~~offenders~~)) individuals in extraordinary medical placement unless the electronic monitoring equipment is detrimental to the individual's health, interferes with the function of the ((~~offender's~~)) individual's medical equipment, or results in the loss of funding for the ((~~offender's~~)) individual's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

(v) Persistent offenders are not eligible for extraordinary medical placement;

(d) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(e) No more than the final ((~~twelve~~)) 12 months of the ((~~offender's~~)) incarcerated individual's term of confinement may be served in partial confinement for aiding the ((~~offender~~)) incarcerated individual with: Finding work as part of the work release program under chapter 72.65 RCW; or reestablishing himself or herself in the community as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(f)(i) No more than the final five months of the ((~~offender's~~)) incarcerated individual's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department under RCW 9.94A.733(1)(a);

(ii) For eligible ((~~offenders~~)) incarcerated individuals under RCW 9.94A.733(1)(b), after serving at least four months in total confinement in a state correctional facility, an ((~~offender~~)) incarcerated individual may serve no more than the final 18 months of the ((~~offender's~~)) incarcerated individual's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department;

(g) The governor may pardon any ((~~offender~~)) incarcerated individual;

(h) The department may release an ((~~offender~~)) incarcerated individual from confinement any time within ((~~ten~~)) 10 days before a release date calculated under this section;

(i) An ((~~offender~~)) incarcerated individual may leave a correctional facility prior to completion of his or her sentence if

the sentence has been reduced as provided in RCW 9.94A.870;

(j) Notwithstanding any other provisions of this section, an ((~~offender~~)) incarcerated individual sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540; and

(k) Any ((~~person~~)) individual convicted of one or more crimes committed prior to the ((~~person's eighteenth~~)) individual's 18th birthday may be released from confinement pursuant to RCW 9.94A.730.

(2) Notwithstanding any other provision of this section, an ((~~offender~~)) incarcerated individual entitled to vacation of a conviction or the recalculation of his or her offender score pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), may be released from confinement pursuant to a court order if the ((~~offender~~)) incarcerated individual has already served a period of confinement that exceeds his or her new standard range. This provision does not create an independent right to release from confinement prior to resentencing.

(3) ((~~Offenders~~)) Individuals residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Saldaña moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5101.

Senators Saldaña and Boehnke spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Saldaña that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5101.

The motion by Senator Saldaña carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5101 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5101, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5101, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 15; Absent, 1; Excused, 3.

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

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

Absent: Senator Mullet

Excused: Senators Conway, Muzzall and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5101, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 12, 2023

MR. PRESIDENT:
The House passed SECOND SUBSTITUTE SENATE BILL NO. 5103 with the following amendment(s): 5103-S2 AMH ENGR H1876.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.09.520 and 2022 c 255 s 4 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services subject to rules adopted by the authority or department: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and X-ray services; (d) nursing facility services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary or director; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical and occupational therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a child by a school district in a manner consistent with the requirements of this chapter. For the purposes of this section, neither the authority nor the department may cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care for clients requiring health-related consultation for assessment and service planning may be reviewed by a nurse.

(c) The department shall determine by rule which clients have a health-related assessment or service planning need requiring registered nurse consultation or review. This definition may include clients that meet indicators or protocols for review, consultation, or visit.

(3) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(4) Effective July 1, 1989, the authority shall offer hospice services in accordance with available funds.

(5) For Title XIX personal care services administered by the department, the department shall contract with area agencies on aging or may contract with a federally recognized Indian tribe under RCW 74.39A.090(3):

(a) To provide case management services to individuals receiving Title XIX personal care services in their own home; and

(b) To reassess and reauthorize Title XIX personal care services or other home and community services as defined in RCW 74.39A.009 in home or in other settings for individuals consistent with the intent of this section:

(i) Who have been initially authorized by the department to receive Title XIX personal care services or other home and community services as defined in RCW 74.39A.009; and

(ii) Who, at the time of reassessment and reauthorization, are receiving such services in their own home.

(6) In the event that an area agency on aging or federally recognized Indian tribe is unwilling to enter into or satisfactorily fulfill a contract or an individual consumer's need for case management services will be met through an alternative delivery system, the department is authorized to:

(a) Obtain the services through competitive bid; and

(b) Provide the services directly until a qualified contractor can be found.

(7) Subject to the availability of amounts appropriated for this specific purpose, the authority may offer medicare part D prescription drug copayment coverage to full benefit dual eligible beneficiaries.

(8) Effective January 1, 2016, the authority shall require universal screening and provider payment for autism and developmental delays as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on August 27, 2015. This requirement is subject to the availability of funds.

(9) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for annual depression screening for youth ages twelve through eighteen as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on January 1, 2017. Providers may include, but are not limited to, primary care providers, public health nurses, and other providers in a clinical setting. This requirement is subject to the availability of funds appropriated for this specific purpose.

(10) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for maternal depression screening for mothers of children ages birth to six months. This requirement is subject to the availability of funds appropriated for this specific purpose.

(11) Subject to the availability of amounts appropriated for this specific purpose, the authority shall:

(a) Allow otherwise eligible reimbursement for the following related to mental health assessment and diagnosis of children from birth through five years of age:

(i) Up to five sessions for purposes of intake and assessment, if necessary;

(ii) Assessments in home or community settings, including reimbursement for provider travel; and

(b) Require providers to use the current version of the DC:0-5 diagnostic classification system for mental health assessment and diagnosis of children from birth through five years of age.

(12)(a) The authority shall require or provide payment to the hospital for any day of a hospital stay in which an adult or child patient enrolled in medical assistance, including home and community services or with a medicaid managed care organization, under this chapter:

(i) Does not meet the criteria for acute inpatient level of care as defined by the authority;

(ii) Meets the criteria for discharge, as defined by the authority or department, to any appropriate placement including, but not limited to:

(A) A nursing home licensed under chapter 18.51 RCW;

(B) An assisted living facility licensed under chapter 18.20 RCW;

(C) An adult family home licensed under chapter 70.128 RCW; or

(D) A setting in which residential services are provided or funded by the developmental disabilities administration of the department, including supported living as defined in RCW 71A.10.020; and

(iii) Is not discharged from the hospital because placement in the appropriate location described in (a)(ii) of this subsection is not available.

(b) The authority shall adopt rules identifying which services are included in the payment described in (a) of this subsection and which services may be billed separately, including specific revenue codes or services required on the inpatient claim.

(c) Allowable medically necessary services performed during a stay described in (a) of this subsection shall be billed by and paid to the hospital separately. Such services may include but are not limited to hemodialysis, laboratory charges, and x-rays.

(d) Pharmacy services and pharmaceuticals shall be billed by and paid to the hospital separately.

(e) The requirements of this subsection do not alter requirements for billing or payment for inpatient care.

(f) The authority shall adopt, amend, or rescind such administrative rules as necessary to facilitate calculation and payment of the amounts described in this subsection, including for clients of medicaid managed care organizations.

(g) The authority shall adopt rules requiring medicaid managed care organizations to establish specific and uniform administrative and review processes for payment under this subsection.

(h) For patients meeting the criteria in (a)(ii)(A) of this subsection, hospitals must utilize swing beds or skilled nursing beds to the extent the services are available within their facility and the associated reimbursement methodology prior to the billing under the methodology in (a) of this subsection, if the hospital determines that such swing bed or skilled nursing bed placement is appropriate for the patient's care needs, the patient is appropriate for the existing patient mix, and appropriate staffing is available.

NEW SECTION. **Sec. 2.** By December 1, 2023, the health care authority shall submit a report to the fiscal committees of the legislature containing information about the rate established in RCW 74.09.520(12) and the services that are included in the rate."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5103.

Senator Rivers spoke in favor of the motion.

The President declared the question before the Senate to be the

motion by Senator Rivers that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5103.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5103 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5103, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5103, as amended by the House, 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, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SECOND SUBSTITUTE SENATE BILL NO. 5103, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2023

MR. PRESIDENT:
The House passed SENATE BILL NO. 5104 with the following amendment(s): 5104 AMH ENGR H1851.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that marine nearshore habitat in Puget Sound is important for the recovery of threatened and endangered species of salmon, orcas, and marine birds. Critical nearshore components include forage fish spawning habitat, submerged aquatic vegetation, benthic substrate, adjacent upland vegetation, and the geomorphic processes that support a healthy ecosystem and food web. Establishing and regularly updating a publicly available baseline survey and map of general shoreline conditions, including the presence, location, and condition of nearshore development, is a critical tool for regulatory planning and restoration and mitigation opportunity identification by state agencies, local jurisdictions, tribal governments, and nongovernmental organizations.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21A RCW to read as follows:

(1) The department must conduct and maintain a baseline survey of Puget Sound marine shorelines that utilizes new technology to capture georeferenced oblique aerial and 360 degree on-the-water imagery. Nothing in this section creates a requirement for the department to perform change analysis. However, the software used must have the capacity for change analysis review. These identified technologies are intended to be a minimum requirement and the department may utilize and incorporate additional tools and technologies as they become available. The survey must document and map existing general shoreline conditions, structures, and structure conditions. This information must be available to the public and incorporated into state geographic information system mapping with visual personally identifiable information removed from on-the-water imagery prior to posting.

(2) The initial marine oblique aerial and on-the-water imagery must be completed and publicly available by December 31, 2024, and updated on a regular two-year cycle thereafter. The survey to document and map existing shoreline conditions, structures, and structure conditions must be completed and publicly available by June 30, 2025, and updated on a regular two-year cycle thereafter.

(3) For the purposes of this section, "Puget Sound" means Puget Sound and related inland salt waters of the state of Washington inside the boundary line between Washington and British Columbia, the Strait of Juan de Fuca, Hood Canal, and the San Juan Islands.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21A RCW to read as follows:

The department shall maintain a record of all civil or criminal investigations or enforcement actions in which the department is a participant that utilize georeferenced imagery or surveys produced pursuant to section 2 of this act.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.300 RCW to read as follows:

The department shall maintain a record of all civil or criminal investigations or enforcement actions in which the department is a participant that utilize georeferenced imagery or surveys produced pursuant to section 2 of this act.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Salomon moved that the Senate concur in the House amendment(s) to Senate Bill No. 5104.

Senator Salomon spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Salomon that the Senate concur in the House amendment(s) to Senate Bill No. 5104.

The motion by Senator Salomon carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5104 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5104, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5104, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

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

Voting nay: Senator Wagoner

Excused: Senators Conway, Muzzall and Wilson, J.

SENATE BILL NO. 5104, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 5, 2023

MR. PRESIDENT:
The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5111 with the following amendment(s): 5111-S.E AMH ROBE TANG 100

On page 3, at the beginning of line 25, strike "upon" and insert "at the end of the established pay period, pursuant to RCW 49.48.010(2), following the worker's"

and the same are herewith transmitted.
MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5111.
Senators Keiser and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5111.
The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5111 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5111, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5111, as amended by the House, 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, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.
Excused: Senators Conway, Muzzall and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5111, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2023

MR. PRESIDENT:
The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5112 with the following amendment(s): 5112-S2.E AMH TR H1829.1

Strike everything after the enacting clause and insert the following:
"NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.08 RCW to read as follows:
A person applying for government services which require proof of citizenship as part of that application may receive automatic voter registration services by providing the following information:
(1) Name;
(2) Residential address;
(3) Date of birth;
(4) A signature attesting to the truth of the information provided on the application;
(5) An address where the person receives mail, if different from the residence address; and
(6) Presentation of documentation as part of another government transaction confirming the individual is a United States citizen.
Sec. 2. RCW 29A.08.010 and 2019 c 6 s 1 are each amended to read as follows:
(1) The minimum required information provided on a voter registration application ((~~that is required~~)) in order to place a voter registration applicant on the voter registration rolls includes:
(a) Name;
(b) Residential address;
(c) Date of birth;
(d) A signature attesting to the truth of the information provided on the application; ((~~and~~))
(e) An address where the person receives mail, if different from the residence address; and
(f) Affirmation of citizenship which confirms the individual is a United States citizen, in one of the following forms:
(i) A check or indication in the box on a voter registration form confirming ((~~the individual is a United States citizen~~)) citizenship; or
(ii) Presentation of documents as part of another government transaction confirming citizenship.
(2) The residential address provided must identify the actual physical residence of the voter in Washington, as defined in RCW 29A.04.151, with detail sufficient to allow the voter to be assigned to the proper precinct and to locate the voter to confirm his or her residence for purposes of verifying qualification to vote under Article VI, section 1 of the state Constitution. A residential address may be either a traditional address or a nontraditional address.
(a) A traditional address consists of a street number and name, optional apartment number or unit number, and city or town, as assigned by a local government, which serves to identify the parcel or building of residence and the unit if a multiunit residence.
(b) A nontraditional address consists of a narrative description of the location of the voter's residence, and may be used when a traditional address has not been assigned or affixed to the voter's residence or when a voter resides on an Indian reservation or Indian lands, pursuant to the conditions in RCW 29A.08.112.
(3) All other information supplied is ancillary and not to be used as grounds for not registering an applicant to vote.
(4) Modification of the language of the official Washington state voter registration form by the voter will not be accepted and will cause the rejection of the registrant's application.
Sec. 3. RCW 29A.08.030 and 2009 c 369 s 7 are each amended to read as follows:
The definitions set forth in this section apply throughout this

chapter, unless the context clearly requires otherwise.

(1) "Verification notice" means a notice sent by the county auditor or secretary of state to a voter registration applicant and is used to verify or collect information about the applicant in order to complete the registration. The verification notice must be designed to include a postage prepaid, preaddressed return form by which the applicant may verify or send information.

(2) "Acknowledgment notice" means a notice sent by nonforwardable mail by the county auditor or secretary of state to a registered voter to acknowledge a voter registration transaction or an automatic voter registration transaction, which can include initial registration, ((~~transfer~~)) residential address change, or reactivation of an inactive registration, identifying the registrant's precinct and containing such other information as may be required by the secretary of state. An acknowledgment notice may be a voter registration card.

(3) "Automatic voter registration acknowledgment notice package" means a package of information sent by nonforwardable mail by the county auditor, to a registered voter who utilized the automatic voter registration process at the department of licensing, to acknowledge a voter registration transaction, which can include initial registration, residential address change, or reactivation of an inactive registration. The package must include:

(a) A postage prepaid, preaddressed return form by which the individual may decline to be registered to vote or decline the update;

(b) A statement explaining that the person has become registered to vote or signed up to register to vote, as appropriate, setting forth the qualifications to vote, stating that if the individual does not meet the qualifications to vote, the person shall return the notice and affirmatively decline in writing to register to vote, and that if the person wishes to cancel the voter registration at any time, that the person may contact their county auditor to do so;

(c) Instructions regarding how an individual can obtain more information about the notice and assistance in the individual's preferred language, including languages as set forth in RCW 29A.08.270;

(d) An acknowledgment notice; and

(e) Other information required by the secretary of state.

(4) "Identification notice" means a notice sent to a provisionally registered voter to confirm the applicant's identity.

(((~~(4)~~))) (5) "Confirmation notice" means a notice sent to a registered voter by first-class forwardable mail at the address indicated on the voter's permanent registration record and to any other address at which the county auditor or secretary of state could reasonably expect mail to be received by the voter in order to confirm the voter's residence address. The confirmation notice must be designed to include a postage prepaid, preaddressed return form by which the registrant may verify the address information.

Sec. 4. RCW 29A.08.110 and 2020 c 208 s 14 are each amended to read as follows:

(1) For persons registering under RCW 29A.08.120, 29A.08.123, 29A.08.170, 29A.08.330, 29A.08.340, 29A.08.362, and 29A.08.365, an application is considered complete only if it contains the information required by RCW 29A.08.010. The applicant is considered to be registered to vote as of:

(a) The original date of receipt;

(b) When the person will be at least eighteen years old by the next election; ((~~or~~))

(c) When the person will be at least seventeen years old by the next primary election or presidential primary election and eighteen years old by the general election, whichever is applicable; or

(d) For voters utilizing automatic voter registration under section 1 of this act at the department of licensing, the date that an election official receives the information to register the person to vote, unless:

(i) The voter declines registration by the deadline in RCW 29A.08.359(4)(a); or

(ii) An election official receives the information to register the person to vote after the deadline to register to vote under RCW 29A.08.140(1)(a), in which case the applicant is considered to be registered to vote as of the day after the election.

(2) As soon as practicable, the auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. The secretary of state shall, pursuant to RCW 29A.04.611, establish procedures to enable new or updated voter registrations to be recorded on an expedited basis. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. ((~~Within sixty~~))

(3) The voter must be sent an acknowledgment notice using first-class nonforwardable mail:

(a) For voters utilizing automatic voter registration services at the department of licensing, within five business days after the receipt of an application or residential address change, or, if the application or residential address change is received after the deadline to register to vote or update a voter registration under RCW 29A.08.140 (1)(a) or (2)(a)(i), within five business days after the election, the auditor shall send an automatic voter registration acknowledgment notice package as required by RCW 29A.08.030.

(b) For all other voters, within 60 days after the receipt of an application or ((~~transfer~~)) residential address change, the auditor shall send ((~~to the applicant, by first-class nonforwardable mail,~~)) an acknowledgment notice ((~~identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable~~)) as required by RCW 29A.08.030.

(((~~(3)~~))) (4) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice shall require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant shall be registered to vote as of the original date of application. The applicant shall not be placed on the official list of registered voters until the application is complete.

(((~~(4)~~))) (5) Once a future voter is no longer in pending status, as described in RCW 29A.08.615, his or her application to sign up to register to vote is no longer pending and is subject to this section.

Sec. 5. RCW 29A.08.125 and 2018 c 109 s 7 are each amended to read as follows:

(1) The office of the secretary of state shall maintain a statewide voter registration database. This database must be a centralized, uniform, interactive computerized statewide voter registration list that contains the name and registration information of every registered voter in the state.

(2) The statewide list is the official list of registered voters for the conduct of all elections.

(3) The statewide list must include, but is not limited to, the name, date of birth, residence address, signature, gender, and date of registration of every legally registered voter in the state.

(4) A unique identifier must be assigned to each registered voter in the state.

(5) The database must be coordinated with other government

databases within the state including, but not limited to, the department of corrections, the department of licensing, the department of health, ((~~the administrative office of the courts,~~)) and county auditors. The database may also be coordinated with the databases of election officials in other states.

(6) Authorized employees of the secretary of state and each county auditor must have immediate electronic access to the information maintained in the database.

(7) Voter registration information received by each county auditor must be electronically entered into the database. The office of the secretary of state must provide support, as needed, to enable each county auditor to enter and maintain voter registration information in the state database.

(8) The secretary of state has data authority over all voter registration data.

(9) The voter registration database must be designed to accomplish at a minimum, the following:

(a) Comply with the help America vote act of 2002 (P.L. 107-252);

(b) Identify duplicate voter registrations;

(c) Identify suspected duplicate voters;

(d) Screen against any available databases maintained by other government agencies to identify voters who are ineligible to vote due to serving a sentence of total confinement as the result of a felony conviction, lack of citizenship, or a court finding of mental incompetence;

(e) Provide images of voters' signatures for the purpose of checking signatures on initiative and referendum petitions;

(f) Provide for a comparison between the voter registration database and the department of licensing change of address database;

(g) Provide access for county auditors that includes the capability to update registrations and search for duplicate registrations;

(h) Provide for the cancellation of registrations of voters who have moved out of state; and

(i) Provide for the storage of pending registration records for all future voters who have not yet reached eighteen years of age in a manner that these records will not appear on the official list of registered voters until the future registrant is no longer in pending status as defined under RCW 29A.08.615.

(10) The secretary of state may, upon agreement with other appropriate jurisdictions, screen against any available databases maintained by election officials in other states and databases maintained by federal agencies including, but not limited to, the federal bureau of investigation, the federal court system, the federal bureau of prisons, and the bureau of citizenship and immigration services.

(11) The database shall retain information regarding previous successful appeals of proposed cancellations of registrations in order to avoid repeated cancellations for the same reason.

(12) Each county auditor shall maintain a list of all registered voters within the county that are contained on the official statewide voter registration list. In addition to the information maintained in the statewide database, the county database must also maintain the applicable taxing district and precinct codes for each voter in the county, and a list of elections in which the individual voted.

(13) Each county auditor shall allow electronic access and information transfer between the county's voter registration system and the official statewide voter registration list.

Sec. 6. RCW 29A.08.210 and 2020 c 208 s 3 are each amended to read as follows:

An applicant for voter registration shall complete an application providing the following information concerning ((~~his or her~~)) the applicant's qualifications as a voter in this state:

(1) ((~~The former address of the applicant if previously registered to vote;~~

~~(2)~~)) The applicant's full name;

(((~~(3)~~))) (2) The applicant's date of birth;

(((~~(4)~~))) (3) The address of the applicant's residence for voting purposes;

(((~~(5)~~))) (4) The mailing address of the applicant if that address is not the same as the address in subsection (((~~(4)~~))) (3) of this section;

(((~~(6)~~))) (5) The ((~~sex~~)) gender of the applicant;

(6) The former address of the applicant if previously registered to vote;

(7) The applicant's Washington state driver's license number, Washington state identification card number, or the last four digits of the applicant's social security number if ((~~he or she~~)) the applicant does not have a Washington state driver's license or Washington state identification card;

(8) A check box allowing the applicant to indicate ((~~that he or she is a member of~~)) membership in the armed forces, national guard, or reserves, or ((~~that he or she is an~~)) overseas voter status;

(9) ((~~A check box allowing the applicant to acknowledge that he or she is at least sixteen years old;~~

~~(10)~~)) Clear and conspicuous language, designed to draw the applicant's attention, stating that:

(a) The applicant must be a United States citizen in order to register to vote; and

(b) The applicant may register to vote if the applicant is at least sixteen years old and may vote if the applicant will be at least eighteen years old by the next general election, or is at least eighteen years old for special elections;

(((~~(11)~~))) (10) A check box and declaration confirming that the applicant is a citizen of the United States;

(((~~(12)~~))) (11) The following warning:

"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, a fine of up to ten thousand dollars, or both."

(((~~(13)~~))) (12) The oath required by RCW 29A.08.230 and a space for the applicant's signature; and

(((~~(14)~~))) (13) Any other information that the secretary of state determines is necessary to establish the identity of the applicant and prevent duplicate or fraudulent voter registrations.

This information shall be recorded on a single registration form to be prescribed by the secretary of state.

Sec. 7. RCW 29A.08.220 and 2013 c 11 s 13 are each amended to read as follows:

(1) The secretary of state shall specify by rule the format of all voter registration applications. These applications shall be compatible with existing voter registration records. An applicant for voter registration shall be required to complete only one application and to provide the required information other than ((~~his or her~~)) the applicant's signature no more than one time. These applications shall also contain ((~~information~~)) instructions for the voter to use the form to update ((~~his or her~~)) information related to the voter's voter registration.

(2) Any application format specified by the secretary for use in registering to vote in state and local elections shall satisfy the requirements of the National Voter Registration Act of 1993 (P.L. 103-31) and the Help America Vote Act of 2002 (P.L. 107-252) for registering to vote in federal elections.

Sec. 8. RCW 29A.08.260 and 2013 c 11 s 15 are each amended to read as follows:

(1) All registration applications required under RCW

29A.08.210 and 29A.08.340 shall be produced and furnished by the secretary of state to the county auditors and the department of licensing.

(2) The county auditor shall distribute forms by which a person may register to vote by mail and ((~~transfer~~)) update the address for any previous registration in this state. The county auditor shall keep a supply of voter registration forms in ((~~his or her~~)) the auditor's office at all times for ((~~political parties and others~~)) people and organizations interested in assisting in voter registration, and shall make every effort to make these forms generally available to the public. The county auditor shall provide voter registration forms to city and town clerks, state offices, schools, fire stations, public libraries, and any other locations considered appropriate by the auditor or secretary of state for extending registration opportunities to all areas of the county. After the initial distribution of voter registration forms to a given location, a representative designated by the official in charge of that location shall notify the county auditor of the need for additional voter registration supplies.

Sec. 9. RCW 29A.08.270 and 2003 c 111 s 139 are each amended to read as follows:

In order to encourage the broadest possible voting participation by all eligible citizens, the secretary of state shall produce voter registration information in the ((~~foreign~~)) various languages required of state agencies.

Sec. 10. RCW 29A.08.320 and 2004 c 267 s 119 and 2004 c 266 s 7 are each reenacted and amended to read as follows:

For persons not performing an automatic voter registration transaction subject to section 1 of this act:

(1) A person may register to vote or ((~~transfer~~)) update their residential address information for a voter registration when ((~~he or she applies~~)) applying for service or assistance and with each renewal, recertification, or change of address at agencies designated under RCW 29A.08.310.

(2) A prospective applicant shall initially be offered a form approved by the secretary of state designed to determine whether the person wishes to register to vote. The form must comply with all applicable state and federal statutes regarding content.

The form shall also contain a box that may be checked by the applicant to ((~~indicate that he or she~~)) decline((~~s~~)) to register at the time of the transaction.

If the person indicates an interest in registering or has made no indication as to a desire to register or not register to vote, the person shall be given a mail-in voter registration application or a prescribed agency application as provided by RCW 29A.08.330.

Sec. 11. RCW 29A.08.330 and 2020 c 208 s 5 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to ((~~indicate that he or she~~)) decline((~~s~~)) to register at this time, or the agency may use a separate form or process approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client ((~~whenever he or she applies~~)) at the time of application for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3)(a) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or update ((~~his or her~~)) the applicant's voter registration by asking the following question of all applicants age 16 or older:

"Do you want to register or sign up to vote or update your voter registration?"

(b) If the applicant chooses to register, sign up, or update a registration, the service agent shall ask the following:

(((~~a~~))) "Are you a United States citizen?"

(((~~b) "Are you at least sixteen years old?"~~)))

If the applicant answers in the affirmative ((~~to both questions~~)), the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to sign up to vote, register to vote, or update a voter registration. If the applicant answers in the negative to ((~~either~~)) the question, the agent shall not provide the applicant with a voter registration application.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

(5) Each designated agency shall transmit the applications to the secretary of state or appropriate county auditor within three business days and must be received by the election official by the required voter registration deadline.

(6) Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.

Sec. 12. RCW 29A.08.340 and 2013 c 11 s 17 are each amended to read as follows:

(1) A person not performing an automatic voter registration transaction under section 1 of this act may register to vote or update ((~~his or her~~)) the person's existing voter registration when ((~~he or she applies for or renews~~)) applying for or renewing a driver's license or identification card under chapter 46.20 RCW.

(2) To register to vote or update a registration, the applicant shall provide the information required by RCW 29A.08.010.

(3) The driver licensing agent shall record that the applicant has requested to register to vote or update a voter registration.

Sec. 13. RCW 29A.08.350 and 2018 c 110 s 106 are each amended to read as follows:

The department of licensing shall produce and transmit to the secretary of state the following information from the records of each individual who requested ((~~a~~)) to register to vote or update the individual's existing voter registration ((~~or update~~)) at a driver's license facility: The name, address, date of birth, any gender ((~~of~~)) information provided by the applicant, the driver's license number, signature image, any language preference information collected, any phone number provided by the voter, any email address provided by the voter, and the date on which the application for voter registration or update was submitted. The secretary of state shall process the registrations and updates as an electronic application. If requested by the secretary of state, the department shall provide copies of the documents submitted to prove citizenship for an individual subject to this section.

Sec. 14. RCW 29A.08.355 and 2020 c 208 s 7 are each amended to read as follows:

(1) The department of licensing must ((~~allow a person age eighteen years or older to be registered to vote or update voter registration information~~)) collect and transmit to the secretary of state voter registration information for all citizens applying for, renewing, or updating an enhanced driver's license or enhanced identicard by automated process at the time of registration, renewal, or change of address if:

(a) The person meets requirements for voter registration;

(b) The person has received or is renewing an enhanced driver's license or enhanced identicard issued under RCW 46.20.202 or is

changing the address for an existing enhanced driver's license or enhanced identicard pursuant to RCW 46.20.205; and

(c) The department of licensing record associated with the applicant contains:

(i) The data required to determine whether the applicant meets requirements for voter registration under RCW 29A.08.010;

(ii) Other information as required by the secretary of state; and

(iii) A signature image.

(2) The department of licensing must ((~~allow a person sixteen or seventeen~~)) collect and transmit to the secretary of state voter registration information for all citizens applying for, renewing, or updating an enhanced driver's license or enhanced identicard 16 or 17 years of age ((~~to be signed up to register to vote by automated process at the time of registration, renewal, or change of address~~)) if:

(a) The person meets requirements to sign up to register to vote;

(b) The person has received or is renewing an enhanced driver's license or enhanced identicard issued under RCW 46.20.202 or is changing the address for an existing enhanced driver's license or enhanced identicard pursuant to RCW 46.20.205; and

(c) The department of licensing record associated with the applicant contains:

(i) The data required to determine whether the applicant meets the requirements for voter registration under RCW 29A.08.210, other than age;

(ii) Other information as required by the secretary of state; and

(iii) A signature image.

(((~~(3) The person must be informed that his or her record will be used for voter registration and offered an opportunity to decline to register.~~)))

Sec. 15. RCW 29A.08.357 and 2018 c 110 s 103 are each amended to read as follows:

(1) ((~~If the applicant in~~)) For applicants served under RCW 29A.08.355 ((~~does not decline registration~~)), the application is submitted pursuant to RCW 29A.08.350 and marked as an automatic voter registrant.

(2) For each such application, the secretary of state must obtain a digital copy of the applicant's signature image from the department of licensing.

Sec. 16. RCW 29A.08.359 and 2020 c 208 s 18 are each amended to read as follows:

(1)(a) For persons age eighteen years and older registering under RCW 29A.08.355(1), an application is considered complete only if it contains the information required by RCW 29A.08.010 and other information as required by the secretary of state. The applicant is considered to be registered to vote as of the original date of issuance or renewal or date of change of address of an enhanced driver's license or enhanced identicard issued under RCW 46.20.202 or change of address for an existing enhanced driver's license or enhanced identicard pursuant to RCW 46.20.205.

(b) For persons sixteen or seventeen years of age registering under RCW 29A.08.355(2), an application is considered complete only if it contains the information required by RCW 29A.08.010 and other information as required by the secretary of state. The applicant is considered to be registered to vote as of the date set forth in RCW 29A.08.110(1).

(c) The information must be transmitted ((~~in an expedited manner and must be received by an election official by the required voter registration deadline~~)) daily to the secretary of state. ((~~The~~))

(i) If the information shows no name change or change of residence or mailing address for an existing voter registration, the auditor may choose to send the voter an acknowledgment notice.

(ii) If the information is an application for new registration or updates any element of an existing voter registration, the auditor shall update the voter's record and, if the information updates the voter's name, residence address, or mailing address, record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list and send an automatic voter registration acknowledgment notice package within five business days of the original application, or, if the information is received after the deadline to register to vote or update a voter registration under RCW 29A.08.140 (1)(a) or (2)(a)(i), within five business days after the election. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. ((~~Within sixty days after the receipt of an application or transfer, the auditor shall send to the applicant, by first-class nonforwardable mail, an acknowledgment notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The United States postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.~~))

(d) An auditor may use other means to communicate with potential and registered voters such as, but not limited to, email, phone, or text messaging. The alternate form of communication must not be in lieu of the ((~~first-class~~)) mail requirements. The auditor shall act in compliance with all voter notification processes established in federal law.

(2) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice must require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant must be registered to vote. The applicant must not be placed on the official list of registered voters until the application is complete.

(3) If the prospective registration applicant responds to the automatic voter registration acknowledgment notice and declines to register to vote or the information provided by the department of licensing does not indicate citizenship, the information must not be included on the list of registered voters.

(4)(a) For new registrants who decline registration in a reply that is received by the auditor within 15 days from the date of mailing of the automatic voter registration acknowledgment notice package, the voter registration record shall be removed from the list of registered voters, and the person is deemed to have never registered to vote.

(b) If the reply declining registration is received after the deadline, the auditor shall cancel the voter's registration.

(5) The department of licensing is prohibited from sharing data files used by the secretary of state to certify voters registered through the automated process outlined in RCW 29A.08.355 with any federal agency, or state agency other than the secretary of state. Personal information supplied for the purposes of obtaining a driver's license or identicard is exempt from public inspection pursuant to RCW 42.56.230.

Sec. 17. RCW 29A.08.362 and 2018 c 110 s 201 are each amended to read as follows:

(1) ((~~Beginning July 1, 2019, the~~)) The health benefit exchange shall provide the following information to the secretary of state's office for consenting Washington healthplanfinder applicants who affirmatively indicate that they are interested in registering to vote, including applicants who file changes of address, who reside in Washington, are age eighteen years or older, and are verified citizens, for voter registration purposes:

(a) Names;

(b) Traditional or nontraditional residential addresses;

(c) Mailing addresses, if different from the traditional or

nontraditional residential address; and

(d) Dates of birth.

(2) The health benefit exchange shall consult with the secretary of state's office to ensure that sufficient information is provided to allow the secretary of state to obtain a digital copy of the person's signature when available from the department of licensing and establish other criteria and procedures that are secure and compliant with federal and state voter registration and privacy laws and rules.

(3) ((~~If applicable, the health benefit exchange shall report any known barriers or impediments to implementation of this section to the appropriate committees of the legislature and the governor no later than December 1, 2018.~~

~~(4) If the health benefit exchange determines, in consultation with the health care authority, that implementation of chapter 110, Laws of 2018 requires changes subject to approval from the centers for medicare and medicaid services, participation of the health benefit exchange is contingent on receiving that approval.~~)) If the health benefit exchange determines, in consultation with the health care authority, that implementation of an automatic voter registration system requires approval from the centers for medicare and medicaid services, then any implementation is contingent on receiving that approval.

Sec. 18. RCW 29A.08.365 and 2018 c 110 s 202 are each amended to read as follows:

(1) The governor shall make a decision, in consultation with the office of the secretary of state, as to whether each agency identified in subsection (((~~(3)~~))) (2) of this section shall implement automatic voter registration. The final decision is at the governor's sole discretion.

(2)(((~~(a) Each agency identified in subsection (3) of this section shall submit a report to the governor and appropriate legislative committees no later than December 1, 2018, describing:~~

~~(i) Steps needed to implement automatic voter registration under chapter 110, Laws of 2018 by July 1, 2019;~~

~~(ii) Barriers to implementation, including ways to mitigate those barriers; and~~

~~(iii) Applicable federal and state privacy protections for voter registration information.~~

~~(b) In preparing the report required under this subsection, the agency may consult with the secretary of state's office to determine automatic voter registration criteria and procedures.~~

~~(3)~~))) This section applies to state agencies, other than the health benefit exchange, providing public assistance or services to persons with disabilities, designated pursuant to RCW 29A.08.310(1), that collect, process, and store the following information as part of providing assistance or services:

(a) Names;

(b) Traditional or nontraditional residential addresses;

(c) Dates of birth;

(d) A signature attesting to the truth of the information provided on the application for assistance or services; and

(e) Verification of citizenship information, via social security administration data match or manually verified by the agency during the client transaction.

(((~~(4)~~))) (3) Once an agency has implemented automatic voter registration, it shall continue to provide automatic voter registration unless legislation is enacted that directs the agency to do otherwise.

(((~~(5)~~))) (4) Agencies may not begin verifying citizenship as part of an agency transaction for the sole purpose of providing automatic voter registration.

Sec. 19. RCW 29A.08.370 and 2018 c 110 s 203 are each amended to read as follows:

(1) If a person who is ineligible to vote becomes, in the rare occasion, registered to vote under RCW 29A.08.355 or 29A.08.362 in the absence of a knowing violation by that person of RCW 29A.84.140, that person shall be deemed to have performed an authorized act of registration and such act may not be considered as evidence of a claim to citizenship.

(2) Unless a person willfully and knowingly votes or attempts to vote knowing that he or she is not entitled to vote, a person who is ineligible to vote and becomes registered to vote under RCW 29A.08.355 or 29A.08.362, and subsequently votes or attempts to vote in an election held after the effective date of the person's registration, is not guilty of violating RCW 29A.84.130, and shall be deemed to have performed an authorized act, and such act may not be considered as evidence of a claim to citizenship.

(3) A person who is ineligible to vote, who successfully completes the voter registration process under RCW 29A.08.355 or 29A.08.362 or votes in an election, must have their voter registration, or record of vote, removed from the voter registration database and any other application records.

(4) Should an ineligible individual become registered to vote, the office of the secretary of state and the relevant agency shall jointly determine the cause. If the cause is found to be intentional registration of ineligible persons by a person employed by the state or county government tasked with assisting the public with voter registration, that government employee is subject to the penalties of RCW 29A.84.110.

Sec. 20. RCW 46.20.153 and 2001 c 41 s 15 are each amended to read as follows:

The department shall post signs at each driver licensing facility advertising the availability of voter registration services, of automatic voter registration services for enhanced license and enhanced identification card applicants, and advising of the qualifications to register to vote. The information shall be visible to a person conducting a licensing transaction at the time of the transaction, either as a sign, or as a placard handed to the voter for review. Copies of the information shall be available in the various languages required of state agencies.

Sec. 21. RCW 46.20.155 and 2020 c 208 s 8 are each amended to read as follows:

(1) ((~~Before~~)) (a) For transactions other than enhanced driver's license or enhanced identicard applicants, before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

The department of licensing, with the approval of the secretary of state, may direct licensing agents to ask a substantially similar question designed to improve applicant understanding.

(b) If the applicant chooses to register, sign up, or update a registration, the agent shall ask the following:

(((~~(1)~~))) "Are you a United States citizen?"

(((~~(2) "Are you at least sixteen years old?"~~)))

If the applicant answers in the affirmative to ((~~both~~)) the question((~~s~~)), the agent shall then submit the registration, sign up form, or update. If the applicant answers in the negative to ((~~either~~)) the question, the agent shall not submit an application. Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

(3) If an applicant presents a document demonstrating that the applicant is not a United States citizen at the time of the driver's license or identicard transaction, the licensing agent shall not ask the questions described in subsection (1) of this section, and shall not submit an application. The department, in consultation with the secretary of state, shall determine which types of documents accepted by the department for purposes of a driver's license or identicard transaction demonstrate that an applicant is not a United States citizen at the time of the transaction.

Sec. 22. RCW 46.20.156 and 2020 c 208 s 21 are each amended to read as follows:

For persons eighteen years of age or older who meet requirements for voter registration and persons sixteen or seventeen years of age who meet requirements to sign up to register to vote, who have been issued or are renewing an enhanced driver's license or identicard under RCW 46.20.202 or applying for a change of address for an existing enhanced driver's license or identicard pursuant to RCW 46.20.205, ((~~and have not declined to register to vote,~~)) the department shall produce and transmit to the secretary of state the following information from the records of each individual: The name, address, date of birth, gender of the applicant if provided, the driver's license number, signature image, any language preference information collected, any phone number provided by the voter, any email address provided by the voter, and the date on which the application was submitted. The department and the secretary of state shall process information as an automated application on a daily basis. If requested by the secretary of state, the department shall provide copies of the documents submitted to prove citizenship for an individual subject to this section.

Sec. 23. RCW 46.20.205 and 2017 c 147 s 8 are each amended to read as follows:

Whenever any person, after applying for or receiving a driver's license or identicard, moves from the address named in the application or in the license or identicard issued to him or her, or changes his or her name of record, the person shall, within ten days thereafter, notify the department of the name or address change as provided in RCW 46.08.195. This notification information shall be transmitted to the secretary of state on a daily basis, including the person's name, former name, address, former address, date of birth, signature image, and date of the transaction.

Sec. 24. RCW 29A.08.625 and 2009 c 369 s 30 are each amended to read as follows:

(1) A voter whose registration has been made inactive under this chapter and who requests to vote at an ensuing election before two federal general elections have been held must be allowed to vote a regular ballot applicable to ((~~the registration~~)) the voter's current residence address, and the voter's registration record updated and restored to active status.

(2) ((~~A~~)) An eligible voter whose registration has been properly canceled under this chapter shall ((~~vote a provisional ballot. The voter shall mark the provisional ballot in secrecy, the ballot placed in a security envelope, the security envelope placed in a provisional ballot envelope, and the reasons for the use of the provisional ballot noted.~~

~~(3) Upon receipt of such a voted provisional ballot the auditor shall investigate the circumstances surrounding the original cancellation. If he or she determines that the cancellation was in error, the voter's registration must be immediately reinstated, and the voter's provisional ballot must be counted. If the original cancellation was not in error, the voter must be afforded the opportunity to reregister at his or her correct address, and the voter's provisional ballot must not be counted~~)) be allowed to register to vote at the voter's current residence address.

Sec. 25. RCW 29A.08.630 and 2009 c 369 s 31 are each amended to read as follows:

(1) The county auditor shall return an inactive voter to active voter status if, prior to the passage of two federal general elections, the voter:

(((~~(1)~~))) (a) Notifies the auditor of a change of address;

(((~~(2)~~))) (b) Responds to a confirmation notice with information that he or she continues to reside at the registration address; or

(((~~(3)~~))) (c) Votes or attempts to vote in a primary, special election, or general election.

(2) If the inactive voter fails to provide ((~~such~~)) a notice or take ((~~such~~)) an action ((~~within that period~~)) as described in subsection (1) of this section, the auditor shall cancel the person's voter registration.

(3) The county auditor must cancel an inactive voter registration when receiving information indicating that the inactive voter has moved out of state or died.

Sec. 26. RCW 29A.08.635 and 2009 c 369 s 32 are each amended to read as follows:

Confirmation notices must be on a form prescribed by, or approved by, the secretary of state and must request that the voter ((~~confirm~~)) verify that ((~~he or she~~)) the voter continues to reside at the address of record and desires to continue to use that address for voting purposes, or provide a new residence address for voting, or provide information that the voter no longer resides in the state. The notice must inform the voter that if the voter does not respond to the notice and does not vote in either of the next two federal general elections, ((~~his or her voter~~)) the voter's registration will be canceled.

Sec. 27. RCW 29A.08.710 and 2018 c 109 s 10 are each amended to read as follows:

(1) The county auditor shall have custody of the original voter registration records and voter registration sign up records for each county. The original voter registration form must be filed without regard to precinct and is considered confidential and unavailable for public inspection and copying. An automated file of all registered voters must be maintained pursuant to RCW 29A.08.125. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(2)(a) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying, except as provided in RCW 40.24.060 and (b) of this subsection: The voter's name, address, political jurisdiction, gender, ((~~date~~)) year of birth, voting record, date of registration, and registration number. No other information from voter registration records or files is available for public inspection or copying.

(b) The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.

Sec. 28. RCW 29A.08.810 and 2020 c 208 s 6 are each amended to read as follows:

(1) Registration of a person as a voter is presumptive evidence of his or her right to vote. A challenge to the person's right to vote must be based on personal knowledge of one of the following:

(a) The challenged voter has been convicted of a felony that includes serving a sentence of total confinement under jurisdiction of the department of corrections, or a felony conviction in another state's court or federal court and the ((~~voter's civil rights~~)) voter is serving that sentence of total confinement and the person's voting rights have not been restored under RCW 29A.08.520;

(b) The challenged voter has been judicially declared ineligible to vote due to mental incompetency under RCW 29A.08.515;

(c) The challenged voter ((~~does not live~~)) resides at a different address than the residential address provided, and is not subject to RCW 29A.04.151 or 29A.08.112, in which case the challenger must either:

(i) Provide the challenged voter's actual residence on the challenge form; or

(ii) Submit evidence that he or she exercised due diligence to verify that the challenged voter does not reside at the address provided ((~~and to attempt to contact the challenged voter to learn the challenged voter's actual residence, including~~)). The challenger must, at minimum, provide evidence that the challenger personally:

(A) Sent a letter with return service requested to the challenged voter's residential address provided, and to the challenged voter's mailing address, if provided;

(B) ((~~Visited the residential address provided and contacted persons at the address to determine whether the voter resides at the address and, if not, obtained and submitted with the challenge form a signed affidavit subject to the penalties of perjury from a person who owns or manages property, resides, or is employed at the address provided, that to his or her personal knowledge the challenged voter does not reside at the address as provided on the voter registration;~~

~~(C)~~)) Searched local telephone directories, including online directories, to determine whether the voter maintains a telephone listing at any address in the county;

(((~~(D)~~))) (C) Searched county auditor property records to determine whether the challenged voter owns any property in the county; ((~~and~~

~~(E)~~)) (D) Searched the statewide voter registration database to determine if the voter is registered at any other address in the state; and

(E) Searched the voter registration database of another state to determine if the voter is registered to vote in any other state;

(d) The challenged voter will not be eighteen years of age by the next general election; or

(e) The challenged voter is not a citizen of the United States.

(2) A person's right to vote may be challenged by another registered voter or the county prosecuting attorney.

(3) The challenger must file a signed affidavit subject to the penalties of perjury swearing that, to his or her personal knowledge and belief, having exercised due diligence to personally verify the evidence presented, the challenged voter either is not qualified to vote or does not reside at the address given on his or her voter registration record based on one of the reasons allowed in subsection (1) of this section. The challenger must provide the factual basis for the challenge, including any information required by subsection (1)(c) of this section, in the signed affidavit. The challenge may not be based on unsupported allegations or allegations by anonymous third parties. All documents pertaining to the challenge are public records.

(4) Challenges based on a felony conviction under RCW 29A.08.520 must be heard according to RCW 29A.08.520 and rules adopted by the secretary of state.

Sec. 29. RCW 29A.08.820 and 2013 c 11 s 20 are each amended to read as follows:

(1) Challenges must be filed with the county auditor of the county in which the challenged voter is registered no later than ((~~forty-five~~)) 45 days before the election. The county auditor presides over the hearing.

(2) ((~~Only if~~)) Challenges may be filed after 45 days before the election, only when the challenged voter registered to vote less than ((~~sixty~~)) 60 days before the election, or changed residence less than ((~~sixty~~)) 60 days before the election without ((~~transferring his or her~~)) updating the residence address of the voter's voter registration((~~, may a~~)). A challenge may then be filed not later than ((~~ten~~)) 10 days before any primary or election, general or special, or within ((~~ten~~)) 10 days of the voter being added to the voter registration database, whichever is later.

(a) If the challenge is filed ((~~within forty-five~~)) after 45 days before an election at which the challenged voter is eligible to vote, a notation of the challenge must be made immediately to the challenged voter's registration in the voter registration system, and the county canvassing board shall preside((~~s~~)) over the hearing.

(b) If the challenge is filed before the challenged voter's ballot is received, the ballot must be ((~~treated~~)) processed as a challenged ballot, and held until the challenge is resolved.

(c) If the challenge is filed after the challenged voter's ballot is received, the challenge cannot affect the current election. However, the process shall proceed until the challenge is resolved.

Sec. 30. RCW 29A.08.835 and 2006 c 320 s 1 are each amended to read as follows:

(1) The county auditor shall, within seventy-two hours of receipt, publish on the auditor's internet website the entire content of any voter challenge filed under chapter 29A.08 RCW. Immediately after publishing any voter challenge, the county auditor shall notify any person who requests to receive such notifications on an ongoing basis.

(2) The information on the website may be removed 45 days following certification of an election. Information related to the challenge must be maintained by the county auditor for the appropriate retention period, and is subject to disclosure upon request.

Sec. 31. RCW 29A.08.840 and 2006 c 320 s 6 are each amended to read as follows:

(1) If the challenge is not in proper form or the factual basis for the challenge does not meet the legal grounds for a challenge, the county auditor may dismiss the challenge and notify the challenger of the reasons for the dismissal. A challenge is not in proper form if it is incomplete on its face or does not substantially comply with the form issued by the secretary of state.

(2) If the challenge is in proper form and the factual basis meets the legal grounds for a challenge, the county auditor must notify the challenged voter and provide a copy of the affidavit. The county auditor shall also provide to any person, upon request, a copy of all materials provided to the challenged voter.

(a) If the challenge is to the residential address provided by the voter, the challenged voter must be provided notice of the exceptions allowed in RCW 29A.08.112 and 29A.04.151, and Article VI, section 4 of the state Constitution((~~. A challenged voter~~)), and may ((~~transfer~~)) update the residence address on the voter's voter registration, or reregister until 8:00 p.m. the day ((~~before~~)) of the election.

(b) The county auditor must schedule a hearing and notify the challenger and the challenged voter of the time and place for the hearing.

(3) All notice must be by certified mail to the address provided in the voter registration record, and any other addresses at which the challenged voter is alleged to reside or the county auditor reasonably expects the voter to receive notice. The challenger and challenged voter may either appear in person or submit testimony by affidavit. Personal appearance may be accomplished using video telecommunications technology if the auditor or canvassing board chooses.

(4) The challenger has the burden to prove by clear and convincing evidence that the challenged voter's registration is

improper. The challenged voter must be provided a reasonable opportunity to respond. If the challenge is to the residential address provided by the voter, the challenged voter may provide evidence that he or she resides at the location described in his or her voter's registration records, or meets one of the exceptions allowed in RCW 29A.08.112 or 29A.04.151, or Article VI, section 4 of the state Constitution. If either the challenger or challenged voter fails to appear at the hearing, the challenge must be resolved based on the available facts.

(5) If the challenge is based on an allegation under RCW 29A.08.810(1) (a), (b), (d), or (e) and the canvassing board sustains the challenge, the voter registration shall be canceled and any challenged ballot shall not be counted. If the challenge is based on an allegation under RCW 29A.08.810(1)(c) and the canvassing board sustains the challenge, the board shall permit the voter to correct ((~~his or her~~)) the residence address on the voter registration and any races and ballot measures on ((~~the~~)) any challenged ballot that the voter would have been qualified to vote for had the registration been correct shall be counted.

(6) If the challenger fails to prove by clear and convincing evidence that the registration is improper, the challenge must be dismissed and ((~~the~~)) any pending challenged ballot must be accepted as valid. ((~~Challenged~~)) All challenged ballots must be resolved before certification of the election. The decision of the county auditor or canvassing board is final subject only to judicial review by the superior court under chapter 34.05 RCW.

Sec. 32. RCW 29A.04.611 and 2011 c 10 s 13 are each amended to read as follows:

The secretary of state as chief election officer shall make reasonable rules in accordance with chapter 34.05 RCW not inconsistent with the federal and state election laws to effectuate any provision of this title and to facilitate the execution of its provisions in an orderly, timely, and uniform manner relating to any federal, state, county, city, town, and district elections. To that end the secretary shall assist local election officers by devising uniform forms and procedures.

In addition to the rule-making authority granted otherwise by this section, the secretary of state shall make rules governing the following provisions:

(1) The maintenance of voter registration records;

(2) The preparation, maintenance, distribution, review, and filing of precinct maps;

(3) Standards for the design, layout, and production of ballots;

(4) The examination and testing of voting systems for certification;

(5) The source and scope of independent evaluations of voting systems that may be relied upon in certifying voting systems for use in this state;

(6) Standards and procedures for the acceptance testing of voting systems by counties;

(7) Standards and procedures for testing the programming of vote tallying software for specific primaries and elections;

(8) Standards and procedures for the preparation and use of each type of certified voting system including procedures for the operation of counting centers where vote tallying systems are used;

(9) Standards and procedures to ensure the accurate tabulation and canvassing of ballots;

(10) Consistency among the counties of the state in the preparation of ballots, the operation of vote tallying systems, and the canvassing of primaries and elections;

(11) Procedures to ensure the secrecy of a voter's ballot when a small number of ballots are counted;

(12) The use of substitute devices or means of voting when a voting device is found to be defective, the counting of votes cast on the defective device, the counting of votes cast on the substitute device, and the documentation that must be submitted to the county auditor regarding such circumstances;

(13) Procedures for the transportation of sealed containers of voted ballots or sealed voting devices;

(14) The acceptance and filing of documents via electronic transmission;

(15) Voter registration applications and records;

(16) The use of voter registration information in the conduct of elections;

(17) The coordination, delivery, and processing of voter registration records accepted by driver licensing agents or the department of licensing;

(18) The coordination, delivery, and processing of voter registration records accepted by agencies designated by the governor to provide voter registration services;

(19) Procedures to receive and distribute voter registration applications by mail;

(20) Procedures for a voter to change his or her voter registration address within a county by telephone;

(21) Procedures for a voter to change the name under which he or she is registered to vote;

(22) Procedures for canceling dual voter registration records and for maintaining records of persons whose voter registrations have been canceled;

(23) Procedures for the electronic transfer of voter registration records between county auditors and the office of the secretary of state;

(24) Procedures and forms related to automatic voter registration;

(25) Procedures and forms for declarations of candidacy;

(((~~(25)~~))) (26) Procedures and requirements for the acceptance and filing of declarations of candidacy by electronic means;

(((~~(26)~~))) (27) Procedures for the circumstance in which two or more candidates have a name similar in sound or spelling so as to cause confusion for the voter;

(((~~(27)~~))) (28) Filing for office;

(((~~(28)~~))) (29) The order of positions and offices on a ballot;

(((~~(29)~~))) (30) Sample ballots;

(((~~(30)~~))) (31) Independent evaluations of voting systems((~~;~~ ~~(31) The~~)) and the testing, approval, and certification of voting systems;

(32) The testing of vote tallying software programming;

(33) Standards and procedures to prevent fraud and to facilitate the accurate processing and canvassing of ballots, including standards for the approval and implementation of hardware and software for automated signature verification systems;

(34) Standards and procedures to guarantee the secrecy of ballots;

(35) Uniformity among the counties of the state in the conduct of elections;

(36) Standards and procedures to accommodate overseas voters and service voters;

(37) The tabulation of paper ballots;

(38) The accessibility of voting centers;

(39) The aggregation of precinct results if reporting the results of a single precinct could jeopardize the secrecy of a person's ballot;

(40) Procedures for conducting a statutory recount;

(41) Procedures for filling vacancies in congressional offices if the general statutory time requirements for availability of ballots, certification, canvassing, and related procedures cannot be met;

(42) Procedures for the statistical sampling of signatures for purposes of verifying and canvassing signatures on initiative, referendum, and recall election petitions;

(43) Standards and deadlines for submitting material to the office of the secretary of state for the voters' pamphlet;

(44) Deadlines for the filing of ballot titles for referendum bills and constitutional amendments if none have been provided by the legislature;

(45) Procedures for the publication of a state voters' pamphlet;

(46) Procedures for conducting special elections regarding nuclear waste sites if the general statutory time requirements for availability of ballots, certification, canvassing, and related procedures cannot be met;

(47) Procedures for conducting partisan primary elections;

(48) Standards and procedures for the proper conduct of voting on accessible voting devices;

(49) Standards for voting technology and systems used by the state or any political subdivision to be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as other voters;

(50) All data formats for transferring voter registration data on electronic or machine-readable media for the purpose of administering the statewide voter registration list required by the Help America Vote Act (P.L. 107-252);

(51) Defining the interaction of electronic voter registration election management systems employed by each county auditor to maintain a local copy of each county's portion of the official state list of registered voters;

(52) Provisions and procedures to implement the state-based administrative complaint procedure as required by the Help America Vote Act (P.L. 107-252);

(53) Facilitating the payment of local government grants to local government election officers or vendors; and

(54) Standards for the verification of signatures on ballot declarations.

Sec. 33. RCW 29A.84.110 and 2003 c 111 s 2105 are each amended to read as follows:

If any county auditor or registration assistant, including government agency employees providing voter registration services under the requirements of state law or the national voter registration act of 1993:

(1) Willfully neglects or refuses to perform any duty required by law in connection with the registration of voters; or

(2) Willfully neglects or refuses to perform such duty in the manner required by voter registration law; or

(3) Enters or causes or permits to be entered on the voter registration records the name of any person in any other manner or at any other time than as prescribed by voter registration law or enters or causes or permits to be entered on such records the name of any person not entitled to be thereon; or

(4) Destroys, mutilates, conceals, changes, or alters any registration record in connection therewith except as authorized by voter registration law,

((~~he or she~~)) that person is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

Sec. 34. RCW 29A.04.058 and 2019 c 391 s 1 are each amended to read as follows:

"Election official" when pertaining to voter registration includes any staff member of the office of the secretary of state, staff of state agencies or offices providing voter registration services, or a staff member of ((~~the~~)) a county auditor's office.

Sec. 35. RCW 29A.08.115 and 2009 c 369 s 11 are each amended to read as follows:

A person or organization collecting voter registration application forms must transmit the forms to the secretary of state or a county auditor within five business days. The registration date on such forms will be the date they are received by the secretary of state or county auditor. A person or organization collecting voter registration forms that intentionally does not transmit the forms to an election office may be subject to penalty under RCW 29A.84.030.

NEW SECTION. **Sec. 36.** RCW 29A.08.375 (Automatic registration—Rule-making authority) and 2018 c 110 s 207 are each repealed.

NEW SECTION. **Sec. 37.** Sections 3, 4, 6, 11, 13 through 16, and 20 through 23 of this act take effect July 15, 2024."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Hunt moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5112.

Senator Hunt spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hunt that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5112.

The motion by Senator Hunt carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5112 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5112, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5112, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 13; Absent, 0; Excused, 3.

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

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, MacEwen, McCune, Padden, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5112, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2023

MR. PRESIDENT:
The House passed SECOND SUBSTITUTE SENATE BILL NO. 5128 with the following amendment(s): 5128-S2 AMH CRJ H1745.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 2.36 RCW to read as follows:

The administrative office of the courts shall provide all courts with a method to collect data on a juror's race, ethnicity, age, sex, employment status, educational attainment, and income, as well as any other data approved by order of the chief justice of the Washington state supreme court. Data collection must be conducted and reported in a manner that preserves juror anonymity. The administrative office of the courts shall publish this demographic data in an annual report to the governor.

NEW SECTION. **Sec. 2.** (1)(a) The administrative office of the courts shall establish a work group to make recommendations for the creation of a child care assistance program for individuals reporting for jury service.

(b) The purpose of the child care assistance program shall be to eliminate the absence of child care as a barrier to performing jury service.

(2)(a) By December 1, 2024, the administrative office of the courts shall report the work group findings and recommendations for establishing a child care assistance program to the appropriate committees of the legislature.

(b) The report must outline the planning and implementation of the program and an estimation of the cost.

(3) This section expires December 1, 2024.

Sec. 3. RCW 2.36.095 and 2013 c 246 s 1 are each amended to read as follows:

(1) Persons selected to serve on a petit jury, grand jury, or jury of inquest shall be summoned by mail or personal service, or electronically. The county clerk shall issue summons and thereby notify persons selected for jury duty. The clerk may issue summons for any jury term, in any consecutive twelve-month period, at any time thirty days or more before the beginning of the jury term for which the summons are issued. However, when applicable, the provisions of RCW 2.36.130 apply.

(2) In courts of limited jurisdiction summons shall be issued by the court. Upon the agreement of the courts, the county clerk may summon jurors for any and all courts in the county or judicial district.

Sec. 4. RCW 2.36.054 and 2015 c 225 s 1 are each amended to read as follows:

Unless otherwise specified by rule of the supreme court, the jury source list and master jury list for each county shall be created as provided by this section.

(1) The superior court of each county, after consultation with the county clerk and county auditor of that jurisdiction, shall annually notify the consolidated technology services agency not later than March 1st of each year of its election to use either a jury source list that is merged by the county or a jury source list that is merged by the consolidated technology services agency. The consolidated technology services agency shall annually furnish at no charge to the superior court of each county a separate list of the registered voters residing in that county as supplied annually by the secretary of state and a separate list of driver's license and identicard holders residing in that county as supplied annually by the department of licensing, or a merged list of all such persons residing in that county, in accordance with the annual notification required by this subsection. The lists provided by the consolidated technology services agency shall be in an electronic format mutually agreed upon by the superior court requesting it and the consolidated technology services agency. The annual merger of the list of registered voters residing in each county with the list of licensed drivers and identicard holders residing in each county to form a jury source list for each county shall be in accordance with the standards and methodology established in this chapter or by superseding court rule whether the merger is accomplished by the consolidated technology services agency or by a county.

(2)(a) Persons on the lists of registered voters and driver's license and identicard holders shall be identified by a minimum of last name, first name, middle initial where available, date of birth, gender, and county of residence. Identifying information shall be used when merging the lists to ensure to the extent reasonably possible that persons are only listed once on the merged list. Conflicts in addresses are to be resolved by using the most recent record by date of last vote in a general election, date of driver's license or identicard address change or date of voter registration.

(b) After July 1, 2024, persons who:

(i) Apply for a driver's license or identicard in this state shall have the ability to opt in to allow the department of licensing to share the person's email address with the consolidated technology services agency for the purpose of electronically receiving jury summons and other communications related to jury service; and

(ii) Apply online to the register to vote shall, immediately after completing the voter registration transaction, be directed by the secretary of state to a website where the person shall have the ability to opt in to share the person's email address with the consolidated technology services agency for the purpose of electronically receiving jury summons and other communications related to jury service. The provisions of the subsection (2)(b)(ii) are subject to appropriation.

(3) The consolidated technology services agency shall provide counties that elect to receive a jury source list merged by the consolidated technology services agency with a list of names which are possible duplicates that cannot be resolved based on the identifying information required under subsection (2) of this section. If a possible duplication cannot subsequently be resolved satisfactorily through reasonable efforts by the county receiving the merged list, the possible duplicate name shall be stricken from the jury source list until the next annual jury source list is prepared."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Trudeau moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5128.

Senator Trudeau spoke in favor of the motion.

Senator Padden spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Trudeau that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5128.

The motion by Senator Trudeau carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5128 by rising vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5128, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5128, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays,

12; Absent, 0; Excused, 3.

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

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, Hawkins, MacEwen, McCune, Padden, Schoesler, Short, Wagoner and Warnick

Excused: Senators Conway, Muzzall and Wilson, J.

SECOND SUBSTITUTE SENATE BILL NO. 5128, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 6, 2023

MR. PRESIDENT:
The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5144 with the following amendment(s): 5144-S2.E AMH ENGR H1852.E

Strike everything after the enacting clause and insert the following:

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

(1) It is in the public interest of the citizens of Washington to encourage the recovery and reuse of materials, such as metals, that replace the output of mining and other extractive industries.

(2) Without a dedicated battery stewardship program, battery user confusion regarding proper disposal options will continue to persist.

(3) Ensuring the proper handling, recycling, and end-of-life management of used batteries prevents the release of toxic materials into the environment and removes materials from the waste stream that, if mishandled, may present safety concerns to workers, such as by igniting fires at solid waste handling facilities. For this reason, batteries should not be placed into commingled recycling containers or disposed of via traditional garbage collection containers.

(4) Jurisdictions around the world have successfully implemented battery stewardship laws that have helped address the challenges posed by the end-of-life management of batteries. Because it is difficult for customers to differentiate between types and chemistries of batteries, it is the best practice for battery stewardship programs to collect all battery types and chemistries. Furthermore, it is appropriate for larger batteries used in emerging market sectors such as electric vehicles, solar power arrays, and data centers, to be managed to ensure environmentally positive outcomes similar to those achieved by a battery stewardship program, both because of the potential economic value of large batteries used for these purposes and the anticipated profusion of these larger batteries as these market sectors mature.

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

(1)(a) "Battery-containing product" means a product that contains or is packaged with rechargeable or primary batteries that are covered batteries.

(b) A "battery-containing product" does not include a covered electronic product under an approved plan implemented under chapter 70A.500 RCW.

(2) "Battery management hierarchy" means a management system of covered batteries prioritized in descending order as follows:

(a) Waste prevention and reduction;

(b) Reuse, when reuse is appropriate;

(c) Recycling, as defined in this chapter; and

(d) Other means of end-of-life management, which may only be utilized after demonstrating to the department that it is not feasible to manage the batteries under the higher priority options in (a) through (c) of this subsection.

(3) "Battery stewardship organization" means a producer that directly implements a battery stewardship plan required under this chapter or a nonprofit organization designated by a producer or group of producers to implement a battery stewardship plan required under this chapter.

(4) "Collection rate" means a percentage, by weight, that a battery stewardship organization collects that is calculated by dividing the total weight of primary and rechargeable batteries collected during the previous calendar year by the average annual weight of primary and rechargeable batteries that were estimated to have been sold in the state by all producers participating in an approved battery stewardship plan during the previous three calendar years.

(5)(a) "Covered battery" means a portable battery or, beginning January 1, 2029, a medium format battery.

(b) "Covered battery" does not include:

(i) A battery contained within a medical device, as specified in Title 21 U.S.C. Sec. 321(h) as it existed as of the effective date of this section, that is not designed and marketed for sale or resale principally to consumers for personal use;

(ii) A battery that contains an electrolyte as a free liquid;

(iii) A lead acid battery weighing greater than 11 pounds;

(iv) A battery subject to the provisions of RCW 70A.205.505 through 70A.205.530; and

(v) A battery in a battery-containing product that is not intended or designed to be easily removable from the battery-containing product.

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

(7) "Easily removable" means designed by the manufacturer to be removable by the user of the product with no more than commonly used household tools.

(8) "Environmentally sound management practices" means practices that: (a) Comply with all applicable laws and rules to protect workers, public health, and the environment; (b) provide for adequate recordkeeping, tracking, and documenting of the fate of materials within the state and beyond; and (c) include comprehensive liability coverage for the battery stewardship organization, including environmental liability coverage that is commercially practicable.

(9) "Final disposition" means the final processing of a collected battery to produce usable end products, at the point where the battery has been reduced to its constituent parts, reusable portions made available for use, and any residues handled as wastes in accordance with applicable law.

(10) "Large format battery" means:

(a) A rechargeable battery that weighs more than 25 pounds or has a rating of more than 2,000 watt-hours; or

(b) A primary battery that weighs more than 25 pounds.

(11) "Medium format battery" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing more than 11 pounds or has a rating of more than 300 watt-hours, or both, and no more than 25 pounds and has a rating of no more than 2,000 watt-hours;

(b) For primary batteries, a battery weighing more than 4.4 pounds but not more than 25 pounds.

(12) "Portable battery" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing no more than 11 pounds and has a rating of no more than 300 watt-hours;

(b) For primary batteries, a battery weighing no more than 4.4 pounds.

(13) "Primary battery" means a battery that is not capable of being recharged.

(14)(a) "Producer" means the following person responsible for compliance with requirements under this chapter for a covered battery or battery-containing product sold, offered for sale, or distributed in or into this state:

(i) For covered batteries:

(A) If the battery is sold under the brand of the battery manufacturer, the producer is the person that manufactures the battery;

(B) If the battery is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(i)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the battery is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(i)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the battery into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the battery in this state;

(E) If there is no person described in (a)(i)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the battery in or into this state.

(ii) For covered battery-containing products:

(A) If the battery-containing product is sold under the brand of the product manufacturer, the producer is the person that manufactures the product;

(B) If the battery-containing product is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(ii)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(ii)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the product in this state;

(E) If there is no person described in (a)(ii)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the product in or into this state;

(F) A producer does not include any person who only manufactures, sells, offers for sale, distributes, or imports into the state a battery-containing product if the only batteries used by the battery-containing product are supplied by a producer that has joined a registered battery stewardship organization as the producer for that covered battery under this chapter. Such a producer of covered batteries that are included in a battery-containing product must provide written certification of that membership to both the producer of the covered battery-containing product and the battery stewardship organization of which the battery producer is a member.

(b) A person is the "producer" of a covered battery or covered battery-containing product sold, offered for sale, or distributed in or into this state, as defined in (a) of this subsection, except where another party has contractually accepted responsibility as a responsible producer and has joined a registered battery stewardship organization as the producer for that covered battery or covered battery-containing product under this chapter.

(15) "Program" means a program implemented by a battery stewardship organization consistent with an approved battery stewardship plan.

(16) "Rechargeable battery" means a battery that contains one or more voltaic or galvanic cells, electrically connected to produce electric energy, designed to be recharged.

(17) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than:

(a) Combustion;

(b) Incineration;

(c) Energy generation;

(d) Fuel production; or

(e) Beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover.

(18) "Recycling efficiency rate" means the ratio of the weight of covered battery components and materials recycled by a program operator from covered batteries to the weight of those covered batteries collected by the program operator.

(19) "Retailer" means a person who sells covered batteries or battery-containing products in or into this state or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses, for use by the customer in this state.

(20) "Urban area" means an area delineated by the United States census bureau, based on a minimum threshold of 2,000 housing units or 5,000 people, as of January 1, 2023.

NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A STEWARDSHIP PLAN. Beginning January 1, 2027:

(1) Each producer selling, making available for sale, or distributing covered batteries or battery-containing products in or into the state of Washington shall participate in an approved Washington state battery stewardship plan through participation in and appropriate funding of a battery stewardship organization; and

(2) A producer that does not participate in a battery stewardship organization and battery stewardship plan may not sell covered batteries or battery-containing products covered by this chapter in or into Washington.

NEW SECTION. **Sec. 4.** ROLE OF RETAILERS. (1) Beginning July 1, 2027, for portable batteries, and July 1, 2029, for medium format batteries, a retailer may not sell, offer for sale, distribute, or otherwise make available for sale a covered battery or battery-containing product unless the producer of the covered battery or battery-containing product certifies to the retailer that the producer participates in a battery stewardship organization whose plan has been approved by the department.

(2) A retailer is in compliance with the requirements of subsection (1) of this section and is not subject to penalties under section 12 of this act as long as the website made available by the department under section 11 of this act lists, as of the date a product is made available for retail sale, a producer or brand of covered battery or battery-containing product sold by the retailer as being a participant in an approved plan or the implementer of an approved plan.

(3) Retailers of covered batteries or battery-containing products are not required to make retail locations available to serve as collection sites for a stewardship program operated by a battery stewardship organization. Retailers that serve as a collection site must comply with the requirements for collection sites, consistent with section 8 of this act.

(4) A retailer may not sell, offer for sale, distribute, or otherwise make available for sale covered batteries, unless those batteries are marked consistent with the requirements of section 14 of this act. A producer of a battery-containing product containing a covered battery must certify to the retailers of their product that the battery contained in the battery-containing product is marked consistent with the requirements of section 14 of this act. A retailer may rely on this certification for purposes of compliance under this subsection.

(5) A retailer selling or offering covered batteries or battery-containing products for sale in Washington may provide information, provided to the retailer by the battery stewardship organization, regarding available end-of-life management options for covered batteries collected by the battery stewardship organization. The information that a battery stewardship organization must make available to retailers for voluntary use by retailers must include, but is not limited to, in-store signage, written materials, and other promotional materials that retailers may use to inform customers of the available end-of-life management options for covered batteries collected by the battery stewardship organization.

(6) Retailers, producers, or battery stewardship organizations may not charge a specific point-of-sale fee to consumers to cover the administrative or operational costs of the battery stewardship organization or the battery stewardship program.

NEW SECTION. **Sec. 5.** STEWARDSHIP PLAN COMPONENTS. (1) By July 1, 2026, or within six months of the adoption of rules under section 11 of this act, whichever comes later, each battery stewardship organization must submit a plan for covered portable batteries to the department for approval. Within 24 months of the date of the initial adoption of rules under this chapter by the department, each battery stewardship organization must submit a plan for covered medium format batteries to the department for approval. A battery stewardship organization may submit a plan at any time to the department for review and approval. The department must review and may approve a plan based on whether it contains and adequately addresses the following components:

(a) Lists and provides contact information for each producer, battery brand, and battery-containing product brand covered in the plan;

(b) Proposes performance goals, consistent with section 6 of this act, including establishing performance goals for each of the next three upcoming calendar years of program implementation;

(c) Describes how the battery stewardship organization will make retailers aware of their obligation to sell only covered batteries and battery-containing products of producers participating in an approved plan;

(d) Describes the education and communications strategy being implemented to effectively promote participation in the approved covered battery stewardship program and provide the information necessary for effective participation of consumers, retailers, and others;

(e) Describes how the battery stewardship organization will make available to retailers, for voluntary use, in-store signage, written materials, and other promotional materials that retailers may use to inform customers of the available end-of-life management options for covered batteries collected by the battery stewardship organization;

(f) Lists promotional activities to be undertaken, and the identification of consumer awareness goals and strategies that the program will employ to achieve these goals after the program begins to be implemented;

(g) Includes collection site safety training procedures related to covered battery collection activities at collection sites, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire, and a protocol for safe management of damaged batteries that are returned to collection sites;

(h) Describes the method to establish and administer a means for fully funding the program in a manner that equitably distributes the program's costs among the producers that are part of the battery stewardship organization. For producers that elect to meet the requirements of this chapter individually, without joining a battery stewardship organization, the plan must describe the proposed method to establish and administer a means for fully funding the program;

(i) Describes the financing methods used to implement the plan, consistent with section 7 of this act, including how producer fees and fee modulation will incorporate design for recycling and resource conservation as objectives, and a template reimbursement agreement, developed in consultation with local governments and other program stakeholders;

(j) Describes how the program will collect all covered battery chemistries and brands on a free, continuous, convenient, visible, and accessible basis, and consistent with the requirements of section 8 of this act, including a description of how the statewide convenience standard will be met and a list of collection sites, including the address and latitude and longitude of collection sites;

(k) Describes the criteria to be used in the program to determine whether an entity may serve as a collection site for discarded batteries under the program;

(l) Establishes collection goals for each of the first three years of implementation of the battery stewardship plan that are based on the estimated total weight of primary and rechargeable covered batteries that have been sold in the state in the previous three calendar years by the producers participating in the battery stewardship plan;

(m) Identifies proposed brokers, transporters, processors, and facilities to be used by the program for the final disposition of batteries and how collected batteries will be managed in:

(i) An environmentally sound and socially just manner at facilities operating with human health and environmental protection standards that are broadly equivalent to or better than those required in the United States and other countries that are members of the battery stewardship organization for economic cooperation and development; and

(ii) A manner consistent with the battery management hierarchy, including how each proposed facility used for the final disposition of batteries will recycle or otherwise manage batteries;

(n) Details how the program will achieve a recycling efficiency rate, calculated consistent with section 10 of this act, of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries;

(o) Proposes goals for increasing public awareness of the program, including subgoals applicable to public awareness of the program in vulnerable populations and overburdened communities identified by the department under chapter 70A.02 RCW, and describes how the public education and outreach components of the program under section 9 of this act will be implemented; and

(p) Specifies procedures to be employed by a local government

seeking to coordinate with a battery stewardship organization pursuant to section 8(4)(c) of this act.

(2) If required by the department, a battery stewardship organization must submit a new plan to the department for approval:

(a) If there are significant changes to the methods of collection, transport, or end-of-life management of covered batteries under section 8 of this act that are not provided for in the plan. The department may, by rule, identify the types of significant changes that require a new plan to be submitted to the department for approval. For purposes of this subsection, adding or removing a processor or transporter under the plan is not considered a significant change that requires a plan resubmittal;

(b) To address the novel inclusion of medium format batteries or large format batteries as covered batteries under the plan; and

(c) No less than every five years.

(3) If required by the department, a battery stewardship organization must provide plan amendments to the department for approval:

(a) When proposing changes to the performance goals under section 6 of this act based on the up-to-date experience of the program;

(b) When there is a change to the method of financing plan implementation under section 7 of this act. This does not include changes to the fees or fee structure established in the plan; or

(c) When adding or removing a processor or transporter, as part of a quarterly update submitted to the department.

(4) As part of a quarterly update, a battery stewardship organization must notify the department after a producer begins or ceases to participate in a battery stewardship organization. The quarterly update submitted to the department must also include a current list of the producers and brands participating in the plan.

(5) No earlier than five years after the initial approval of a plan, the department may require a battery stewardship organization to submit a revised plan, which may include improvements to the collection site network or increased expenditures dedicated to education and outreach if the approved plan has not met the performance goals under section 6 of this act.

NEW SECTION. **Sec. 6.** STEWARDSHIP PROGRAM COMPONENTS—PERFORMANCE GOALS. (1) Each battery stewardship plan must include performance goals that measure, on an annual basis, the achievements of the program. Performance goals must take into consideration technical feasibility and economic practicality in achieving continuous, meaningful progress in improving:

(a) The rate of battery collection for recycling in Washington;

(b) The recycling efficiency of the program; and

(c) Public awareness of the program.

(2) The performance goals established in each battery stewardship plan must include, but are not limited to:

(a) Target collection rates;

(b) Target recycling efficiency rates of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries; and

(c) Goals for public awareness, convenience, and accessibility that meet or exceed the minimum requirements established in section 8 of this act.

NEW SECTION. **Sec. 7.** STEWARDSHIP PROGRAM COMPONENTS—FUNDING. (1) Each battery stewardship organization must ensure adequate funding is available to fully implement approved battery stewardship plans, including the implementation of aspects of the plan addressing:

(a) Battery collection, transporting, and processing;

(b) Education and outreach;

(c) Program evaluation; and

(d) Payment of the administrative fees to the department under section 11 of this act.

(2) A battery stewardship organization implementing a battery stewardship plan on behalf of producers must develop, and continually improve over the years of program implementation, a system to collect charges from participating producers to cover the costs of plan implementation in an environmentally sound and socially just manner that encourages the use of design attributes that reduce the environmental impacts of covered batteries, such as through the use of eco-modulated fees. Examples of fee structures that meet the requirements of this subsection include using eco-modulated fees to:

(a) Encourage designs intended to facilitate reuse and recycling;

(b) Encourage the use of recycled content;

(c) Discourage the use of problematic materials that increase system costs of managing covered batteries; and

(d) Encourage other design attributes that reduce the environmental impacts of covered batteries.

(3)(a) Except for costs incurred by a local government or local government facility exercising the authority specified in section 8(4)(c) of this act, each battery stewardship organization is responsible for all costs of participating covered battery collection, transportation, processing, education, administration, agency reimbursement, recycling, and end-of-life management in accordance with the battery management hierarchy and environmentally sound management practices.

(b) Each battery stewardship organization must meet the collection goals as specified in section 5 of this act.

(c) A battery stewardship organization is not authorized to reduce or cease collection, education and outreach, or other activities implemented under an approved plan based on achievement of program performance goals.

(4)(a) Except for costs incurred by a local government or local government facility exercising the authority granted by section 8(4)(c) of this act, a battery stewardship organization must reimburse local governments for demonstrable costs, as defined by rules adopted by the department, incurred as a result of a local government facility or solid waste handling facility serving as a collection site for a program including, but not limited to, associated labor costs and other costs associated with accessibility and collection site standards such as storage.

(b) Except as to the costs of containers and other materials and services requirements addressed by a local government or local government facility exercising the authority granted by section 8(4)(c) of this act, a battery stewardship organization shall at a minimum provide collection sites with appropriate containers for covered batteries subject to its program, training, signage, safety guidance, and educational materials, at no cost to the collection sites.

(c) A battery stewardship organization must include in its battery stewardship plan a template of the service agreement and any other forms, contracts, or other documents for use in distribution of reimbursements. The service agreement template must be developed with local government input. The entities seeking or receiving reimbursement from the battery stewardship organization are not required to use the template agreement included in the program plan and are not limited to the terms of the template agreement included in the program plan.

NEW SECTION. **Sec. 8.** STEWARDSHIP PROGRAM COMPONENTS—COLLECTION AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations implementing a battery stewardship plan must provide for the collection of all covered batteries, including all chemistries and brands of covered batteries, on a free, continuous, convenient,

visible, and accessible basis to any person, business, government agency, or nonprofit organization. Except as provided in subsection (2)(b) of this section, each battery stewardship plan must allow any person, business, government agency, or nonprofit organization to discard each chemistry and brand of covered battery at each collection site that counts towards the satisfaction of the collection site criteria in subsection (3) of this section.

(2)(a) Except for local government collection described in subsection (4)(c) of this section, for each collection site utilized by the program, each battery stewardship organization must provide suitable collection containers for covered batteries that are segregated from other solid waste or make mutually agreeable alternative arrangements for the collection of batteries at the site. The location of collection containers at each collection site used by the program must be within view of a responsible person and must be accompanied by signage made available to the collection site by the battery stewardship organization that informs customers regarding the end-of-life management options for batteries provided by the collection site under this chapter. Each collection site must adhere to the operations manual and other safety information provided to the collection site by the battery stewardship organization.

(b) Medium format batteries may only be collected at household hazardous waste collection sites or other sites that are staffed by persons who are certified to handle and ship hazardous materials under federal regulations adopted by the United States department of transportation pipeline and hazardous materials safety administration.

(c)(i) Damaged and defective batteries are intended to be collected at collection sites staffed by persons trained to handle and ship those batteries.

(ii) Each battery stewardship organization must provide for collection of damaged and defective batteries in each county of the state, either through collection sites or collection events with qualified staff as specified in (c)(i) of this subsection. Collection events should be provided periodically throughout the year where practicable, but must be provided at least once per year at a minimum, in each county in which there are not permanent collection sites providing for the collection of damaged and defective batteries.

(iii) As used in this subsection, "damaged and defective batteries" means batteries that have been damaged or identified by the manufacturer as being defective for safety reasons, that have the potential of producing a dangerous evolution of heat, fire, or short circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1, 2023, or as updated by the department by rule to maintain consistency with federal standards.

(3)(a) Each battery stewardship organization implementing a battery stewardship plan shall ensure statewide collection opportunities for all covered batteries. Battery stewardship organizations shall coordinate activities with other program operators, including covered battery collection and recycle programs and electronic waste recyclers, with regard to the proper management or recycling of collected covered batteries, for purposes of providing the efficient delivery of services and avoiding unnecessary duplication of effort and expense. Statewide collection opportunities must be determined by geographic information modeling that considers permanent collection sites. A program may rely, in part, on collection events to supplement the permanent collection services required in (a) and (b) of this subsection. However, only permanent collection services specified in (a) and (b) of this subsection qualify towards the satisfaction of the requirements of this subsection.

(b) For portable batteries, each battery stewardship organization must provide statewide collection opportunities that include, but are not limited to, the provision of:

(i) At least one permanent collection site for portable batteries within a 15 mile radius for at least 95 percent of Washington residents;

(ii) The establishment of collection sites that are accessible and convenient to overburdened communities identified by the department under chapter 70A.02 RCW, in an amount that is roughly proportional to the number and population of overburdened communities identified by the department under chapter 70A.02 RCW relative to the population or size of the state as a whole;

(iii) At least one permanent collection site for portable batteries in addition to those required in (b)(i) of this subsection for every 30,000 residents of each urban area in this state. For the purposes of compliance with this subsection (3)(b)(iii), a battery stewardship organization and the department may rely upon new or updated designations of urban locations by the United States census bureau that are determined by the department to be similar to the definition of urban areas in section 2 of this act;

(iv) Collection opportunities for portable batteries at special locations where batteries are often spent and replaced, such as supervised locations at parks with stores and campgrounds; and

(v) Service to areas without a permanent collection site, including service to island and geographically isolated communities without a permanent collection site.

(c) For medium format batteries, a battery stewardship organization must provide statewide collection opportunities that include, but are not limited to, the provision of:

(i) At least 25 permanent collection sites in Washington;

(ii) Reasonable geographic dispersion of collection sites throughout the state;

(iii) A collection site in each county of at least 200,000 persons, as determined by the most recent population estimate of the office of financial management;

(iv) The establishment of collection sites that are accessible to public transit and that are convenient to overburdened communities identified by the department under chapter 70A.02 RCW; and

(v) Service to areas without a permanent collection site, including service to island and geographically isolated communities. A battery stewardship organization must ensure that there is a collection site or annual collection event in each county of the state. Collection events should be provided periodically throughout the year where practicable, but must be provided at least once per year at a minimum in each county in which there are not permanent collection sites providing for the collection of damaged and defective batteries.

(4)(a) Battery stewardship programs must use existing public and private waste collection services and facilities, including battery collection sites that are established through other battery collection services, transporters, consolidators, processors, and retailers, where cost-effective, mutually agreeable, and otherwise practicable.

(b)(i) Battery stewardship programs must use as a collection site for covered batteries any retailer, wholesaler, municipality, solid waste management facility, or other entity that meets the criteria for collection sites in the approved plan, upon the submission of a request by the entity to the battery stewardship organization to serve as a collection site.

(ii) Battery stewardship programs must use as a site for a collection event for covered batteries any retailer, wholesaler, municipality, solid waste management facility, or other entity that meets the criteria for collection events in the approved plan, upon the submission of a request by the entity to the battery

stewardship organization to serve as a site for a collection event. A signed agreement between a battery stewardship organization and the entity requesting to hold a collection event must be established at least 60 days prior to any collection of covered batteries under a stewardship program. All costs associated with collection events initiated by an entity other than a battery stewardship organization are the sole responsibility of the entity unless otherwise agreed upon by a battery stewardship organization. A collection event under this subsection (4)(b)(ii) must allow any person to discard each chemistry and brand of covered battery at the collection event.

(c)(i) A local government facility may collect batteries at its own expense through a collection site or temporary collection event that is not a collection site or event under the program implemented by a battery stewardship organization. A local government facility that collects covered batteries under this subsection must, in accordance with procedures set forth in battery stewardship organization plans approved by the department:

(A) Notify battery stewardship organizations of the local government facility's decision to operate a collection site that is not a collection site under a program established under this chapter;

(B) Collect each chemistry and brand of covered battery at its collection site or sites;

(C) Collect, sort, and package collected materials in a manner that meets the standards established in a battery stewardship organization plan approved by the department;

(D) Either provide the collected batteries to the battery stewardship organization in lawful transportation containers for it to transfer the collected batteries at a processing facility the battery stewardship organization has approved, or transport to, or arrange for the transportation of collected batteries for processing at a facility that a battery stewardship organization has approved under a plan approved by the department.

(ii) A local government facility that collects materials at a collection site or temporary collection event operating outside of a battery stewardship program must also report, to a battery stewardship organization, information necessary for the battery stewardship organization to fulfill its reporting obligations under section 10 of this act. A battery stewardship organization may count materials collected by a local government facility under this subsection (4)(c) towards the achievement of performance requirements established in section 6 of this act.

(d) A battery stewardship organization may suspend or terminate a collection site or service that does not adhere to the collection site criteria in the approved plan or that poses an immediate health and safety concern.

(5)(a) Stewardship programs are not required to provide for the collection of battery-containing products.

(b) Stewardship programs are not required to provide for the collection of batteries that:

(i) Are not easily removable from the product other than by the manufacturer; and

(ii) Remain contained in a battery-containing product at the time of delivery to a collection site.

(c) Stewardship programs are required to provide for the collection of loose batteries.

(d) Stewardship programs are not required to provide for the collection of batteries still contained in covered electronic products under chapter 70A.500 RCW.

(6) Batteries collected by the program must be managed consistent with the battery management hierarchy. Lower priority end-of-life battery management options on the battery management hierarchy may be used by a program only when a battery stewardship organization documents to the department that all higher priority battery management options on the battery management hierarchy are not technologically feasible or economically practical.

NEW SECTION. **Sec. 9.** STEWARDSHIP PROGRAM COMPONENTS—EDUCATION AND OUTREACH REQUIREMENTS. (1) Each battery stewardship organization must carry out promotional activities in support of plan implementation including, but not limited to, the development:

(a) And maintenance of a website;

(b) And distribution of periodic press releases and articles;

(c) And placement of advertisements for use on social media or other relevant media platforms;

(d) Of promotional materials about the program and the restriction on the disposal of covered batteries in section 15 of this act to be used by retailers, government agencies, and nonprofit organizations;

(e) And distribution of collection site safety training procedures that are in compliance with state law to collection sites to help ensure proper management of covered batteries at collection sites; and

(f) And implementation of outreach and educational resources targeted to overburdened communities and vulnerable populations identified by the department under chapter 70A.02 RCW that are conceptually, linguistically, and culturally accurate for the communities served and reach the state's diverse ethnic populations, including through meaningful consultation with communities that bear disproportionately higher levels of adverse environmental and social justice impacts.

(2) Each battery stewardship organization must provide:

(a) Consumer-focused educational promotional materials to each collection site used by the program and accessible by customers of retailers that sell covered batteries or battery-containing products; and

(b) Safety information related to covered battery collection activities to the operator of each collection site, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire.

(3)(a) Each battery stewardship organization must provide educational materials to the operator of each collection site for the management of recalled batteries, which are not intended to be part of collection as provided under section 8 of this act, to help facilitate transportation and processing of recalled batteries.

(b) A battery stewardship organization may seek reimbursement from the producer of the recalled battery for expenses incurred in the collection, transportation, or processing of those batteries.

(4) Upon request by a retailer, the battery stewardship organization must provide the retailer educational materials describing collection opportunities for batteries.

(5) If multiple battery stewardship organizations are implementing plans approved by the department, the battery stewardship organizations must coordinate in carrying out their education and outreach responsibilities under this section and must include in their annual reports to the department under section 10 of this act a summary of their coordinated education and outreach efforts.

(6) During the first year of program implementation and every five years thereafter, each battery stewardship organization must carry out a survey of public awareness regarding the requirements of the program established under this chapter, including the provisions of section 15 of this act. Each battery stewardship organization must share the results of the public awareness surveys with the department.

NEW SECTION. **Sec. 10.** REPORTING

REQUIREMENTS. (1) By June 1, 2028, and each June 1st thereafter, each battery stewardship organization must submit an annual report to the department covering the preceding calendar year of battery stewardship plan implementation. The report must include:

(a) An independent financial assessment of a program implemented by the battery stewardship organization, including a breakdown of the program's expenses, such as collection, recycling, education, and overhead, when required by the department;

(b) A summary financial statement documenting the financing of a battery stewardship organization's program and an analysis of program costs and expenditures, including an analysis of the program's expenses, such as collection, transportation, recycling, education, and administrative overhead. The summary financial statement must be sufficiently detailed to provide transparency that funds collected from producers as a result of their activities in Washington are spent on program implementation in Washington. Battery stewardship organizations implementing similar battery stewardship programs in multiple states may submit a financial statement including all covered states, as long as the statement breaks out financial information pertinent to Washington;

(c) The weight, by chemistry, of covered batteries collected under the program;

(d) The weight of materials recycled from covered batteries collected under the program, in total, and by method of battery recycling;

(e) A calculation of the recycling efficiency rates, as measured consistent with subsection (2) of this section;

(f) For each facility used for the final disposition of batteries, a description of how the facility recycled or otherwise disposed of batteries and battery components;

(g) The weight and chemistry of batteries sent to each facility used for the final disposition of batteries. The information in this subsection (1)(g) may be approximated for program operations in Washington based on extrapolations of national or regional data for programs in operation in multiple states;

(h) The collection rate achieved under the program, including a description of how this collection rate was calculated;

(i) The estimated aggregate sales, by weight and chemistry, of batteries and batteries contained in or with battery-containing products sold in Washington by participating producers for each of the previous three calendar years;

(j) A description of the manner in which the collected batteries were managed and recycled, including a discussion of best available technologies and the recycling efficiency rate;

(k) A description of education and outreach efforts supporting plan implementation including, but not limited to, a summary of education and outreach provided to consumers, collection sites, manufacturers, distributors, and retailers by the program operator for the purpose of promoting the collection and recycling of covered batteries, a description of how that education and outreach met the requirements of section 9 of this act, samples of education and outreach materials, a summary of coordinated education and outreach efforts with any other battery stewardship organizations implementing a plan approved by the department, and a summary of any changes made during the previous calendar year to education and outreach activities;

(l) A list of all collection sites and accompanying latitude and longitude data and an address for each listed site, and an up-to-date map indicating the location of all collection sites used to implement the program, with links to appropriate websites where there are existing websites associated with a site;

(m) A description of methods used to collect, transport, and recycle covered batteries by the battery stewardship organization;

(n) A summary on progress made towards the program performance goals established under section 6 of this act, and an explanation of why performance goals were not met, if applicable; and

(o) An evaluation of the effectiveness of education and outreach activities.

(2) The weight of batteries or recovered resources from those batteries must only be counted once and may not be counted by more than one battery stewardship organization.

(3) In addition to the requirements of subsection (1) of this section, with respect to each facility used in the processing or disposition of batteries collected under the program, the battery stewardship organization must report:

(a) Whether the facility is located domestically, in an organization for economic cooperation and development country, or in a country that meets organization for economic cooperation and development operating standards; and

(b) What facilities processed the batteries, including a summary of any violations of environmental or labor laws and regulations over the previous three years at each facility.

(4) If a battery stewardship organization has disposed of covered batteries though energy recovery, incineration, or landfilling during the preceding calendar year of program implementation, the annual report must specify the steps that the battery stewardship organization will take to make the recycling of covered batteries cost-effective, where possible, or to otherwise increase battery recycling rates achieved by the battery stewardship organization.

(5) A producer or battery stewardship organization that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director of the department, or the appropriate division of the department. The director of the department must consider the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1) The department must adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter. The department must by rule establish fees, to be paid annually by a battery stewardship organization, that are adequate to cover the department's full costs of implementing, administering, and enforcing this chapter and allocates costs between battery stewardship organizations, if applicable. All fees must be based on costs related to implementing, administering, and enforcing this chapter, not to exceed expenses incurred by the department for these activities.

(2) The responsibilities of the department in implementing, administering, and enforcing this chapter include, but are not limited to:

(a) Reviewing submitted stewardship plans and plan amendments and making determinations as to whether to approve the plan or plan amendment;

(i) The department must provide a letter of approval for the plan or plan amendment if it provides for the establishment of a stewardship program that meets the requirements of sections 3 through 9 of this act;

(ii) If a plan or plan amendment is rejected, the department must provide the reasons for rejecting the plan to the battery stewardship organization. The battery stewardship organization must submit a new plan within 60 days after receipt of the letter of disapproval; and

(iii) When a plan or an amendment to an approved plan is submitted under this section, the department shall make the proposed plan or amendment available for public review and comment for at least 30 days;

(b) Reviewing annual reports submitted under section 10 of this act within 90 days of submission to ensure compliance with that section;

(c)(i) Maintaining a website that lists producers and their brands that are participating in an approved plan, and that makes available to the public each plan, plan amendment, and annual report received by the department under this chapter;

(ii) Upon the date the first plan is approved, the department must post on its website a list of producers and their brands for which the department has approved a plan. The department must update the list of producers and brands participating under an approved program plan based on information provided to the department from battery stewardship organizations; and

(d) Providing technical assistance to producers and retailers related to the requirements of this chapter and issuing orders or imposing civil penalties authorized under section 12 of this act where the technical assistance efforts do not lead to compliance by a producer or retailer.

(3) Beginning January 1, 2032, and every five years thereafter, after consultation with battery stewardship organizations, the department may by rule increase the minimum recycling efficiency rates established in section 6 of this act based on the most economically and technically feasible processes and methodology available.

NEW SECTION. **Sec. 12.** PENALTIES AND CIVIL ACTION PROVISIONS. (1)(a) A battery stewardship organization implementing an approved plan may bring a civil action or actions to recover costs, damages, and fees, as specified in this section, from a producer who sells or otherwise makes available in Washington covered batteries or battery-containing products not included in an approved plan in violation of the requirements of this chapter. An action under this section may be brought against one or more defendants. An action may only be brought against a defendant producer when the stewardship program incurs costs in Washington, including reasonable incremental administrative and program promotional costs, in excess of $1,000 to collect, transport, and recycle or otherwise dispose of the covered batteries or battery-containing products of a nonparticipating producer.

(b) A battery stewardship organization may bring a civil action against a producer of a recalled battery to recover costs associated with handling a recalled battery.

(c) A battery stewardship organization implementing an approved stewardship plan may bring a civil action against another battery stewardship organization that under performs on its battery collection obligations under this chapter by failing to collect and provide for the end-of-life management of batteries in an amount roughly equivalent to costs imposed on the plaintiff battery stewardship organization by virtue of the failures of the defendants, plus legal fees and expenses.

(d) The remedies provided in this subsection are in addition to the enforcement authority of the department and do not limit and are not limited by a decision by the department to impose a civil penalty or issue an order under subsection (2) of this section. The department is not required to audit, participate in, or provide assistance to a battery stewardship organization pursuing a civil action authorized under this subsection.

(2)(a) The department may administratively impose a civil penalty on a person who violates this chapter in an amount of up to $1,000 per violation per day.

(b) The department may administratively impose a civil penalty of up to $10,000 per violation per day on a person for repeated violations of this chapter or failure to comply with an order issued under (c) of this subsection.

(c) Whenever on the basis of any information the department determines that a person has violated or is in violation of this chapter, the department may issue an order requiring compliance. A person who fails to take corrective action as specified in a compliance order is liable for a civil penalty as provided in (b) of this subsection, without receiving a written warning prescribed in (e) of this subsection.

(d) A person who is issued an order or incurs a penalty under this section may appeal the order or penalty to the pollution control hearings board established by chapter 43.21B RCW.

(e) Prior to imposing penalties under this section, the department must provide a producer, retailer, or battery stewardship organization with a written warning for the first violation by the producer, retailer, or battery stewardship organization of the requirements of this chapter. The written warning must inform a producer, retailer, or battery stewardship organization that it must participate in an approved plan or otherwise come into compliance with the requirements of this chapter within 30 days of the notice. A producer, retailer, or battery stewardship organization that violates a provision of this chapter after the initial written warning may be assessed a penalty as provided in this subsection.

(3) Penalties levied under subsection (2) of this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(4) No penalty may be assessed on an individual or resident for the improper disposal of covered batteries as described in section 15 of this act in a noncommercial or residential setting.

NEW SECTION. **Sec. 13.** RESPONSIBLE BATTERY MANAGEMENT ACCOUNT. The responsible battery management account is created in the custody of the state treasurer. All receipts from fees paid under this chapter must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Moneys in the account may be used solely by the department for administering, implementing, and enforcing the requirements of this chapter. Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

NEW SECTION. **Sec. 14.** MARKING REQUIREMENTS FOR BATTERIES. (1) Beginning January 1, 2028, a producer or retailer may only sell, distribute, or offer for sale in or into Washington a large format battery, covered battery, or battery-containing product that contains a battery that is designed or intended to be easily removable from the product, if the battery is:

(a) Marked with an identification of the producer of the battery, unless the battery is less than one-half inch in diameter or does not contain a surface whose length exceeds one-half inch; and

(b) Beginning January 1, 2030, marked with proper labeling to ensure proper collection and recycling, by identifying the chemistry of the battery and including an indication that the battery should not be disposed of as household waste.

(2) A producer shall certify to its customers, or to the retailer if the retailer is not the customer, that the requirements of this section have been met, as provided in section 4 of this act.

(3) The department may amend, by rule, the requirements of subsection (1) of this section to maintain consistency with the labeling requirements or voluntary standards for batteries established in federal law.

NEW SECTION. **Sec. 15.** GENERAL BATTERY DISPOSAL AND COLLECTION REQUIREMENTS. Effective July 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented under this chapter by a battery stewardship organization, whichever comes first:

(1) All persons must dispose of unwanted covered batteries through one of the following disposal options:

(a) Disposal using the collection sites established by or included in the programs created by this chapter;

(b) For covered batteries generated by persons that are regulated generators of covered batteries under federal or state hazardous or solid waste laws, disposal in a manner consistent with the requirements of those laws; or

(c) Disposal using local government collection facilities that collect batteries consistent with section 8(4)(c) of this act.

(2)(a) A fee may not be charged at the time unwanted covered batteries are delivered or collected for management.

(b) All covered batteries may only be collected, transported, and processed in a manner that meets the standards established for a battery stewardship organization in a plan approved by the department, unless the batteries are being managed as described in subsection (1)(b) of this section.

(3) A person may not place covered batteries in waste containers for disposal at incinerators, waste to energy facilities, or landfills.

(4) A person may not place covered batteries in or on a container for mixed recyclables unless there is a separate location or compartment for the covered battery that complies with local government collection standards or guidelines.

(5) An owner or operator of a solid waste facility may not be found in violation of this section if the facility has posted in a conspicuous location a sign stating that covered batteries must be managed through collection sites established by a battery stewardship organization and are not accepted for disposal.

(6) A solid waste collector may not be found in violation of this section for a covered battery placed in a disposal container by the generator of the covered battery.

NEW SECTION. **Sec. 16.** DEPARTMENT ASSESSMENT OF LARGE FORMAT BATTERIES, MEDICAL DEVICES, LEAD ACID BATTERIES, AND BATTERY-CONTAINING PRODUCTS AND THEIR BATTERIES. (1) By July 1, 2027, the department must complete an assessment of the opportunities and challenges associated with the end-of-life management of batteries that are not covered batteries, including:

(a) Large format batteries;

(b) Lead acid batteries that are greater than 11 pounds or are subject to the provisions of RCW 70A.205.505 through 70A.205.530;

(c) Batteries contained in medical devices, as specified in Title 21 U.S.C. Sec. 360c as it existed as of the effective date of this section that are not designed and marketed for sale or resale principally to consumers for personal use; and

(d) Batteries not intended or designed to be easily removed by a customer that are contained in battery-containing products, including medical devices, and in electronic products that are not covered electronic products managed under an approved plan implemented under chapter 70A.500 RCW.

(2) The department must consult with the department of commerce and interested stakeholders in completing the assessment, including consultation with overburdened communities and vulnerable populations identified by the department under chapter 70A.02 RCW. The assessment must identify any needed adjustments to the stewardship program requirements established in this chapter that are necessary to maximize public health, safety, and environmental benefits, such as battery reuse.

(3) The assessment must consider:

(a) The different categories and uses of batteries and battery-containing products listed in subsection (1) of this section;

(b) The current economic value and reuse or recycling potential of large format batteries or large format battery components and a summary of studies examining the environmental and equity implications of displacing demand for new rare earth materials, critical materials, and other conflict materials through the reuse and recycling of batteries;

(c) The current methods by which unwanted batteries and battery-containing products listed in subsection (1) of this section are managed in Washington and nearby states and provinces;

(d) Challenges posed by the potential collection, management, and transport of batteries and battery-containing products listed in subsection (1) of this section, including challenges associated with removing batteries that were not intended or designed to be easily removable from products, other than by the manufacturer; and

(e) Which criteria of this chapter should apply to batteries and battery-containing products listed in subsection (1) of this section in a manner that is identical or analogous to the requirements applicable to covered batteries.

(4) By October 1, 2027, the department must submit a report to the appropriate committees of the legislature containing the findings of the assessment required in this section.

NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RECOMMENDATIONS FOR MANAGEMENT OF ELECTRIC VEHICLE BATTERIES. (1) By November 30, 2023, the department of ecology must submit a report to the appropriate committees of the legislature on preliminary policy recommendations for the collection and management of electric vehicle batteries. By April 30, 2024, the department of ecology must report to the appropriate committees of the legislature on final policy recommendations for the collection and management of electric vehicle batteries.

(2) In developing the recommendations under subsection (1) of this section, the department of ecology must:

(a) Solicit input from representatives of automotive wrecking and salvage yards, solid waste collection and processing companies, local governments, environmental organizations, electric vehicle manufacturers, and any other interested parties; and

(b) Examine best practices in other states and jurisdictions.

NEW SECTION. **Sec. 18.** ANTITRUST. Producers or battery stewardship organizations acting on behalf of producers that prepare, submit, and implement a battery stewardship program plan pursuant to this chapter and who are thereby subject to regulation by the department are granted immunity from state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade and commerce, for the limited purpose of planning, reporting, and operating a battery stewardship program, including:

(1) The creation, implementation, or management of a battery stewardship organization and any battery stewardship plan regardless of whether it is submitted, denied, or approved;

(2) The determination of the cost and structure of a battery stewardship plan; and

(3) The types or quantities of batteries being recycled or otherwise managed pursuant to this chapter.

NEW SECTION. **Sec. 19.** AUTHORITY OF THE UTILITIES AND TRANSPORTATION COMMISSION. Nothing in this chapter changes or limits the authority of the

Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide the service itself or by contract under RCW 81.77.020.

Sec. 20. 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 12 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, section 12 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under 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.

Sec. 21. RCW 43.21B.300 and 2022 c 180 s 813 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 12 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority 30 days after the date of receipt by the person penalized of the notice imposing the penalty or 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) ((~~Thirty~~)) 30 days after receipt of the notice imposing the penalty;

(b) ((~~Thirty~~)) 30 days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) ((~~Thirty~~)) 30 days after receipt of the notice of decision of

the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within 30 days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.245.040 and 70A.245.050, which shall be credited to the recycling enhancement account created in RCW 70A.245.100, RCW 70A.300.090 and section 12 of this act, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 70A.65.200, which shall be credited to the climate investment account created in RCW 70A.65.250, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

NEW SECTION. **Sec. 22.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to the receipts of a battery stewardship organization formed under chapter 70A.--- RCW (the new chapter created in section 23 of this act) from charges to participating producers under a battery stewardship program as provided in section 7 of this act.

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

NEW SECTION. **Sec. 23.** CODIFICATION. Sections 1 through 16, 18, and 19 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. **Sec. 24.** SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Stanford moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5144.

Senators Stanford and MacEwen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Stanford that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5144.

The motion by Senator Stanford carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5144 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5144, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5144, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 6; Absent, 0; Excused, 3.

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

Voting nay: Senators Fortunato, McCune, Padden, Schoesler, Short and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5144, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 6, 2023

MR. PRESIDENT:
The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5152 with the following amendment(s): 5152-S.E AMH ENGR H1820.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The definitions used in chapter 42.17A RCW apply throughout this chapter unless the context clearly requires otherwise.

NEW SECTION. **Sec. 2.** (1) For purposes of this section "synthetic media" means an image, an audio recording, or a video recording of an individual's appearance, speech, or conduct that has been intentionally manipulated with the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false image, audio, or video that produces:

(a) A depiction that to a reasonable individual is of a real individual in appearance, action, or speech that did not actually occur in reality; and

(b) A fundamentally different understanding or impression of the appearance, action, or speech than a reasonable person would have from the unaltered, original version of the image, audio recording, or video recording.

(2) A candidate whose appearance, action, or speech is altered through the use of a synthetic media in an electioneering communication may seek injunctive or other equitable relief prohibiting the publication of such synthetic media.

(3) A candidate whose appearance, action, or speech is altered through the use of a synthetic media in an electioneering communication may bring an action for general or special damages against the sponsor. The court may also award a prevailing party reasonable attorneys' fees and costs. This subsection does not limit or preclude a plaintiff from securing or

recovering any other available remedy.

(4) It is an affirmative defense for any action brought under this section that the electioneering communication containing a synthetic media includes a disclosure stating, "This (image/video/audio) has been manipulated," in the following manner:

(a) For visual media, the text of the disclosure must appear in size easily readable by the average viewer and no smaller than the largest font size of other text appearing in the visual media. If the visual media does not include any other text, the disclosure must appear in a size that is easily readable by the average viewer. For visual media that is a video, the disclosure must appear for the duration of the video; or

(b) If the media consists of audio only, the disclosure must be read in a clearly spoken manner and in a pitch that can be easily heard by the average listener, at the beginning of the audio, at the end of the audio, and, if the audio is greater than two minutes in length, interspersed within the audio at intervals of not more than two minutes each.

(5) In any action commenced under this section, the plaintiff bears the burden of establishing the use of synthetic media by clear and convincing evidence.

(6) Courts are encouraged to determine matters under this section expediently.

NEW SECTION. **Sec. 3.** (1) For an action brought under section 2 of this act, the sponsor of the electioneering communication may be held liable, and not the medium disseminating the electioneering communication except as provided in subsection (2) of this section.

(2) Except when a licensee, programmer, or operator of a federally licensed broadcasting station transmits an electioneering communication that is subject to 47 U.S.C. Sec. 315, a medium may be held liable in a cause of action brought under section 2 of this act if:

(a) The medium removes any disclosure described in section 2(4) of this act from the electioneering communication it disseminates; or

(b) Subject to affirmative defenses described in section 2 of this act, the medium changes the content of an electioneering communication such that it qualifies as synthetic media, as defined in section 2 of this act.

(3)(a) No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. However, an interactive computer service may be held liable in accordance with subsection (2) of this section.

(b) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

(c) "Information content provider" means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the internet or any other interactive computer service.

NEW SECTION. **Sec. 4.** The public disclosure commission must adopt rules in furtherance of the purpose of this chapter. Nothing in this chapter constitutes a violation under chapter 42.17A RCW, or otherwise authorizes the public disclosure commission to take action under RCW 42.17A.755.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute a new chapter in Title 42 RCW.

NEW SECTION. **Sec. 6.** 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."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Valdez moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5152.

Senators Valdez and Fortunato spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Valdez that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5152.

The motion by Senator Valdez carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5152 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5152, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5152, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 14; Absent, 0; Excused, 3.

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

Voting nay: Senators Boehnke, Dozier, Fortunato, Hawkins, Holy, MacEwen, McCune, Padden, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5152, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 5, 2023

MR. PRESIDENT:
The House passed SENATE BILL NO. 5153 with the following amendment(s): 5153 AMH SGOV H1788.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.08 RCW to read as follows:

Information that is otherwise disclosable under this chapter cannot be disclosed for a future voter until the person reaches 18 years of age, or until the person is eligible to participate in the next presidential primary, primary, or election. This information is exempt from public inspection and copying under chapter 42.56 RCW. Information may be disclosed for the purpose of processing and delivering ballots.

Sec. 2. RCW 29A.04.070 and 2018 c 109 s 2 are each amended to read as follows:

"Future voter" means a United States citizen and Washington state resident, age sixteen or seventeen, who ((~~wishes to provide~~)) has provided information related to voter registration to the appropriate state agencies.

Sec. 3. RCW 29A.08.170 and 2020 c 208 s 15 are each amended to read as follows:

(1) A person may sign up to register to vote if he or she is sixteen or seventeen years of age, as part of the future voter program.

(2) A person who signs up to register to vote may not vote until reaching eighteen years of age unless the person is seventeen years of age at the primary election or presidential primary election and will be eighteen years of age by the general election.

(3) A person who signs up to register to vote may not be added to the statewide voter registration ((~~database~~)) list of voters until such time as he or she will be eligible to vote in the next election.

Sec. 4. RCW 29A.08.174 and 2020 c 208 s 17 are each amended to read as follows:

(1) A person who has attained sixteen years of age and has a valid Washington state driver's license or identicard may sign up to register to vote as part of the future voter program, by submitting a voter registration application electronically on the secretary of state((~~'s~~)) website.

(2) The applicant must attest to the truth of the information provided on the application by affirmatively accepting the information as true.

(3) If signing up to register electronically, the applicant must affirmatively assent to the use of his or her driver's license or identicard signature for voter registration purposes.

(4) The applicant must affirmatively acknowledge that he or she will not vote in a special or general election until his or her eighteenth birthday, and will only vote in a primary election or presidential primary election if he or she will be eighteen years of age by the general election.

(5) For each electronic registration application, the secretary of state must obtain a digital copy of the applicant's driver's license or identicard signature from the department of licensing.

(6) The secretary of state may employ additional security measures to ensure the accuracy and integrity of voter preregistration applications submitted electronically.

Sec. 5. RCW 29A.08.330 and 2020 c 208 s 5 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the service agent shall ask the following:

(a) "Are you a United States citizen?"

(b) "Are you at least sixteen years old?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to sign up to vote, register to vote, or update a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration application.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

(5) Each designated agency shall transmit the applications to the secretary of state or appropriate county auditor within three business days and must be received by the election official by the required voter registration deadline.

(6) ((~~Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

Sec. 6. RCW 29A.08.615 and 2018 c 109 s 9 are each amended to read as follows:

(1) Registered voters are divided into two categories, "active" and "inactive." All registered voters are classified as active, unless assigned to inactive status by the county auditor.

(2) Persons signing up to register to vote as future voters as defined under RCW 29A.04.070 are classified as "pending" until the person will be at least eighteen years of age by the next election, or eligible to participate in the next presidential primary or primary under RCW 29A.08.110 or 29A.08.170.

Sec. 7. RCW 29A.08.710 and 2018 c 109 s 10 are each amended to read as follows:

(1) The county auditor shall have custody of the original voter registration records and voter registration sign up records for each county. The original voter registration form must be filed without regard to precinct and is considered confidential and unavailable for public inspection and copying. An automated file of all registered voters must be maintained pursuant to RCW 29A.08.125. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(2)(a) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying, except as provided in RCW 40.24.060 and (b) of this subsection: The voter's name, address, political jurisdiction, gender, date of birth, voting record, date of registration, and registration number. No other information from voter registration records or files is available for public inspection or copying.

(b) ((~~The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

Sec. 8. RCW 29A.08.720 and 2018 c 110 s 206 and 2018 c 109 s 11 are each reenacted and amended to read as follows:

(1) In the case of voter registration records received through the health benefit exchange, the department of licensing, or an agency designated under RCW 29A.08.310, the identity of the office or agency at which any particular individual registered to vote must be used only for voter registration purposes, is not available for public inspection, and shall not be disclosed to the

public. Any record of a particular individual's choice not to register to vote at an office of the department of licensing or a state agency designated under RCW 29A.08.310 is not available for public inspection and any information regarding such a choice by a particular individual shall not be disclosed to the public. ((~~Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.~~))

(2) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

(3)(a) Subject to the restrictions of RCW 29A.08.710 and 40.24.060, and (b) of this subsection, precinct lists and current lists of registered voters are public records and must be made available for public inspection and copying under such reasonable rules and regulations as the county auditor or secretary of state may prescribe. The county auditor or secretary of state shall promptly furnish current lists of registered voters in his or her possession, at actual reproduction cost, to any person requesting such information. The lists shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. However, the lists and labels may be used for any political purpose. The county auditor or secretary of state must provide a copy of RCW 29A.08.740 to the person requesting the material that is released under this section.

(b) ((~~The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.~~

~~(3)~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

(4) For the purposes of this section, "political purpose" means a purpose concerned with the support of or opposition to any candidate for any partisan or nonpartisan office or concerned with the support of or opposition to any ballot proposition or issue. "Political purpose" includes, but is not limited to, such activities as the advertising for or against any candidate or ballot measure or the solicitation of financial support.

Sec. 9. RCW 29A.08.760 and 2018 c 109 s 12 are each amended to read as follows:

The secretary of state shall provide a duplicate copy of the master statewide computer file or electronic data file of registered voters to the consolidated technology services agency for purposes of creating the jury source list without cost. The information contained in a voter registration application is exempt from inclusion until the applicant reaches age eighteen. ((~~Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act. Restrictions as to the commercial use of the information on the statewide computer ((~~tape or~~)) data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29A.08.720 and 29A.08.740.

Sec. 10. RCW 29A.08.770 and 2018 c 109 s 19 are each amended to read as follows:

The secretary of state and each county auditor shall maintain for at least two years and shall make available for public inspection and copying all records concerning the implementation of programs and activities conducted for the purpose of insuring the accuracy and currency of official lists of eligible voters. These records must include lists of the names and addresses of all persons to whom notices are sent and information concerning whether or not each person has responded to the notices. These records must contain lists of all persons removed from the list of eligible voters and the reasons why the voters were removed. ((~~The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

Sec. 11. RCW 29A.80.041 and 2020 c 208 s 19 are each amended to read as follows:

(1) Any member of a major political party who is a registered voter in the precinct and who will be at least eighteen years old by the date of the precinct committee officer election may file his or her declaration of candidacy as prescribed under RCW 29A.24.031 with the county auditor for the office of precinct committee officer of his or her party in that precinct.

(2) Disclosure of filing information for precinct committee officer candidates who have not reached the age of 18 is the same as all candidates for precinct committee officer.

(3) When elected at the primary, the precinct committee officer shall serve so long as the committee officer remains an eligible voter in that precinct.

Sec. 12. RCW 46.20.155 and 2018 c 109 s 15 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the agent shall ask the following:

(1) "Are you a United States citizen?"

(2) "Are you at least eighteen years old or are you at least sixteen years old and will you vote only after you turn eighteen?"

If the applicant answers in the affirmative to both questions, the agent shall then submit the registration, sign up form, or update. If the applicant answers in the negative to either question, the agent shall not submit an application.

(2) Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed ((~~on the~~)) for a future voter until the person reaches eighteen years of age((~~, except~~)) or until the person is eligible to participate in the next presidential primary, primary, or election, or for the purpose of processing and delivering ballots.

(((~~(2)~~))) (3) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

Sec. 13. RCW 46.20.155 and 2020 c 208 s 8 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the agent shall ask the following:

(((~~(1)~~))) "Are you a United States citizen?"

(((~~(2) "Are you at least sixteen years old?"~~)))

If the applicant answers in the affirmative ((~~to both questions~~)),

the agent shall then submit the registration, sign up form, or update. If the applicant answers in the negative to ((~~either~~)) the question, the agent shall not submit an application.

(2) Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed ((~~on the~~)) for a future voter until the person reaches eighteen years of age((~~, except~~)) or until the person is eligible to participate in the next presidential primary, primary, or election, or for the purpose of processing and delivering ballots.

((~~(2)~~)) (3) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

Sec. 14. RCW 42.56.230 and 2021 c 89 s 1 are each amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of children, youth, and families;

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs;

(iii) For the family members or guardians of a child who is subject to the exemption under this subsection (2) if the family member or guardian has the same last name as the child or if the family member or guardian resides at the same address as the child and disclosure of the family member's or guardian's information would result in disclosure of the personal information exempted under (a)(i) and (ii) of this subsection; or

(iv) For substitute caregivers who are licensed or approved to provide overnight care of children by the department of children, youth, and families.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in (c) of this subsection (7) and this subsection (7)(d) that is subject to public disclosure;

(8) All information related to individual claim resolution settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals. The board of industrial insurance appeals shall provide to the department of labor and industries copies of all final claim resolution settlement agreements;

(9) Voluntarily submitted information contained in a database that is part of or associated with enhanced 911 emergency communications systems, or information contained or used in emergency notification systems as provided under RCW 38.52.575 and 38.52.577;

(10) ((~~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~~)) Information relating to a future voter, as provided in section 1 of this act;

(11) All information submitted by a person to the state, either directly or through a state-licensed gambling establishment, or Indian tribes, or tribal enterprises that own gambling operations or facilities with class III gaming compacts, as part of the self-exclusion program established in RCW 9.46.071 or 67.70.040 for people with a gambling problem or gambling disorder; and

(12) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program under RCW 43.43.920.

Sec. 15. RCW 42.56.250 and 2020 c 106 s 1 are each amended to read as follows:

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

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

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

(4) 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, identicard 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) Information that identifies a person who, while an agency employee: (a) 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) requests his or her identity or any identifying information not be disclosed;

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

(8) 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) 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;

(10) ((~~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~~)) Information relating to a future voter, as provided in section 1 of this act; and

(11) 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.

(12) 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. 16.** RCW 29A.08.375 (Automatic registration—Rule-making authority) and 2018 c 110 s 207 are each repealed.

NEW SECTION. **Sec. 17.** Section 12 of this act expires September 1, 2023.

NEW SECTION. **Sec. 18.** Section 13 of this act takes effect September 1, 2023."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Valdez moved that the Senate concur in the House amendment(s) to Senate Bill No. 5153.

Senators Valdez and Fortunato spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Valdez that the Senate concur in the House amendment(s) to Senate Bill No. 5153.

The motion by Senator Valdez carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5153 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5153, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5153, as amended by the House, 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, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SENATE BILL NO. 5153, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 12, 2023

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5156 with the following amendment(s): 5156-S AMH ENGR H1812.E

Strike everything after the enacting clause and insert the following:

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

encouraging participation in agriculture is valuable. The farm internship program allows students to experience farming practices and get hands-on experience with farming activities. The internship program has existed since 2014 and was piloted in a few select counties. The legislature finds that this program is valuable, should be extended to all counties, and should continue without an expiration date.

Sec. 2. RCW 49.12.471 and 2020 c 212 s 1 are each amended to read as follows:

(1) The director shall establish a farm internship ((~~pilot~~)) project for the employment of farm interns on small farms under special certificates at wages, if any, as authorized by the department and subject to such limitations as to time, number, proportion, and length of service as provided in this section and as prescribed by the department. ((~~The pilot project consists of the following counties: San Juan, Skagit, King, Whatcom, Kitsap, Pierce, Jefferson, Spokane, Yakima, Chelan, Grant, Island, Snohomish, Kittitas, Lincoln, Thurston, Walla Walla, Clark, Cowlitz, and Lewis.~~))

(2)(a) A small farm may employ no more than three interns at one time under this section.

(b) For any small farm located in a county that became eligible to participate in the farm intern project on the effective date of this act, at least one of the interns employed by the farm must be an individual who, in addition to meeting the farm's qualifications applicable to all intern applicants, also has direct experience working as a migrant farmworker or whose parent or grandparent has direct experience working as a migrant farmworker. If a farm is employing only one intern and the farm does not receive any applications from individuals who meet the criteria set forth in this subsection, the requirement of this subsection does not apply. If a farm is employing more than one intern, the farm must employ at least one intern who meets the criteria set forth in this subsection.

(3) A small farm must apply for a special certificate on a form made available by the director. The application must set forth: The name of the farm and a description of the farm seeking the certificate; the type of work to be performed by a farm intern; a description of the internship program; the period of time for which the certificate is sought and the duration of an internship; the number of farm interns for which a special certificate is sought; the wages, if any, that will be paid to the farm intern; any room and board, stipends, and other remuneration the farm will provide to a farm intern; and the total number of workers employed by the farm.

(4) Upon receipt of an application, the department shall review the application and issue a special certificate to the requesting farm within fifteen days if the department finds that:

(a) The farm qualifies as a small farm;

(b) There have been no serious violations of chapter 49.46 RCW or Title 51 RCW that provide reasonable grounds to believe that the terms of an internship agreement may not be complied with;

(c) The issuance of a certificate will not create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage or working standards established for experienced workers for work of a like or comparable character in the industry or occupation at which the intern is to be employed;

(d) A farm intern will not displace an experienced worker; ((~~and~~))

(e) If subsection (2)(b) of this section applies, the farm has included in the application either: (i) An attestation from at least one farm intern stating that the farm intern is an individual who has direct experience working as a migrant farmworker or whose parent or grandparent has direct experience working as a migrant farmworker; or (ii) an attestation that the farm is employing only one intern and the farm did not receive any applications from individuals who meet the criteria set forth in subsection (2)(b) of this section; and

(f) The farm demonstrates that the interns will perform work for the farm under an internship program that: (i) Provides a curriculum of learning modules and supervised participation in farm work activities designed to teach farm interns about farming practices and farm enterprises; (ii) is based on the bona fide curriculum of an educational or vocational institution; (iii) encourages the interns to participate in career and technical education or other educational content with courses in agriculture or related programs of study at a community or technical college; and ((~~(iii)~~)) (iv) is reasonably designed to provide the intern with vocational knowledge and skills about farming practices and enterprises. In assessing an internship program, the department may consult with relevant college and university departments and extension programs and state and local government agencies involved in the regulation or development of agriculture.

(5) A special certificate issued under this section must specify the terms and conditions under which it is issued, including: The name of the farm; the duration of the special certificate allowing the employment of farm interns and the duration of an internship; the total number of interns authorized under the special certificate; the authorized wage rate, if any; and any room and board, stipends, and other remuneration the farm will provide to the farm intern. A farm intern may be paid at wages specified in the certificate only during the effective period of the certificate and for the duration of the internship.

(6) If the department denies an application for a special certificate, notice of denial must be mailed to the farm. The farm listed on the application may, within fifteen days after notice of such action has been mailed, file with the director a petition for review of the denial, setting forth grounds for seeking such a review. If reasonable grounds exist, the director or the director's authorized representative may grant such a review and, to the extent deemed appropriate, afford all interested persons an opportunity to be heard on such review.

(7) Before employing a farm intern, a farm must submit a statement on a form made available by the director stating that the farm understands: The requirements of the industrial welfare act, this chapter, that apply to farm interns; that the farm must pay workers' compensation premiums in the assigned intern risk class and must pay workers' compensation premiums for nonintern work hours in the applicable risk class; and that if the farm does not comply with subsection (8) of this section, the director may revoke the special certificate.

(8) The director may revoke a special certificate issued under this section if a farm fails to: Comply with the requirements of the industrial welfare act, this chapter, that apply to farm interns; pay workers' compensation premiums in the assigned intern risk class; or pay workers' compensation premiums in the applicable risk class for nonintern work hours.

(9) Before the start of a farm internship, the farm and the intern must sign a written agreement and send a copy of the agreement to the department. The written agreement must, at a minimum:

(a) Describe the internship program offered by the farm, including the skills and objectives the program is designed to teach and the manner in which those skills and objectives will be taught;

(b) Explicitly state that the intern is not entitled to unemployment benefits or minimum wages for work and activities conducted pursuant to the internship program for the duration of the internship;

(c) Describe the responsibilities, expectations, and obligations of the intern and the farm, including the anticipated number of hours of farm activities to be performed by and the anticipated number of hours of curriculum instruction provided to the intern per week;

(d) Describe the activities of the farm and the type of work to be performed by the farm intern; and

(e) ((~~Describes [Describe]~~)) Describe any wages, room and board, stipends, and other remuneration the farm will provide to the farm intern.

(10) The department must limit the administrative costs of implementing the internship ((~~pilot~~)) program by relying on farm organizations and other stakeholders to perform outreach and inform the farm community of the program and by limiting employee travel to the investigation of allegations of noncompliance with program requirements.

(11) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Farm intern" means an individual who provides services to a small farm under a written agreement and primarily as a means of learning about farming practices and farm enterprises.

(b) "Farm internship program" means an internship program described under subsection (4)(e) of this section.

(c) "Small farm" means a farm:

(i) Organized as a sole proprietorship, partnership, or corporation;

(ii) That reports on the applicant's schedule F of form 1040 or other applicable form filed with the United States internal revenue service annual sales less than ((~~two hundred fifty thousand dollars~~)) $265,000; and

(iii) Where all the owners or partners of the farm provide regular labor to and participate in the management of the farm, and own or lease the productive assets of the farm.

(12) The department shall monitor and evaluate the farm internships authorized by this section and report to the appropriate committees of the legislature by December 31, 2024. The report must include, but not be limited to: The number of small farms that applied for and received special certificates; the number of interns employed as farm interns; the nature of the educational activities provided to the farm interns; the wages and other remuneration paid to farm interns; the number of and type of workers' compensation claims for farm interns; the employment of farm interns following farm internships; and other matters relevant to assessing farm internships authorized in this section.

(((~~(13) This section expires December 31, 2025.~~)))

Sec. 3. RCW 49.46.010 and 2020 c 212 s 3 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Employ" includes to permit to work;

(3) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) ((~~Until December 31, 2025, any~~)) Any farm intern providing his or her services to a small farm which has a special certificate issued under RCW 49.12.471;

(p) An individual who is at least ((~~sixteen~~)) 16 years old but under twenty-one years old, in his or her capacity as a player for a junior ice hockey team that is a member of a regional, national, or international league and that contracts with an arena owned, operated, or managed by a public facilities district created under chapter 36.100 RCW;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(6) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry;

(7) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director.

Sec. 4. RCW 50.04.152 and 2020 c 212 s 2 are each amended to read as follows:

(1) Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" does not include service performed in agricultural labor by a farm intern providing his or her services under a farm internship program as established in RCW 49.12.471.

(2) For purposes of this section, "agricultural labor" means:

(a) Services performed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment;

(b) Services performed in packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this subsection (2)(b) are not applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or raising and harvesting of mushrooms; or

(c) Direct local sales of any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption.

((~~(3) This section expires December 31, 2025.~~))

Sec. 5. RCW 51.16.243 and 2020 c 212 s 4 are each amended to read as follows:

(1) The department shall adopt rules to provide special workers' compensation risk class or classes for farm interns providing agricultural labor pursuant to a farm internship program under RCW 49.12.471. The rules must include any requirements for obtaining a special risk class that must be met by small farms.

((~~(2) This section expires December 31, 2025.~~))

NEW SECTION. **Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

MOTION

Senator Torres moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5156.

Senators Torres and Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Torres that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5156.

The motion by Senator Torres carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5156 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5156, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5156, as amended by the House, 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, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5156, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 5, 2023

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5165 with the following amendment(s): 5165-S AMH ENVI H1630.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that the electric power system serving Washington will require additional high voltage transmission capacity to achieve the state's objectives and legal requirements. Washington must reduce its greenhouse gas emissions under state law, and the 2021 state energy strategy finds that this will require a significant increase in the use of renewable or nonemitting electricity in place of fossil fuels now used in the transportation, industry, and building sectors.

(2) The legislature anticipated the crucial role of additional transmission capacity in 2019 in the enactment of the clean energy transformation act and directed the energy facilities site evaluation council to convene a transmission corridors work group. The transmission corridors work group issued its final report on October 31, 2022, in which it confirmed the central role of transmission and recommended actions to achieve the expansion of transmission capacity to address this need.

(3) Expanded transmission capacity and the more effective use of existing transmission capacity will provide benefits to electricity consumers in the state by enhancing the reliability of the electric power system and increasing access to more affordable sources of electricity within the state and across the western United States and Canada.

(4) Existing constraints on transmission capacity within the state already present challenges in ensuring adequate and affordable supplies of clean electricity. Of particular concern is the capability of the transmission system to deliver clean electricity into and within the central Puget Sound area.

(5) There are multiple issues that contribute to the challenge of making timely and cost-effective expansions of the high voltage transmission system. Among those challenges is the need for a more proactive transmission planning process using a longer planning period than current law requires. Transmission planning must reflect not just the requirements to connect individual generating resources to the grid but also the need to transfer electricity across the state and the west. Transmission planning must incorporate state policies and laws in planning objectives.

(6) Certain transmission projects are of significant state interest due to their impact on the access of multiple utilities and communities to gain access to clean, affordable electricity supplies and obtain electricity that is necessary to comply with state laws.

(7) The legislature intends and affirms that the option to use local government permitting processes remains available for transmission projects not subject to mandatory jurisdiction under RCW 80.50.060(2).

(8) Transmission projects typically take at least a decade to develop and permit. This timing presents particular challenges for achieving the state's greenhouse gas emissions reduction mandates, which include ambitious benchmarks as early as 2030. There is a need to accelerate the timeline for transmission development while still protecting other Washington values.

(9) Some electric utilities rely entirely or primarily on a contracted network transmission provider for required transmission services. These electric utilities may contribute to the objectives of this act by requesting that each provider of network transmission service to the utilities include the provisions of chapter 288, Laws of 2019 and chapter 70A.45 RCW as public policy mandates in the transmission service provider's transmission planning process.

Sec. 2. RCW 19.280.030 and 2021 c 300 s 3 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than ((~~twenty-five thousand~~)) 25,000 customers that are not full requirements customers must develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ((~~ten~~)) 10 years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources, as informed, as applicable, by the assessment for conservation potential under RCW 19.285.040 for the planning horizon consistent with (a) of this subsection. Such assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, including but not limited to battery storage and pumped storage, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) An assessment and ((~~ten~~)) 20-year forecast of the availability of and requirements for regional generation and transmission capacity ((~~on which the utility may rely~~)) to provide and deliver electricity to ((~~its customers~~))the utility's customers and to meet the requirements of chapter 288, Laws of 2019 and the state's greenhouse gas emissions reduction limits in RCW 70A.45.020. The transmission assessment must identify the utility's expected needs to acquire new long-term firm rights, develop new, or expand or upgrade existing, bulk transmission facilities consistent with the requirements of this section and reliability standards;

(i) If an electric utility operates transmission assets rated at 115,000 volts or greater, the transmission assessment must take into account opportunities to make more effective use of existing transmission capacity through improved transmission system operating practices, energy efficiency, demand response, grid modernization, nonwires solutions, and other programs if applicable;

(ii) An electric utility that relies entirely or primarily on a contract for transmission service to provide necessary transmission services may comply with the transmission requirements of this subsection by requesting that the counterparty to the transmission service contract include the provisions of chapter 288, Laws of 2019 and chapter 70A.45 RCW as public policy mandates in the transmission service provider's process for assessing transmission need, and planning and acquiring necessary transmission capacity;

(iii) An electric utility may comply with the requirements of this subsection (1)(f) by relying on and incorporating the results of a separate transmission assessment process, conducted individually or jointly with other utilities and transmission system users, if that assessment process meets the requirements of this subsection;

(g) A determination of resource adequacy metrics for the resource plan consistent with the forecasts;

(h) A forecast of distributed energy resources that may be installed by the utility's customers and an assessment of their effect on the utility's load and operations;

(i) An identification of an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing RCW 19.405.030 through 19.405.050;

(j) The integration of the demand forecasts, resource evaluations, and resource adequacy requirement into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events and implementing RCW 19.405.030 through 19.405.050, at the lowest reasonable cost and risk to the utility and its customers,

while maintaining and protecting the safety, reliable operation, and balancing of its electric system;

(k) An assessment, informed by the cumulative impact analysis conducted under RCW 19.405.140, of: Energy and nonenergy benefits and the avoidance and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk;

(l) A ((~~ten~~)) 10-year clean energy action plan for implementing RCW 19.405.030 through 19.405.050 at the lowest reasonable cost, and at an acceptable resource adequacy standard, that identifies the specific actions to be taken by the utility consistent with the long-range integrated resource plan; and

(m) An analysis of how the plan accounts for:

(i) Modeled load forecast scenarios that consider the anticipated levels of zero emissions vehicle use in a utility's service area, including anticipated levels of zero emissions vehicle use in the utility's service area provided in RCW 47.01.520, if feasible;

(ii) Analysis, research, findings, recommendations, actions, and any other relevant information found in the electrification of transportation plans submitted under RCW 35.92.450, 54.16.430, and 80.28.365; and

(iii) Assumed use case forecasts and the associated energy impacts. Electric utilities may, but are not required to, use the forecasts generated by the mapping and forecasting tool created in RCW 47.01.520. This subsection (1)(m)(iii) applies only to plans due to be filed after September 1, 2023.

(2) ((~~For an investor-owned utility, the~~)) The clean energy action plan must:

(a) Identify and be informed by the utility's ((~~ten~~)) 10-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable;

(b) ((~~establish~~)) Establish a resource adequacy requirement;

(c) ((~~identify~~)) Identify the potential cost-effective demand response and load management programs that may be acquired;

(d) ((~~identify~~)) Identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the utility's resource adequacy requirement;

(e) ((~~identify~~)) Identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities and document existing and planned efforts by the utility to make more effective use of existing transmission capacity and secure additional transmission capacity consistent with the requirements of subsection (1)(f) of this section; and

(f) ((~~identify~~)) Identify the nature and possible extent to which the utility may need to rely on alternative compliance options under RCW 19.405.040(1)(b), if appropriate.

(3)(a) An electric utility shall consider the social cost of greenhouse gas emissions, as determined by the commission for investor-owned utilities pursuant to RCW 80.28.405 and the department for consumer-owned utilities, when developing integrated resource plans and clean energy action plans. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

(i) Evaluating and selecting conservation policies, programs, and targets;

(ii) Developing integrated resource plans and clean energy action plans; and

(iii) Evaluating and selecting intermediate term and long-term resource options.

(b) For the purposes of this subsection (3): (i) Gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters must be considered a nonemitting resource; and (ii) qualified biomass energy must be considered a nonemitting resource.

(4) To facilitate broad, equitable, and efficient implementation of chapter 288, Laws of 2019, a consumer-owned energy utility may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW or other nonprofit organization to develop and implement a joint clean energy action plan in collaboration with other utilities.

(5) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ((~~ten~~)) 10 years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads;

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources; (ii) methods, commercially available technologies, or facilities for integrating renewable resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made;

(d) By December 31, 2020, and in every resource plan thereafter, identifies how the utility plans over a ((~~ten~~)) 10-year period to implement RCW 19.405.040 and 19.405.050; and

(e) Accounts for:

(i) Modeled load forecast scenarios that consider the anticipated levels of zero emissions vehicle use in a utility's service area, including anticipated levels of zero emissions vehicle use in the utility's service area provided in RCW 47.01.520, if feasible;

(ii) Analysis, research, findings, recommendations, actions, and any other relevant information found in the electrification of transportation plans submitted under RCW 35.92.450, 54.16.430, and 80.28.365; and

(iii) Assumed use case forecasts and the associated energy impacts. Electric utilities may, but are not required to, use the forecasts generated by the mapping and forecasting tool created in RCW 47.01.520. This subsection (5)(e)(iii) applies only to plans due to be filed after September 1, 2023.

(6) Assessments for demand-side resources included in an integrated resource plan may include combined heat and power systems as one of the measures in a conservation supply curve. The value of recoverable waste heat resulting from combined heat and power must be reflected in analyses of cost-effectiveness under this subsection.

(7) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(8) Plans developed under this section must be updated on a regular basis, on intervals approved by the commission or the department, or at a minimum on intervals of two years.

(9) Plans shall not be a basis to bring legal action against electric utilities.

(10)(a) To maximize transparency, the commission, for investor-owned utilities, or the governing body, for consumer-owned utilities, may require an electric utility to make the utility's data input files available in a native format. Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

(b) Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

((~~(11) By December 31, 2021, the department and the commission must adopt rules establishing the requirements for~~

~~incorporating the cumulative impact analysis developed under RCW 19.405.140 into the criteria for developing clean energy action plans under this section.~~))

NEW SECTION. **Sec. 3.** A new section is added to chapter 19.280 RCW to read as follows:

(1) Electric utilities must in their planning and selection of renewable resources give reasonable consideration, consistent with prudent utility practice, to renewable resources that would use transmission services considered to be conditional firm under the tariff of the relevant transmission provider. For the purposes of this section, conditional firm service means any form of long-term firm point-to-point transmission service in which transmission customers are able to reserve service subject to specific and limited conditions under which the transmission provider may curtail the transmission customer's reservation of service prior to curtailment of other firm service.

(2) Electric utilities are encouraged to participate and contribute to statewide or multiutility planning activities and through interstate transmission planning processes.

(3) Electric utilities must consult with federal, interstate, and voluntary industry organizations with a role in the bulk power transmission system, including but not limited to the Bonneville power administration, the Pacific Northwest electric power and conservation planning council, NorthernGrid, the Western Power Pool, and public interest organizations in improving the planning and development of transmission capacity consistent with this act.

Sec. 4. RCW 80.50.060 and 2022 c 183 s 6 are each amended to read as follows:

(1)(a) The provisions of this chapter apply to the construction of energy facilities which includes the new construction of energy facilities and the reconstruction or enlargement of existing energy facilities where the net increase in physical capacity or dimensions resulting from such reconstruction or enlargement meets or exceeds those capacities or dimensions set forth in RCW 80.50.020 (14) and (29). No construction or reconstruction of such energy facilities may be undertaken, except as otherwise provided in this chapter, without first obtaining certification in the manner provided in this chapter.

(b) If applicants proposing the following types of facilities choose to receive certification under this chapter, the provisions of this chapter apply to the construction, reconstruction, or enlargement of these new or existing facilities:

(i) Facilities that produce refined biofuel, but which are not capable of producing 25,000 barrels or more per day;

(ii) Alternative energy resource facilities;

(iii) Electrical transmission facilities: (A) Of a nominal voltage of at least 115,000 volts; and (B) located in more than one jurisdiction that has promulgated land use plans or zoning ordinances;

(iv) Clean energy product manufacturing facilities; and

(v) Storage facilities.

(c) All of the council's powers with regard to energy facilities apply to all of the facilities in (b) of this subsection and these facilities are subject to all provisions of this chapter that apply to an energy facility.

(2)(a) The provisions of this chapter must apply to ((~~the~~)):

(i) The construction, reconstruction, or enlargement of new or existing electrical transmission facilities: (A) Of a nominal voltage of at least 500,000 volts alternating current or at least 300,000 volts direct current; (B) located in more than one county; and (C) located in the Washington service area of more than one retail electric utility; and

(ii) The construction, reconstruction, or modification of electrical transmission facilities when the facilities are located in a national interest electric transmission corridor as specified in RCW 80.50.045.

(b) For the purposes of this subsection, "modification" means a significant change to an electrical transmission facility and does not include the following: (i) Minor improvements such as the replacement of existing transmission line facilities or supporting structures with equivalent facilities or structures; (ii) the relocation of existing electrical transmission line facilities; (iii) the conversion of existing overhead lines to underground; or (iv) the placing of new or additional conductors, supporting structures, insulators, or their accessories on or replacement of supporting structures already built.

(3) The provisions of this chapter shall not apply to normal maintenance and repairs which do not increase the capacity or dimensions beyond those set forth in RCW 80.50.020 (14) and (29).

(4) Applications for certification of energy facilities made prior to July 15, 1977, shall continue to be governed by the applicable provisions of law in effect on the day immediately preceding July 15, 1977, with the exceptions of RCW 80.50.071 which shall apply to such prior applications and to site certifications prospectively from July 15, 1977.

(5) Applications for certification shall be upon forms prescribed by the council and shall be supported by such information and technical studies as the council may require.

(6) Upon receipt of an application for certification under this chapter, the chair of the council shall notify:

(a) The appropriate county legislative authority or authorities where the proposed facility is located;

(b) The appropriate city legislative authority or authorities where the proposed facility is located;

(c) The department of archaeology and historic preservation; and

(d) The appropriate federally recognized tribal governments that may be affected by the proposed facility.

(7) The council must work with local governments where a project is proposed to be sited in order to provide for meaningful participation and input during siting review and compliance monitoring.

(8) The council must consult with all federally recognized tribes that possess resources, rights, or interests reserved or protected by federal treaty, statute, or executive order in the area where an energy facility is proposed to be located to provide early and meaningful participation and input during siting review and compliance monitoring. The chair and designated staff must offer to conduct government-to-government consultation to address issues of concern raised by such a tribe. The goal of the consultation process is to identify tribal resources or rights potentially affected by the proposed energy facility and to seek ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights. The chair must provide regular updates on the consultation to the council throughout the application review process. The report from the council to the governor required in RCW 80.50.100 must include a summary of the government-to-government consultation process that complies with RCW 42.56.300, including the issues and proposed resolutions.

(9) The department of archaeology and historic preservation shall coordinate with the affected federally recognized tribes and the applicant in order to assess potential effects to tribal cultural resources, archaeological sites, and sacred sites.

Sec. 5. RCW 80.50.045 and 2006 c 196 s 3 are each amended to read as follows:

(1) The council shall consult with other state agencies, utilities, local municipal governments, public interest groups, tribes, and other interested persons to convey their views to the secretary and the federal energy regulatory commission regarding appropriate

limits on federal regulatory authority in the siting of electrical transmission corridors in the state of Washington.

(2) The council is designated as the state authority for purposes of siting transmission facilities under ((~~the national energy policy act of 2005~~)) Title 16 U.S.C. Sec. 824p and for purposes of other such rules or regulations adopted by the secretary. The council's authority regarding transmission facilities under this subsection is limited to those transmission facilities that are the subject of ((~~section 1221 of the national energy policy act~~)) Title 16 U.S.C. Sec. 824p and this chapter.

(3) For the construction and modification of transmission facilities that are the subject of ((~~section 1221 of the national energy policy act~~)) Title 16 U.S.C. Sec. 824p, the council may: (a) Approve the siting of the facilities; and (b) consider the interstate benefits expected to be achieved by the proposed construction or modification of the facilities in the state.

(4) When developing recommendations as to the disposition of an application for the construction or modification of transmission facilities under this chapter, the fuel source of the electricity carried by the transmission facilities shall not be considered.

(5) For electrical transmission projects proposed or sited by a federal agency, the director must coordinate state agency participation in environmental review under the national environmental policy act.

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

NONPROJECT ENVIRONMENTAL REVIEWS.

(1) The energy facility site evaluation council shall prepare nonproject environmental impact statements, pursuant to RCW 43.21C.030, that assess and disclose the probable significant adverse environmental impacts, and that identify related mitigation measures for electrical transmission facilities with a nominal voltage of 230kV or greater.

(2) The scope of a nonproject environmental review is limited to the probable, significant adverse environmental impacts in geographic areas that are suitable for the electrical transmission facilities with a nominal voltage of 230kV or greater. The energy facility site evaluation council may consider standard attributes for likely development, proximity to existing transmission or complementary facilities, and planned corridors for transmission capacity construction, reconstruction, or enlargement. The nonproject review is not required to evaluate geographic areas that lack the characteristics necessary for electrical transmission facilities with a nominal voltage of 230kV or greater.

(3)(a) The scope of nonproject environmental impact statements must consider, as appropriate, analysis of the following probable significant adverse environmental impacts, including direct, indirect, and cumulative impacts to:

(i) Historic and cultural resources;

(ii) Species designated for protection under RCW 77.12.020 or the federal endangered species act;

(iii) Landscape scale habitat connectivity and wildlife migration corridors;

(iv) Environmental justice and overburdened communities as defined in RCW 70A.02.010;

(v) Cultural resources and elements of the environment relevant to tribal rights, interests, and resources including tribal cultural resources, and fish, wildlife, and their habitat;

(vi) Land uses, including agricultural and ranching uses; and

(vii) Military installations and operations.

(b) The nonproject environmental impact statements must identify measures to avoid, minimize, and mitigate probable significant adverse environmental impacts identified during the review. These include measures to mitigate probable significant adverse environmental impacts to elements of the environment as defined in WAC 197-11-444 as it existed as of January 1, 2023, tribal rights, interests, and resources, including tribal cultural resources, as identified in RCW 70A.65.305, and overburdened communities as defined in RCW 70A.02.010. The energy facility site evaluation council shall consult with other agencies with expertise in identification and mitigation of probable, significant adverse environmental impacts including, but not limited to, the department of fish and wildlife. The energy facility site evaluation council shall further specify when probable, significant adverse environmental impacts cannot be mitigated.

(4) In defining the scope of nonproject review of electrical transmission facilities with a nominal voltage of 230kV or greater, the energy facility site evaluation council shall request input from agencies, federally recognized Indian tribes, industry, stakeholders, local governments, and the public to identify the geographic areas suitable for electrical transmission facilities with a nominal voltage of 230kV or greater, based on the climatic and geophysical attributes conducive to or required for project development. The energy facility site evaluation council will provide opportunities for the engagement of tribes, overburdened communities, and stakeholders that self-identify an interest in participating in the process.

(5) The energy facility site evaluation council must offer early and meaningful consultation with any affected federally recognized Indian tribe on the nonproject review under this section for the purpose of understanding potential impacts to tribal rights and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which an Indian tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. The consultation is independent of, and in addition to, any public participation process required by state law, or by a state agency. The goal of the consultation process is to support the nonproject review by early identification of tribal rights, interests, or resources, including tribal cultural resources, potentially affected by the project type and identifying solutions, when possible, to avoid, minimize, or mitigate any adverse effects on tribal rights, interests, or resources, including tribal cultural resources, based on environmental or permit review.

(6) Final nonproject environmental review documents for the electrical transmission facilities with a nominal voltage of 230kV or greater, where applicable, must include maps identifying probable, significant adverse environmental impacts for the resources evaluated. Maps must be prepared with the intention to illustrate probable, significant impacts and areas where impacts are avoided or capable of being minimized or mitigated, creating a tool that may be used by project proponents, tribes, and government to inform decision making. Maps may not include confidential information, such as locations of sacred cultural sites or locations of populations of certain protected species.

(7) For transmission line projects utilizing an existing transmission right-of-way or that are located along a transportation corridor or transmission projects utilizing an existing transmission right-of-way, the reasonable alternatives analysis required under this section is limited to the proposed action and a no action alternative.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.21C RCW to read as follows:

LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT.

(1) A lead agency conducting a project-level environmental review under this chapter of an electrical transmission facility with a nominal voltage of 230kV or greater must consider a

nonproject environmental impact statement completed pursuant to section 6 of this act in order to identify and mitigate project-level probable significant adverse environmental impacts.

(2)(a) Project-level environmental review conducted pursuant to this chapter of an electrical transmission facility with a nominal voltage of 230kV or greater must begin with the review of the applicable nonproject environmental impact statement completed pursuant to section 6 of this act. The review must address any probable significant adverse environmental impacts associated with the proposal that were not analyzed in the nonproject environmental impact statements pursuant to section 6 of this act. The review must identify any mitigation measures specific to the project for probable significant adverse environmental impacts.

(b) Lead agencies reviewing site-specific project proposals for electrical transmission facilities with a nominal voltage of 230kV or greater shall use the nonproject review described in section 6 of this act through one of the following methods and in accordance with WAC 197-11-600, as it existed as of January 1, 2023:

(i) Use of the nonproject review unchanged, in accordance with RCW 43.21C.034, if the project does not cause probable significant adverse environmental impact not identified in the nonproject review;

(ii) Preparation of an addendum;

(iii) Incorporation by reference; or

(iv) Preparation of a supplemental environmental impact statement.

(3) Proposals for electrical transmission facilities with a nominal voltage of 230kV or greater following the recommendations developed in the nonproject environmental review completed pursuant to section 6 of this act are considered to have mitigated the probable significant adverse project-specific environmental impacts under this chapter for which recommendations were specifically developed unless the project-specific environmental review identifies project-level probable significant adverse environmental impacts not addressed in the nonproject environmental review."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Nguyen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5165.

Senators Nguyen and MacEwen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Nguyen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5165.

The motion by Senator Nguyen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5165 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5165, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5165, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 10; Absent, 0; Excused, 3.

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

Voting nay: Senators Dozier, Fortunato, Hawkins, MacEwen, McCune, Padden, Schoesler, Short, Warnick and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5165, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2023

MR. PRESIDENT:
The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5173 with the following amendment(s): 5173-S.E AMH ENGR H1780.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 6.15.010 and 2021 c 50 s 2 are each amended to read as follows:

(1) Except as provided in RCW 6.15.050, the following personal property is exempt from execution, attachment, and garnishment:

(a) All wearing apparel of every individual and family, but not to exceed ((~~three thousand five hundred dollars~~)) $3,500 in value in furs, jewelry, and personal ornaments for any individual.

(b) All private libraries including electronic media, which includes audiovisual, entertainment, or reference media in digital or analogue format, of every individual, but not to exceed ((~~three thousand five hundred dollars~~)) $3,500 in value, and all family pictures and keepsakes.

(c) A cell phone, personal computer, and printer.

(d) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community, provided that each spouse is entitled to his or her own exemptions in this subsection (1)(d):

(i) ((~~The individual's or community's~~)) All household goods, appliances, furniture, and home and yard equipment, not to exceed ((~~six thousand five hundred dollars~~)) $6,500 in value for the individual ((~~or thirteen thousand dollars for the community, no single item to exceed seven hundred fifty dollars~~)), said amount to include provisions and fuel for ((~~the~~)) comfortable maintenance ((~~of the individual or community~~));

(ii) In a bankruptcy case, any other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed $10,000 in value. The value shall be determined as of the date the bankruptcy petition is filed;

(iii) Other than in a bankruptcy case as described in (d)(ii) of this subsection, other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed ((~~three thousand dollars~~)) $3,000 in value, ((~~of which not more than one thousand five hundred dollars in value may consist of cash, and~~)) of which not more than:

(A) For all debts except private student loan debt and consumer debt, ((~~five hundred dollars~~)) $500 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(((~~ii~~))) (iii)(A) shall be automatically protected and may not exceed ((~~five hundred dollars~~)) $500, regardless of the number of

existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(B) For all private student loan debt, ((~~two thousand five hundred dollars~~)) $2,500 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. $1,000 in value shall be automatically protected. The maximum exemption under this subsection (1)(d)(((~~ii~~))) (iii)(B) may not exceed ((~~two thousand five hundred dollars~~)) $2,500, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(C) For all consumer debt, ((~~two thousand dollars~~)) $2,000 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. $1,000 in value shall be automatically protected. The maximum exemption under this subsection (1)(d)(((~~ii~~))) (iii)(C) may not exceed ((~~two thousand dollars~~)) $2,000, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities;

(((~~iii) For an individual, a~~)) (iv) A motor vehicle ((~~used for personal transportation,~~)) not to exceed ((~~three thousand two hundred fifty dollars or for a community two motor vehicles used for personal transportation, not to exceed six thousand five hundred dollars~~)) $15,000 in aggregate value;

(((~~iv~~))) (v) Any past due, current, or future child support paid or owed to the debtor, which can be traced;

(((~~v~~))) (vi) All professionally prescribed health aids for the debtor or a dependent of the debtor; ((~~and~~

(~~vi~~))) (vii) To any individual, the right to or proceeds of a payment not to exceed twenty thousand dollars on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor; and

(viii) In a bankruptcy case, the right to or proceeds of personal injury of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent are free of the enforcement of the claims of creditors, except to the extent such claims are for the satisfaction of any liens or subrogation claims arising out of the claims for personal injury or death. The exemption under this subsection (1)(d)(((~~vi~~))) (viii) does not apply to the right of the state of Washington, or any agent or assignee of the state, as a lienholder or subrogee under RCW 43.20B.060.

(e) ((~~To each qualified individual, one of the following exemptions:~~

~~(i) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed ten thousand dollars in value;~~

~~(ii) To a physician, surgeon, attorney, member of the clergy, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed ten thousand dollars in value;~~

~~(iii)~~)) To any ((~~other~~)) individual, the tools ((~~and~~)), instruments ((~~and~~)), materials, and supplies used to carry on his or her trade ((~~for the support of himself or herself or family,~~)) not to exceed ((~~ten thousand dollars~~)) $15,000 in value.

(f) Tuition units, under chapter 28B.95 RCW, purchased more than two years prior to the date of a bankruptcy filing or court judgment, and contributions to any other qualified tuition program under 26 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and to a Coverdell education savings account, also known as an education individual retirement account, under 26 U.S.C. Sec. 530 of the internal revenue code of 1986, as amended, contributed more than two years prior to the date of a bankruptcy filing or court judgment.

(2) For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

(3) In the case of married persons, each spouse is entitled to the exemptions provided in this section, which may be combined with the other spouse's exemption in the same property or taken in different exempt property.

Sec. 2. RCW 6.15.010 and 2019 c 371 s 3 are each amended to read as follows:

(1) Except as provided in RCW 6.15.050, the following personal property is exempt from execution, attachment, and garnishment:

(a) All wearing apparel of every individual and family, but not to exceed ((~~three thousand five hundred dollars~~)) $3,500 in value in furs, jewelry, and personal ornaments for any individual.

(b) All private libraries including electronic media, which includes audiovisual, entertainment, or reference media in digital or analogue format, of every individual, but not to exceed ((~~three thousand five hundred dollars~~)) $3,500 in value, and all family pictures and keepsakes.

(c) A cell phone, personal computer, and printer.

(d) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community, provided that each spouse is entitled to his or her own exemptions in this subsection (1)(d):

(i) ((~~The individual's or community's~~)) All household goods, appliances, furniture, and home and yard equipment, not to exceed ((~~six thousand five hundred dollars~~)) $6,500 in value for the individual ((~~or thirteen thousand dollars for the community, no single item to exceed seven hundred fifty dollars~~)), said amount to include provisions and fuel for ((~~the~~)) comfortable maintenance ((~~of the individual or community~~));

(ii) In a bankruptcy case, any other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed $10,000 in value. The value shall be determined as of the date the bankruptcy petition is filed;

(iii) Other than in a bankruptcy case as described in (d)(ii) of this subsection, other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed ((~~three thousand dollars~~)) $3,000 in value, ((~~of which not more than one thousand five hundred dollars in value may consist of cash, and~~)) of which not more than:

(A) For all debts except private student loan debt and consumer debt, ((~~five hundred dollars~~)) $500 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(((~~ii~~))) (iii)(A) may not exceed ((~~five hundred dollars~~)) $500, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(B) For all private student loan debt, ((~~two thousand five hundred dollars~~)) $2,500 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(((~~ii~~))) (iii)(B) may not exceed ((~~two thousand five hundred dollars~~)) $2,500, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(C) For all consumer debt, ((~~two thousand dollars~~)) $2,000 in value may consist of bank accounts, savings and loan accounts,

stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)((~~(ii)~~)) (iii)(C) may not exceed ((~~two thousand dollars~~)) $2,000, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities;

(((~~(iii) For an individual, a~~)) (iv) A motor vehicle ((~~used for personal transportation,~~)) not to exceed ((~~three thousand two hundred fifty dollars or for a community two motor vehicles used for personal transportation, not to exceed six thousand five hundred dollars~~)) $15,000 in aggregate value;

(((~~(iv)~~)) (v) Any past due, current, or future child support paid or owed to the debtor, which can be traced;

(((~~(v)~~)) (vi) All professionally prescribed health aids for the debtor or a dependent of the debtor; ((~~and~~

~~(vi)~~)) (vii) To any individual, the right to or proceeds of a payment not to exceed twenty thousand dollars on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor; and

(viii) In a bankruptcy case, the right to or proceeds of personal injury of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent are free of the enforcement of the claims of creditors, except to the extent such claims are for the satisfaction of any liens or subrogation claims arising out of the claims for personal injury or death. The exemption under this subsection (1)(d)((~~(vi)~~)) (viii) does not apply to the right of the state of Washington, or any agent or assignee of the state, as a lienholder or subrogee under RCW 43.20B.060.

(e) ((~~To each qualified individual, one of the following exemptions:~~

~~(i) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed ten thousand dollars in value;~~

~~(ii) To a physician, surgeon, attorney, member of the clergy, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed ten thousand dollars in value;~~

~~(iii)~~)) To any ((~~other~~)) individual, the tools ((~~and~~)), instruments ((~~and~~)), materials, and supplies used to carry on his or her trade ((~~for the support of himself or herself or family,~~)) not to exceed ((~~ten thousand dollars~~)) $15,000 in value.

(f) Tuition units, under chapter 28B.95 RCW, purchased more than two years prior to the date of a bankruptcy filing or court judgment, and contributions to any other qualified tuition program under 26 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and to a Coverdell education savings account, also known as an education individual retirement account, under 26 U.S.C. Sec. 530 of the internal revenue code of 1986, as amended, contributed more than two years prior to the date of a bankruptcy filing or court judgment.

(2) For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

(3) In the case of married persons, each spouse is entitled to the exemptions provided in this section, which may be combined with the other spouse's exemption in the same property or taken in different exempt property.

Sec. 3. RCW 51.32.040 and 2013 c 125 s 6 are each amended to read as follows:

(1) Except as provided in RCW 43.20B.720, 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under this title shall, ((~~before the issuance and delivery of the payment,~~)) be assigned, charged, or taken in execution, attached, garnished, or pass or be paid to any other person by operation of law, any form of voluntary assignment, or power of attorney. Any such assignment or charge is void unless the transfer is to a financial institution at the request of a worker or other beneficiary and made in accordance with RCW 51.32.045. Payments retain their exempt status even after issuance.

(2)(a) If any worker suffers (i) a permanent partial injury and dies from some other cause than the accident which produced the injury before he or she receives payment of the award for the permanent partial injury or (ii) any other injury before he or she receives payment of any monthly installment covering any period of time before his or her death, the amount of the permanent partial disability award or the monthly payment, or both, shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the award or the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(b) If any worker suffers an injury and dies from it before he or she receives payment of any monthly installment covering time loss for any period of time before his or her death, the amount of the monthly payment shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(c) Any application for compensation under this subsection (2) shall be filed with the department or self-insuring employer within one year of the date of death. The department or self-insurer may satisfy its responsibilities under this subsection (2) by sending any payment due in the name of the decedent and to the last known address of the decedent.

(3)(a) Any worker or beneficiary receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible for benefits under this title while confined in, any institution under conviction and sentence shall have all payments of the compensation canceled during the period of confinement. After discharge from the institution, payment of benefits due afterward shall be paid if the worker or beneficiary would, except for the provisions of this subsection (3), otherwise be entitled to them.

(b) If any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she is entitled to payments under this title, subject to the requirements of chapter 72.65 RCW, unless his or her participation in the program has been canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence.

(c) If the confined worker has any beneficiaries during the confinement period during which benefits are canceled under (a) or (b) of this subsection, they shall be paid directly the monthly benefits which would have been paid to the worker for himself or herself and the worker's beneficiaries had the worker not been confined.

(4) Any lump sum benefits to which a worker would otherwise be entitled but for the provisions of this section shall be paid on a monthly basis to his or her beneficiaries.

Sec. 4. RCW 6.27.100 and 2021 c 50 s 3 are each amended to read as follows:

(1) A writ issued for a continuing lien on earnings shall be substantially in the form provided in RCW 6.27.105. All other writs of garnishment shall be substantially in the following form, but:

(a) If the writ is issued under an order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for child support";

(b) If the writ is issued under an order or judgment for private student loan debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for private student loan debt";

(c) If the writ is issued under an order or judgment for consumer debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for consumer debt"; and

(d) If the writ is issued by an attorney, the writ shall be revised as indicated in subsection (2) of this section:

"IN THE . . . . . COURT
OF THE STATE OF WASHINGTON IN AND FOR
THE COUNTY OF . . . . . .

.....,	
Plaintiff,	No. . . . .
vs.	
.....,	WRIT OF
Defendant,	GARNISHMENT
.....,	
Garnishee	

THE STATE OF WASHINGTON TO: .....
Garnishee

AND TO: .....
Defendant

The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is $ . . . . . ., consisting of:

Balance on Judgment or Amount of Claim	$ . . . .
Interest under Judgment from . . . . to	$ . . . .
Per Day Rate of Estimated Interest	$ . . . . per day
Taxable Costs and Attorneys' Fees	$ . . . .
Estimated Garnishment Costs:	
Filing and Ex Parte Fees	$ . . . .
Service and Affidavit Fees	$ . . . .
Postage and Costs of Certified Mail	$ . . . .
Answer Fee or Fees	$ . . . .
Garnishment Attorney Fee	$ . . . .
Other	$ . . . .

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court, by the attorney of record for the plaintiff, or by this writ, not to pay any debt, whether earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

YOU ARE FURTHER COMMANDED to answer this writ according to the instructions in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, at the addresses listed at the bottom of this writ.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

FOR ALL DEBTS EXCEPT PRIVATE STUDENT LOAN DEBT AND CONSUMER DEBT:

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(((~~(ii)~~))) (iii)(A) applies and the total of the amounts held in all of the defendant's accounts is less than or equal to $500, release all funds or property to the defendant and do not hold any amount. However, if you have documentation that the funds in the account are the community property of married persons or domestic partners, and if the total of the amounts held in all of the combined accounts of the married persons or domestic partners is less than or equal to $1,000, then release all funds or property to the defendant and do not hold any amount.

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(((~~(ii)~~))) (iii)(A) applies and the total of the amounts held in all of the defendant's accounts is in excess of $500, release at least $500, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant. However, if you have documentation that the funds in the account are the community property of married persons or domestic partners, and if the total of the amounts held in all of the combined accounts of the married persons or domestic partners is in excess of $1,000, release at least $1,000, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant.

FOR PRIVATE STUDENT LOAN DEBT AND CONSUMER DEBT:

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(((~~(ii)~~))) (iii) (B) or (C) applies and the total of the amounts held in all of the defendant's accounts is less than or equal to $1,000, release all funds or property to the defendant and do not hold any amount. However, if you have documentation that the funds in the account are the community property of married persons or domestic partners, and if the total of the amounts held in all of the combined accounts of the married persons or domestic partners is less than or equal to $2,000, then release all funds or property to the defendant and do not hold any amount.

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(((~~(ii)~~))) (iii) (B) or (C) applies and the total of the amounts held in all of the defendant's accounts is in excess of $1,000, release at least $1,000, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant. However, if you have documentation that the funds in the account are the community property of married persons or domestic partners, and if the total of the amounts held in all of the combined accounts of the married persons or domestic partners is in excess of $2,000, release at least $2,000, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant.

IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR CONTROL.

JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND FEES INCURRED BY THE PLAINTIFF.

Witness, the Honorable . . . . . ., Judge of the above-entitled Court, and the seal thereof, this . . . . day of . . . . . ., ... (year)

[Seal]

.....	.....
Attorney for Plaintiff (or Plaintiff, if no attorney)	Clerk of the Court
.....	.....
Address	By
.....	.....
Name of Defendant	Address"
.....	
Address of Defendant	

(2) If an attorney issues the writ of garnishment, the final paragraph of the writ, containing the date, and the subscripted attorney and clerk provisions, shall be replaced with text in substantially the following form:

"This writ is issued by the undersigned attorney of record for plaintiff under the authority of chapter 6.27 of the Revised Code of Washington, and must be complied with in the same manner as a writ issued by the clerk of the court.

Dated this . . . . . .day of . . . . . ., ... (year)

Attorney for Plaintiff

Address	Address of the Clerk of the Court"
Name of Defendant	
Address of Defendant	

Sec. 5. RCW 6.27.140 and 2021 c 35 s 2 are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

NOTICE OF GARNISHMENT
AND OF YOUR RIGHTS

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. A garnishment against wages or other earnings for child support may not be issued under chapter 6.27 RCW. If the garnishment is for private student loan debt, the exempt amount paid to you will be the greater of the following: A percent of your disposable earnings, which is eighty-five percent of the part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld, or fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable. If the garnishment is for consumer debt, the exempt amount paid to you will be the greater of the following: A percent of your disposable earnings, which is eighty percent of the part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld, or thirty-five times the state minimum hourly wage.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or any federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts certain property of your choice (including, if the judgment is for private student loan debt, up to $2,500.00 in a bank account ((~~if you owe on private student loan debts;~~)), or for a marital community or domestic partnership up to $5,000.00 in a bank account; if the judgment is for other consumer debt, up to $2,000.00 in a bank account ((~~if you owe on consumer debts; or~~)), or for a marital community or domestic partnership up to $4,000.00 in a bank account; or, if the judgment is for any other debts, up to $500.00 in a bank account ((~~for all other debts~~)), or for a marital community or domestic partnership up to $1,000.00 in a bank account) and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than

14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2)(a) If the writ is to garnish funds or property held by a financial institution, the claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

Name of Court

..... No . . . . . .

Plaintiff,

vs.

..... EXEMPTION CLAIM

Defendant,

Garnishee Defendant

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.

2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

[ ] The account contains payments from:

- [ ] Temporary assistance for needy families, SSI, or other public assistance. I receive $ . . . . . monthly.
- [ ] Social Security. I receive $ . . . . . monthly.
- [ ] Veterans' Benefits. I receive $ . . . . . monthly.
- [ ] Federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan. I receive $ . . . . . monthly.
- [ ] Unemployment Compensation. I receive $ . . . . . monthly.
- [ ] Child support. I receive $ . . . . . monthly.
- [ ] Other. Explain

((~~[ ] $2,500 exemption for private student loan debts.~~

~~[ ] $2,000 exemption for consumer debts.~~

~~[ ] $500 exemption for all other debts.~~))

[ ] I/We claim the following exemptions:

- [ ] Exemption for private student loan debts:
  - [ ] $2,500 for an individual; or
  - [ ] $5,000 for a marital community or domestic partnership.
- [ ] Exemption for consumer debts:
  - [ ] $2,000 for an individual; or
  - [ ] $4,000 for a marital community or domestic partnership.
- [ ] Exemption for all other debts:
  - [ ] $500 for an individual; or
  - [ ] $1,000 for a marital community or domestic partnership.
- [ ] I declare under penalty of perjury under the laws of the State of Washington that I am a married person and that I wish to use the marital exemptions.

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- [ ] No money other than from above payments are in the account.
- [ ] Moneys in addition to the above payments have been deposited in the account. Explain .....
  .....
  .....

OTHER PROPERTY:

[ ] Describe property .....
.....
(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

.....	.....
Print: Your name	If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner
.....	.....
Your signature	Signature of husband, wife, or state registered domestic partner
.....	.....
.....	.....
Address	Address (if different from yours)
.....	.....
Telephone number	Telephone number (if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

(b) If the writ is directed to an employer to garnish earnings, the claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font type:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

.....

Name of Court

..... No . . . . . .

Plaintiff,

vs.

..... EXEMPTION CLAIM

Defendant,

.....

Garnishee Defendant

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice.

Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.

2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

[ ] Name and address of employer who is paying the benefits:

IF EARNINGS ARE GARNISHED FOR PRIVATE STUDENT LOAN DEBT:

[ ] I claim maximum exemption.

IF EARNINGS ARE GARNISHED FOR CONSUMER DEBT:

[ ] I claim maximum exemption.

.....	.....
Print: Your name	If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner
.....	.....
Your signature	Signature of husband, wife, or state registered domestic partner
.....	.....
.....	.....
Address	Address (if different from yours)
.....	.....
Telephone number	Telephone number (if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

(c) If the writ under (b) of this subsection is not a writ for the collection of private student loan debt, the exemption language pertaining to private student loan debt may be omitted.

(d) If the writ under (b) of this subsection is not a writ for the collection of consumer debt, the exemption language pertaining to consumer debt may be omitted.

NEW SECTION. **Sec. 6.** Sections 1 and 4 of this act expire July 1, 2025.

NEW SECTION. **Sec. 7.** Section 2 of this act takes effect July 1, 2025."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Stanford moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5173.

Senators Stanford and Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Stanford that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5173.

The motion by Senator Stanford carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5173 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5173, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5173, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 16; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Cleveland, Dhingra, Frame, Hasegawa, Holy, Hunt, Kauffman, Keiser, King, 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, MacEwen, McCune, Padden, Rivers, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5173, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2023

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5182 with the following amendment(s): 5182-S AMH CHRI OMLI 167

On page 2, line 20, after "court" insert ". The secretary of state shall establish contingency plans, consistent with this subsection, to support candidate filing for state legislative candidates who have not yet filed their declaration of candidacy in the case that a localized or system-wide internet outage or a disruption to the secretary of state's candidate filing website occurs during the two hours immediately preceding the filing deadline. The secretary of state shall immediately process all filings received pursuant to the contingency plan"

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Nguyen moved that the Senate concur in the House

amendment(s) to Substitute Senate Bill No. 5182.

Senator Nguyen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Nguyen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5182.

The motion by Senator Nguyen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5182 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5182, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5182, as amended by the House, 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, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5182, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 5, 2023

MR. PRESIDENT:
The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5186 with the following amendment(s): 5186-S.E AMH SGOV H1819.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 49.60 RCW to read as follows:

(1) After January 1, 2024, any contractor, including subcontractors, with the state for public works or for goods or services is subject to the nondiscrimination requirements of this section and any rules and regulations to implement it.

(2) Every state contract and subcontract for public works or for goods or services must contain a nondiscrimination clause prohibiting discrimination on the bases enumerated in subsection (3) of this section. The nondiscrimination clause must contain a provision requiring contractors and subcontractors to give written notice of their obligations under that clause to labor organizations with which they have a collective bargaining or other agreement.

(3) The antidiscrimination clauses required by this section must prohibit any covered contractor or subcontractor from:

(a) Refusing to hire any person because of age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, unless based upon a bona fide occupational qualification: PROVIDED, That the prohibition against discrimination because of such disability shall not apply if the particular disability prevents the proper performance of the particular worker involved: PROVIDED, That this section shall not be construed to require an employer to establish employment goals or quotas based on sexual orientation;

(b) Discharging or barring any person from employment because of age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability;

(c) Discriminating against any person in compensation or in other terms or conditions of employment because of age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal by a person with a disability: PROVIDED, That it shall not be an unfair practice for an employer to segregate washrooms or locker facilities on the basis of sex, or to base other terms and conditions of employment on the sex of employees where the commission by regulation or ruling in a particular instance has found the employment practice to be appropriate for the practical realization of equality of opportunity between the sexes; or

(d) Printing or circulating, or causing to be printed or circulated, any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal by a person with a disability, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, That nothing contained herein shall prohibit advertising in a foreign language.

(4) The department of enterprise services, in collaboration with the office of minority and women's business enterprises, the office of equity, and the commission, must develop standard template contract provisions for public works and goods and services contracts to meet the provisions of this section.

Sec. 2. RCW 39.26.245 and 2010 c 5 s 6 are each amended to read as follows:

(1) All contracts entered into and purchases made, including leasing or renting, under this chapter on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW.

(2) All procurement contracts entered into under this chapter on or after June 10, 2010, are subject to the requirements established under RCW 43.60A.200.

(3) All contracts with the state for goods or services entered into under this chapter on or after January 1, 2024, are subject to the requirements established under section 1 of this act.

Sec. 3. RCW 39.04.160 and 1983 c 120 s 11 are each amended to read as follows:

(1) All contracts entered into under this chapter by the state on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW.

(2) All contracts entered into under this chapter by the state on or after January 1, 2024, are subject to the requirements

established under section 1 of this act."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5186.

Senators Liias and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5186.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5186 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5186, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5186, as amended by the House, 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, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5186, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 6, 2023

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5189 with the following amendment(s): 5189-S AMH APP H1838.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that a behavioral health support specialist is a new member of the workforce in Washington state trained in the competencies developed by the University of Washington behavioral health support specialist clinical training program. The behavioral health support specialist clinical training program is characterized by brief, evidence-based interventions delivered to the intensity and expected duration of the behavioral health problem. The approach features routine outcome monitoring and regular, outcome-focused supervision. Use of behavioral health support specialists in Washington is expected to improve access to behavioral health services and ease workforce shortages while helping behavioral health professionals work at the top of their scope of practice.

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

(1) "Adult" means a person 18 years of age or older.

(2) "Applicant" means a person who completes the required application, pays the required fee, is at least 18 years of age, and meets any background check requirements and uniform disciplinary act requirements.

(3) "Behavioral health" is a term that encompasses mental health, substance use, and co-occurring disorders.

(4) "Behavioral health support specialist" means a person certified to deliver brief, evidence-based interventions with a scope of practice that includes behavioral health under the supervision of a Washington state credentialed provider who has the ability to assess, diagnose, and treat identifiable mental and behavioral health conditions as part of their scope of practice. A behavioral health support specialist does not have within their scope of practice the ability to make diagnoses but does track and monitor treatment response and outcomes using measurement-based care.

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

(6) "Registered apprenticeship" means an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

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

NEW SECTION. **Sec. 3.** The department shall collaborate with the University of Washington department of psychiatry and behavioral sciences and consult with other stakeholders to develop rules to implement this chapter by January 1, 2025, which shall be consistent with the University of Washington behavioral health support specialist clinical training program guidelines, and shall include appropriate standards for approval of educational programs for behavioral health support specialists, which shall include a practicum component and may be integrated into a bachelor's degree program or structured as a postbaccalaureate continuing education program or registered apprenticeship in combination with an approved bachelor's degree or postbaccalaureate certificate.

NEW SECTION. **Sec. 4.** A person may not represent themself as a behavioral health support specialist without being certified by the department.

NEW SECTION. **Sec. 5.** Nothing in this chapter shall be construed to prohibit or restrict delivery of behavioral health interventions by an individual otherwise regulated under this title and performing services within their authorized scope of practice.

NEW SECTION. **Sec. 6.** In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter. Any rules adopted shall be in consultation with the University of Washington;

(2) Establish all certification, examination, and renewal fees in accordance with RCW 43.70.250;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Issue certifications to applicants who have met the education, which may include registered apprenticeships, practicum, and examination requirements for certification and to deny a certification to applicants who do not meet the requirements;

(5) Develop, administer, and supervise the grading and taking of an examination for applicants for certification;

(6) Adopt rules requiring completion of 20 hours of continuing education every two years after initial certification for certification renewal;

(7) Maintain the official record of all applicants and certification holders; and

(8) Establish by rule the procedures for an appeal of an examination failure.

NEW SECTION. **Sec. 7.** The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certification, and the discipline of persons certified under this chapter. The secretary shall be the disciplinary authority under this chapter.

NEW SECTION. **Sec. 8.** The secretary shall issue a certification to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements:

(1) Graduation from a bachelor's degree program;

(2) Successful completion of a behavioral health support specialist program that is approved to meet standards consistent with the University of Washington behavioral health support specialist clinical training program guidelines, including a supervised clinical practicum with demonstrated clinical skills in core competencies; and

(3) Successful completion of an approved jurisprudential examination.

NEW SECTION. **Sec. 9.** (1) The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for certification shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designee shall examine each applicant, by means determined to be most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the secretary has made and published the decisions. All examinations shall be conducted using fair and wholly impartial methods.

(4) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the certification requirements.

NEW SECTION. **Sec. 10.** Applications for certification shall be submitted on forms provided by the secretary. The secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee shall accompany the application.

NEW SECTION. **Sec. 11.** The health care authority shall take any steps which are necessary and proper to ensure that the services of behavioral health support specialists are covered under the state medicaid program by January 1, 2025.

NEW SECTION. **Sec. 12.** A new section is added to chapter 48.43 RCW to read as follows:

By July 1, 2025, every carrier shall provide access to services provided by behavioral health support specialists in a manner sufficient to meet the network access standards set forth in rules established by the office of the insurance commissioner.

Sec. 13. RCW 18.130.040 and 2021 c 179 s 7 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ((~~and~~))

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Behavioral health support specialists certified under chapter 18.--- RCW (the new chapter created in section 15 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as

established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

Sec. 14. RCW 18.130.040 and 2022 c 217 s 5 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW;

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; ((~~and~~))

(xxvii) Birth doulas certified under chapter 18.47 RCW; and

(xxviii) Behavioral health support specialists certified under chapter 18.--- RCW (the new chapter created in section 15 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. **Sec. 15.** Sections 1 through 11 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 16.** Section 13 of this act expires October 1, 2023.

NEW SECTION. **Sec. 17.** Section 14 of this act takes effect October 1, 2023."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Trudeau moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5189.

Senator Trudeau spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Trudeau that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5189.

The motion by Senator Trudeau carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5189 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5189, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5189, as amended by the House, 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, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5189, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2023

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5191 with the following amendment(s): 5191-S AMH CPB H1719.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.86.010 and 2013 c 58 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency relationship" means the agency relationship created under this chapter ((~~or by written agreement~~)) between a real estate firm and a ((~~buyer and/or seller relating to the performance of real estate brokerage services~~)) principal.

(2) "Agent" means a broker who has ((~~entered into~~)) an agency relationship with a ((~~buyer or seller~~)) principal, including the firm's designated broker and any managing broker responsible for the supervision of that broker.

(3) "Broker" means broker, managing broker, and designated broker, collectively, as defined in chapter 18.85 RCW, unless the context requires the terms to be considered separately.

(4) "Brokerage services agreement" or "services agreement" means a written agreement between a real estate firm and principal that appoints a broker to represent the principal as an agent and sets forth the terms required by RCW 18.86.020 and 18.86.080.

(5) "Business opportunity" means and includes a business, business opportunity, and goodwill of an existing business, or any one or combination thereof when the transaction or business includes an interest in real property.

(((~~(5)~~))) (6) "Buyer" means an actual or prospective purchaser in a real estate transaction, or an actual or prospective tenant in a real estate rental or lease transaction, as applicable.

(((~~(6)~~))) (7) "Buyer's agent" means a broker who has ((~~entered into~~)) an agency relationship with only the buyer in a real estate transaction((~~, and includes subagents engaged by a buyer's agent~~)).

(((~~(7)~~))) (8) "Commercial real estate" has the same meaning as in RCW 60.42.005.

(9) "Confidential information" means information from or concerning a principal ((~~of a broker~~)) that:

(a) Was acquired by the broker during the course of an agency relationship with the principal;

(b) The principal reasonably expects to be kept confidential;

(c) The principal has not disclosed or authorized to be disclosed to third parties;

(d) Would, if disclosed, operate to the detriment of the principal; and

(e) The principal personally would not be obligated to disclose

to the other party.

(((~~(8) "Dual~~)) (10) "Limited dual agent" means a broker who has ((~~entered into~~)) an agency relationship with both the buyer and seller in the same transaction.

(((~~(9)~~)) (11) "Material fact" means information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a real estate transaction, or operates to materially impair or defeat the purpose of the transaction. The fact or suspicion that the property, or any neighboring property, is or was the site of a murder, suicide or other death, rape or other sex crime, assault or other violent crime, robbery or burglary, illegal drug activity, gang-related activity, political or religious activity, or other act, occurrence, or use not adversely affecting the physical condition of or title to the property is not a material fact.

(((~~(10)~~)) (12) "Principal" means a buyer or a seller who has ((~~entered into~~)) an agency relationship with a broker.

(((~~(11)~~)) (13) "Real estate brokerage services" means the rendering of services for which a real estate license is required under chapter 18.85 RCW.

(((~~(12)~~)) (14) "Real estate firm" or "firm" have the same meaning as defined in chapter 18.85 RCW.

(((~~(13)~~)) (15) "Real estate transaction" or "transaction" means an actual or prospective transaction involving a purchase, sale, option, or exchange of any interest in real property or a business opportunity, or a lease or rental of real property. For purposes of this chapter, a prospective transaction does not exist until a written offer has been signed by at least one ((~~of the parties~~)) party.

(((~~(14)~~)) (16) "Seller" means an actual or prospective seller in a real estate transaction, or an actual or prospective landlord in a real estate rental or lease transaction, as applicable.

(((~~(15)~~)) (17) "Seller's agent" means a broker who has ((~~entered into~~)) an agency relationship with only the seller in a real estate transaction((~~, and includes subagents engaged by a seller's agent.~~

~~(16) "Subagent" means a broker who is engaged to act on behalf of a principal by the principal's agent where the principal has authorized the broker in writing to appoint subagents~~)).

Sec. 2. RCW 18.86.020 and 2013 c 58 s 2 are each amended to read as follows:

(1) A broker who performs real estate brokerage services for a buyer is a buyer's agent unless the:

(a) Broker's firm has appointed the broker to represent the seller pursuant to a ((~~written agency~~)) services agreement between the firm and the seller, in which case the broker is a seller's agent;

(b) ((~~Broker has entered into a subagency agreement with the seller's agent's firm, in which case the broker is a seller's agent;~~

~~(c)~~)) Broker's firm has appointed the broker to represent the seller pursuant to a ((~~written agency~~)) services agreement between the firm and the seller, and the broker's firm has also appointed the broker to represent the buyer pursuant to a ((~~written agency~~)) services agreement between the firm and the buyer, in which case the appointed broker is a limited dual agent; or

(((~~(d)~~)) (c) Broker is the seller or one of the sellers((~~; or~~

~~(e) Parties agree otherwise in writing after the broker has complied with RCW 18.86.030(1)(f).~~

~~(2) In a transaction in which different brokers affiliated with the same firm represent different parties, the firm's designated broker and any managing broker responsible for the supervision of both brokers, is a dual agent, and must obtain the written consent of both parties as required under RCW 18.86.060. In such case, each of the brokers shall solely represent the party with whom the broker has an agency relationship, unless all parties agree in writing that the broker is a dual agent.~~

~~(3) A broker may work with a party in separate transactions pursuant to different relationships, including, but not limited to, representing a party in one transaction and at the same time not representing that party in a different transaction involving that party, if the broker complies with this chapter in establishing the relationships for each transaction~~)).

(2)(a) A firm must enter into a services agreement with the principal before, or as soon as reasonably practical after, its appointed broker commences rendering real estate brokerage services to, or on behalf of, the principal.

(b) The services agreement must include the following:

(i) The term of the agreement, and if the principal is a buyer, a default term of 60 days with the option of a longer term;

(ii) The broker appointed as an agent for the principal;

(iii) Whether the agency relationship is exclusive or nonexclusive, and if the principal is a buyer, checkbox options for the buyer to select either an exclusive or nonexclusive relationship;

(iv) Whether the principal consents to the broker appointed as an agent for the principal to act as a limited dual agent, which consent must be separately initialed by the principal and include an acknowledgment from the principal that a limited dual agent may not advocate terms favorable to one principal to the detriment of the other principal and is further limited as set forth in RCW 18.86.060; and

(v) Whether the principal consents to the firm's designated broker and any managing broker responsible for the supervision of the broker appointed as an agent for the principal to act as a limited dual agent in a transaction in which different brokers affiliated with the same firm represent different parties.

(3) A services agreement is not required when a broker performs real estate brokerage services as a buyer's agent solely for commercial real estate.

(4) A broker may work with a party in separate transactions pursuant to different relationships including, but not limited to, representing a party in one transaction and at the same time not representing that party in a different transaction involving that party, if the broker complies with this chapter in establishing the relationships for each transaction.

Sec. 3. RCW 18.86.030 and 2013 c 58 s 3 are each amended to read as follows:

(1) ((~~Regardless of whether a broker is an agent, the~~)) A broker owes ((~~to all parties to whom the broker renders real estate brokerage services~~)) the following duties to their principal and to all parties in a transaction, which may not be waived:

(a) To exercise reasonable skill and care;

(b) To deal honestly and in good faith;

(c) To present all written offers, written notices and other written communications to and from either party in a timely manner, regardless of whether the property is subject to an existing contract for sale or the buyer is already a party to an existing contract to purchase;

(d) To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party; provided that this subsection shall not be construed to imply any duty to investigate matters that the broker has not agreed to investigate;

(e) To account in a timely manner for all money and property received from or on behalf of either party;

(f) To provide a pamphlet ((~~on the law of real estate agency~~)) in the form prescribed ((~~in~~)) by RCW 18.86.120 and obtain an acknowledgment of receipt by the party. The pamphlet shall be provided to ((~~all parties~~)):

(i) Any party to whom the broker renders real estate brokerage services((~~, before the party signs an agency agreement with the broker, signs an offer in a real estate transaction handled by the broker, consents to dual agency, or waives any rights, under RCW~~

~~18.86.020(1)(e), 18.86.040(1)(e), 18.86.050(1)(e), or 18.86.060(2) (e) or (f), whichever occurs earliest; and~~

~~(g) To disclose in writing to all parties to whom the broker renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the broker, whether~~)) as soon as reasonably practical but before the party signs a services agreement; and

(ii) Any party not represented by a broker in a transaction before the party signs an offer or as soon as reasonably practical; and

(g) To disclose in writing before the broker's principal signs an offer, or as soon as reasonably practical, but before the parties reach mutual agreement:

(i) Whether the broker represents the buyer as the buyer's agent, the seller as the seller's agent, or both parties((~~, or neither party~~)) as a limited dual agent. The disclosure shall be set forth in a separate paragraph ((~~entitled~~)) titled "Agency Disclosure" in the agreement between the buyer and seller or in a separate writing ((~~entitled~~)) titled "Agency Disclosure((~~.~~))"; and

(ii) Any terms of compensation offered by a party or a real estate firm to a real estate firm representing another party.

(2) Unless otherwise agreed, a broker owes no duty to conduct an independent inspection of the property or to conduct an independent investigation of either party's financial condition, and owes no duty to independently verify the accuracy or completeness of any statement made by either party or by any source reasonably believed by the broker to be reliable.

Sec. 4. RCW 18.86.040 and 2013 c 58 s 5 are each amended to read as follows:

(1) Unless additional duties are agreed to in writing signed by a seller's agent, the duties of a seller's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the seller by taking no action that is adverse or detrimental to the seller's interest in a transaction;

(b) To timely disclose to the seller any conflicts of interest;

(c) To advise the seller to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) ((~~Not to~~)) To not disclose any confidential information from or about the seller, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the seller's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a seller's agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale.

(2)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a seller's agent does not in and of itself breach the duty of loyalty to the seller or create a conflict of interest.

(b) The representation of more than one seller by different brokers affiliated with the same firm in competing transactions involving the same buyer does not in and of itself breach the duty of loyalty to the sellers or create a conflict of interest.

Sec. 5. RCW 18.86.050 and 2013 c 58 s 6 are each amended to read as follows:

(1) Unless additional duties are agreed to in writing signed by a buyer's agent, the duties of a buyer's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the buyer by taking no action that is adverse or detrimental to the buyer's interest in a transaction;

(b) To timely disclose to the buyer any conflicts of interest;

(c) To advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) ((~~Not to~~)) To not disclose any confidential information from or about the buyer, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the buyer's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a buyer's agent is not obligated to((~~: (i) Seek~~)) seek additional properties to purchase while the buyer is a party to an existing contract to purchase((~~; or (ii) show properties as to which there is no written agreement to pay compensation to the buyer's agent~~)).

(2)(a) The showing of property in which a buyer is interested to other prospective buyers by a buyer's agent does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different brokers affiliated with the same firm in competing transactions involving the same property does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest.

Sec. 6. RCW 18.86.060 and 2013 c 58 s 7 are each amended to read as follows:

(1) ((~~Notwithstanding any other provision of this chapter, a~~)) A broker may act as a limited dual agent only with the written consent of both parties to the transaction ((~~after the dual agent has complied with RCW 18.86.030(1)(f), which consent must include a statement of the terms of compensation~~)), set forth in the services agreement.

(2) Unless additional duties are agreed to in writing signed by a limited dual agent, the duties of a limited dual agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) and (f) of this subsection:

(a) To take no action that is adverse or detrimental to either party's interest in a transaction;

(b) To timely disclose to both parties any conflicts of interest;

(c) To advise both parties to seek expert advice on matters relating to the transaction that are beyond the limited dual agent's expertise;

(d) ((~~Not to~~)) To not disclose any confidential information from or about either party, except under subpoena or court order, even after termination of the agency relationship;

(e) Unless otherwise agreed to in writing after the limited dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a limited dual agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale; and

(f) Unless otherwise agreed to in writing after the limited dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a limited dual agent is not obligated to((~~: (i) Seek~~)) seek additional properties to purchase while the buyer is a party to an existing contract to purchase((~~; or (ii) show properties as to which there is no written agreement to pay compensation to the dual agent~~)).

(3)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a limited dual agent does not in and of itself constitute action that is adverse or detrimental to the seller or create a conflict of interest.

(b) The representation of more than one seller by different brokers licensed to the same firm in competing transactions involving the same buyer does not in and of itself constitute action that is adverse or detrimental to the sellers or create a conflict of interest.

(4)(a) The showing of property in which a buyer is interested to other prospective buyers or the presentation of additional offers to purchase property while the property is subject to a transaction by a limited dual agent does not in and of itself constitute action that is adverse or detrimental to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different brokers licensed to the same firm in competing transactions involving the same property does not in and of itself constitute action that is adverse or detrimental to the buyers or create a conflict of interest.

(5) In a transaction in which different brokers affiliated with the same firm represent different parties, the firm's designated broker, and any managing broker responsible for the supervision of both brokers, is a limited dual agent. In such case, each appointed broker shall solely represent the party with whom the appointed broker has an agency relationship.

Sec. 7. RCW 18.86.070 and 2013 c 58 s 8 are each amended to read as follows:

(1) The agency relationships ((~~set forth in this chapter commence at the time that the broker undertakes to provide real estate brokerage services to a principal and~~)) established pursuant to this chapter continue until the earliest of the following:

(a) Completion of performance by the broker;

(b) Expiration of the term agreed upon by the parties;

(c) Termination of the relationship by mutual agreement of the parties; or

(d) Termination of the relationship by notice from either party to the other. However, such a termination does not otherwise affect the contractual rights of either party.

(2) Except as otherwise agreed to in writing, a broker owes no further duty after termination of the agency relationship, other than the ((~~duties of~~)) duty:

(a) ((~~Accounting~~)) To account for all moneys and property received during the relationship; and

(b) ((~~Not disclosing~~)) To not disclose confidential information.

Sec. 8. RCW 18.86.080 and 2013 c 58 s 9 are each amended to read as follows:

(1) In any real estate transaction, a firm's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between firms.

(2) An agreement to pay or payment of compensation does not establish an agency relationship between the party who paid the compensation and the broker.

(3) A seller may agree that a seller's agent's firm may share with another firm the compensation paid by the seller.

(4) A buyer may agree that a buyer's agent's firm may share with another firm the compensation paid by the buyer.

(5) A firm may be compensated by more than one party for real estate brokerage services in a real estate transaction((~~, if those parties consent in writing at or before the time of signing an offer in the transaction~~)).

(6) A firm may receive compensation based on the purchase price without breaching any duty to the buyer or seller.

(7) ((~~Nothing contained in this chapter negates the requirement that an agreement authorizing or employing a broker to sell or purchase real estate for compensation or a commission be in writing and signed by the seller or buyer.~~)) To receive compensation for rendering real estate brokerage services from any party or firm, a real estate firm must have a services agreement containing the following:

(a) The terms of compensation, including:

(i) The amount the principal agrees to compensate the firm;

(ii) The principal's consent, if any, and any terms of such consent, to compensation sharing between firms and parties; and

(iii) The principal's consent, if any, and any terms of such consent, to compensation of the firm by more than one party;

(b) In a services agreement with a buyer, whether the appointed broker agrees to show the buyer properties if there is no agreement or offer by any party or firm to pay compensation to the firm; and

(c) Any other agreements between the parties.

(8) In lieu of obtaining a services agreement, a broker rendering real estate brokerage services to a buyer solely for commercial real estate may disclose in writing to the buyer, before the buyer signs an offer with regard to such commercial real estate, the sources and amounts of any compensation the broker has or expects to receive from any party in conjunction with such transaction. The disclosure shall be set forth in a separate paragraph titled "Compensation Disclosure" in the agreement between the buyer and seller or in a separate writing titled "Compensation Disclosure."

(9) A firm may receive compensation without a services agreement for the provision of a broker's price opinion, as defined in RCW 18.85.011, or a referral by one firm to another firm if the referring firm provided no real estate brokerage services in the transaction.

Sec. 9. RCW 18.86.090 and 2013 c 58 s 10 are each amended to read as follows:

(((~~(1)~~))) A principal is not liable for an act, error, or omission by an agent ((~~or subagent~~)) of the principal arising out of an agency relationship:

(((~~(a)~~))) (1) Unless the principal participated in or authorized the act, error, or omission; or

(((~~(b)~~))) (2) Except to the extent that: (((~~(i)~~))) (a) The principal benefited from the act, error, or omission; and (((~~(ii)~~))) (b) the court determines that it is highly probable that the claimant would be unable to enforce a judgment against the agent ((~~or subagent~~)).

((~~(2) A broker is not liable for an act, error, or omission of a subagent under this chapter, unless that broker participated in or authorized the act, error or omission. This subsection does not limit the liability of a firm for an act, error, or omission by a broker licensed to the firm.~~))

Sec. 10. RCW 18.86.100 and 2013 c 58 s 11 are each amended to read as follows:

(((~~(1)~~))) Unless otherwise agreed to in writing, a principal does not have knowledge or notice of any facts known by an agent ((~~or subagent~~)) of the principal that are not actually known by the principal.

((~~(2) Unless otherwise agreed to in writing, a broker does not have knowledge or notice of any facts known by a subagent that are not actually known by the broker. This subsection does not limit the knowledge imputed to the designated broker or any managing broker responsible for the supervision of the broker of any facts known by the broker.~~))

Sec. 11. RCW 18.86.120 and 2013 c 58 s 13 are each amended to read as follows:

(((~~(1)~~))) The pamphlet required under RCW 18.86.030(1)(f) shall ((~~consist of the entire text of RCW 18.86.010 through 18.86.030 and 18.86.040 through 18.86.110 with a separate cover page. The pamphlet shall be 8 1/2 by 11 inches in size, the text shall be in print no smaller than 10 point type, the cover page shall be in print no smaller than 12 point type, and the title of the cover page "The Law of Real Estate Agency" shall be in print no smaller than 18 point type. The cover page shall be in the following form:~~

~~The Law of Real Estate Agency~~

~~This pamphlet describes your legal rights in dealing with a real estate firm or broker. Please read it carefully before signing any documents.~~

~~The following is only a brief summary of the attached~~

~~law:~~

~~Sec. 1. Definitions. Defines the specific terms used in the law.~~

~~Sec. 2. Relationships between Brokers and the Public. Prescribes that a broker who works with a buyer or tenant represents that buyer or tenant - unless the broker is the listing agent, a seller's subagent, a dual agent, the seller personally or the parties agree otherwise. Also prescribes that in a transaction involving two different brokers licensed to the same real estate firm, the firm's designated broker and any managing broker responsible for the supervision of both brokers, are dual agents and each broker solely represents his or her client - unless the parties agree in writing that both brokers are dual agents.~~

~~Sec. 3. Duties of a Broker Generally. Prescribes the duties that are owed by all brokers, regardless of who the broker represents. Requires disclosure of the broker's agency relationship in a specific transaction.~~

~~Sec. 4. Duties of a Seller's Agent. Prescribes the additional duties of a broker representing the seller or landlord only.~~

~~Sec. 5. Duties of a Buyer's Agent. Prescribes the additional duties of a broker representing the buyer or tenant only.~~

~~Sec. 6. Duties of a Dual Agent. Prescribes the additional duties of a broker representing both parties in the same transaction, and requires the written consent of both parties to the broker acting as a dual agent.~~

~~Sec. 7. Duration of Agency Relationship. Describes when an agency relationship begins and ends. Provides that the duties of accounting and confidentiality continue after the termination of an agency relationship.~~

~~Sec. 8. Compensation. Allows real estate firms to share compensation with cooperating real estate firms. States that payment of compensation does not necessarily establish an agency relationship. Allows brokers to receive compensation from more than one party in a transaction with the parties' consent.~~

~~Sec. 9. Vicarious Liability. Eliminates the liability of a party for the conduct of the party's agent or subagent, unless the principal participated in or benefited from the conduct or the agent or subagent is insolvent. Also limits the liability of a broker for the conduct of a subagent.~~

~~Sec. 10. Imputed Knowledge and Notice. Eliminates the common law rule that notice to or knowledge of an agent constitutes notice to or knowledge of the principal.~~

~~Sec. 11. Interpretation. This law establishes statutory duties which replace common law fiduciary duties owed by an agent to a principal.~~

~~Sec. 12. Short Sale. Prescribes an additional duty of a firm representing the seller of owner-occupied real property in a short sale.~~

~~(2)(a) The pamphlet required under RCW 18.86.030(1)(f) must also include the following disclosure: When the seller of owner-occupied residential real property enters into a listing agreement with a real estate firm where the proceeds from the sale may be insufficient to cover the costs at closing, it is the responsibility of the real estate firm to disclose to the seller in writing that the decision by any beneficiary or mortgagee, or its assignees, to release its interest in the real property, for less than the amount the borrower owes, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including fees such as the real estate firm's commission.~~

~~(b) For the purposes of this subsection, "owner-occupied real property" means real property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit that is the principal residence of the borrower~~)) be formatted so it can be easily reviewed by a buyer or seller, including a legible font and font size. The pamphlet shall be in the following form:

Real Estate Brokerage in Washington Introduction

This pamphlet provides general information about real estate brokerage and summarizes the laws related to real estate brokerage relationships. It describes a real estate broker's duties to the seller/landlord and buyer/tenant. Detailed and complete information about real estate brokerage relationships is available in chapter 18.86 RCW.

If you have any questions about the information in this pamphlet, contact your broker or the designated broker of your broker's firm.

Licensing and Supervision of Brokers

To provide real estate brokerage services in Washington, a broker must be licensed under chapter 18.85 RCW and licensed with a real estate firm, which also must be licensed. Each real estate firm has a designated broker who is responsible for supervising the brokers licensed with the firm. Some firms may have branch offices that are supervised by a branch manager and some firms may delegate certain supervisory duties to one or more managing brokers.

The Washington State Department of Licensing is responsible for enforcing all laws and rules relating to the conduct of real estate firms and brokers.

Agency Relationship

In an agency relationship simplicity, a broker is referred to as an "agent" and the seller/landlord and buyer/tenant is referred to as the "principal." For, in this pamphlet, seller includes landlord, and buyer includes tenant.

For Sellers

A real estate firm and broker must enter into a written services agreement with a seller to establish an agency relationship. The firm will then appoint one or more brokers to be agents of the seller. The firm's designated broker and any managing broker responsible for the supervision of those brokers are also agents of the seller.

For Buyers

A real estate firm and broker(s) who perform real estate brokerage services for a buyer establish an agency relationship by performing those services. The firm's designated broker and any managing broker responsible for the supervision of that broker are also agents of the buyer. A written services agreement between the buyer and the firm must be entered into before, or as soon as reasonably practical after, a broker begins rendering real estate brokerage services to the buyer.

For both Buyer and Seller - as a Limited Dual Agent

A limited dual agent provides limited representation to both the buyer and the seller in a transaction. Limited dual agency requires the consent of each principal in a written services agreement and may occur in two situations: (1) When the buyer and the seller are represented by the same broker, in which case the broker's designated broker and any managing broker responsible for the supervision of that broker are also limited dual agents; and (2) when the buyer and the seller are represented by different brokers in the same firm, in which case each broker solely represents the principal the broker was appointed to represent, but the broker's designated broker and any managing broker responsible for the supervision of those brokers are limited dual agents.

Duration of Agency Relationship

Once established, an agency relationship continues until the earliest of the following:

(1) Completion of performance by the broker;

(2) Expiration of the term agreed upon by the parties;

(3) Termination of the relationship by mutual agreement of the parties; or

(4) Termination of the relationship by notice from either party to the other. However, such a termination does not affect the contractual rights of either party.

Written Services Agreement

A written services agreement between the firm and principal must contain the following:

(1) The term (duration) of the agreement;

(2) Name of the broker(s) appointed to act as an agent for the principal;

(3) Whether the agency relationship is exclusive (which does not allow the principal to enter into an agency relationship with another firm during the term) or nonexclusive (which allows the principal to enter into an agency relationship with multiple firms at the same time);

(4) Whether the principal consents to limited dual agency;

(5) The terms of compensation;

(6) In an agreement with a buyer, whether the broker agrees to show a property when there is no agreement or offer by any party or firm to pay compensation to the broker's firm; and

(7) Any other agreements between the parties.

A Broker's Duties to All Parties

A broker owes the following duties to all parties in a transaction:

(1) To exercise reasonable skill and care;

(2) To deal honestly and in good faith;

(3) To timely present all written offers, written notices, and other written communications to and from either party;

(4) To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party. A material fact includes information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a transaction, or operates to materially impair or defeat the purpose of the transaction. However, a broker does not have any duty to investigate matters that the broker has not agreed to investigate;

(5) To account in a timely manner for all money and property received from or on behalf of either party;

(6) To provide this pamphlet to all parties to whom the broker renders real estate brokerage services and to any unrepresented party;

(7) To disclose in writing who the broker represents; and

(8) To disclose in writing any terms of compensation offered by a party or a real estate firm to a real estate firm representing another party.

A Broker's Duties to the Buyer or Seller

A broker owes the following duties to their principal (either the buyer or seller):

(1) To be loyal to their principal by taking no action that is adverse or detrimental to their principal's interest in a transaction;

(2) To timely disclose to their principal any conflicts of interest;

(3) To advise their principal to seek expert advice on matters relating to the transaction that are beyond the broker's expertise;

(4) To not disclose any confidential information from or about their principal; and

(5) To make a good faith and continuous effort to find a property for the buyer or to find a buyer for the seller's property, until the principal has entered a contract for the purchase or sale of property or as agreed otherwise in writing.

Limited Dual Agent Duties

A limited dual agent may not advocate terms favorable to one principal to the detriment of the other principal. A broker, acting as a limited dual agent, owes the following duties to both the buyer and seller:

(1) To take no action that is adverse or detrimental to either principal's interest in a transaction;

(2) To timely disclose to both principals any conflicts of interest;

(3) To advise both principals to seek expert advice on matters relating to the transaction that are beyond the limited dual agent's expertise;

(4) To not disclose any confidential information from or about either principal; and

(5) To make a good faith and continuous effort to find a property for the buyer and to find a buyer for the seller's property, until the principals have entered a contract for the purchase or sale of property or as agreed otherwise in writing.

Compensation

In any real estate transaction, a firm's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between firms. To receive compensation from any party, a firm must have a written services agreement with the party the firm represents (or provide a "Compensation Disclosure" to the buyer in a transaction for commercial real estate).

A services agreement must contain the following regarding compensation:

(1) The amount the principal agrees to compensate the firm for broker's services as an agent or limited dual agent;

(2) The principal's consent, if any, and any terms of such consent, to compensation sharing between firms and parties; and

(3) The principal's consent, if any, and any terms of such consent, to compensation of the firm by more than one party.

Short Sales

A "short sale" is a transaction where the seller's proceeds from the sale are insufficient to cover seller's obligations at closing (e.g., the seller's outstanding mortgage is greater than the sale price). If a sale is a short sale, the seller's real estate firm must disclose to the seller that the decision by any beneficiary or mortgagee, to release its interest in the property for less than the amount the seller owes to allow the sale to proceed, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including real estate firms' compensation.

NEW SECTION. **Sec. 12.** This act takes effect January 1, 2024."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Stanford moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5191.

Senators Stanford and Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Stanford that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5191.

The motion by Senator Stanford carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5191 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5191, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5191, as amended by the House, 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, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5191, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2023

MR. PRESIDENT:
The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5197 with the following amendment(s): 5197-S.E AMH HOUS H1702.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18 RCW to read as follows:

In any forcible or unlawful detainer proceeding before the court:

(1) Hearings may be conducted in person or remotely in order to enhance access for all parties. At the court's discretion, parties, witnesses, and others authorized by this chapter to participate in forcible or unlawful detainer proceedings may attend a hearing pursuant to this chapter, in person or remotely, including by telephone, video, or other electronic means where possible. The court shall grant any request for a remote appearance unless the court finds good cause to require in-person attendance or attendance through a specific means. Courts shall require assurances of the identity of persons who appear by telephone, video, or other electronic means. Courts may not charge fees for remote appearances. Courts shall provide instructions for remote access either on the official court website or in writing directly to the party requesting to appear remotely, or both.

(2) Any party must be permitted to make an emergency application by phone or video conference and file such documents by email, fax, or other means that can be performed remotely.

Sec. 2. RCW 59.18.410 and 2021 c 115 s 17 are each amended to read as follows:

(1) If at trial the verdict of the jury or, if the case is tried without a jury, the finding of the court is in favor of the landlord and against the tenant, judgment shall be entered for the restitution of the premises; and if the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement, or tenancy. The jury, or the court, if the proceedings are tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the landlord by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved at trial, and, if the alleged unlawful detainer is based on default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the tenant liable for the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed, for the rent, if any, found due, and late fees if such fees are due under the lease and do not exceed ((~~seventy-five dollars~~)) $75 in total. The court may award statutory costs. The court may also award reasonable attorneys' fees as provided in RCW 59.18.290.

(2) When the tenant is liable for unlawful detainer after a default in the payment of rent, execution upon the judgment shall not occur until the expiration of five court days after the entry of the judgment. Before entry of a judgment or until five court days have expired after entry of the judgment, unless the tenant provides a pledge of financial assistance letter from a government or nonprofit entity, in which case the tenant has until the date of eviction, the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court or to the landlord the amount of the rent due, any court costs incurred at the time of payment, late fees if such fees are due under the lease and do not exceed ((~~seventy-five dollars~~)) $75 in total, and attorneys' fees if awarded, in which event any judgment entered shall be satisfied and the tenant restored to his or her tenancy. If the tenant seeks to restore his or her tenancy after entry of a judgment, the tenant may tender the amount stated within the judgment as long as that amount does not exceed the amount authorized under subsection (1) of this section. If a tenant seeks to restore his or her tenancy and pay the amount set forth in this subsection with funds acquired through an emergency rental assistance program provided by a governmental or nonprofit entity, the tenant shall provide a copy of the pledge of emergency rental assistance provided from the appropriate governmental or nonprofit entity and have an opportunity to exercise such rights under this subsection, which may include a stay of judgment and provision by the landlord of documentation necessary for processing the assistance. The landlord shall accept any pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity before the expiration of any pay or vacate notice for nonpayment of rent for the full amount of the rent owing under the rental agreement. The landlord shall accept any written pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity after the expiration of the pay or vacate notice if the pledge will contribute to the total payment of both the amount of rent due, including any current rent, and other amounts if required under this subsection. The landlord shall suspend any court action for ((~~seven~~)) 14 court days after providing necessary payment information to the nonprofit or governmental entity to allow for payment of the emergency rental assistance funds. By accepting such pledge of emergency rental assistance, the landlord is not required to enter into any additional conditions not related to the provision of necessary payment information and documentation. If a judgment has been satisfied, the landlord shall file a satisfaction of judgment with the court. A tenant seeking to exercise rights under this subsection shall pay an additional ((~~fifty dollars~~)) $50 for each time the tenant was reinstated after judgment pursuant to this subsection within the previous ((~~twelve~~)) 12 months prior to payment. If payment of the amount specified in this subsection is not made within five court days after the entry of the judgment, the judgment may be enforced for its full amount and for the possession of the premises.

(3)(a) Following the entry of a judgment in favor of the landlord and against the tenant for the restitution of the premises and forfeiture of the tenancy due to nonpayment of rent, the court, at the time of the show cause hearing or trial, or upon subsequent motion of the tenant but before the execution of the writ of restitution, may stay the writ of restitution upon good cause and

on such terms that the court deems fair and just for both parties. In making this decision, the court shall consider evidence of the following factors:

(i) The tenant's willful or intentional default or intentional failure to pay rent;

(ii) Whether nonpayment of the rent was caused by exigent circumstances that were beyond the tenant's control and that are not likely to recur;

(iii) The tenant's ability to timely pay the judgment;

(iv) The tenant's payment history;

(v) Whether the tenant is otherwise in substantial compliance with the rental agreement;

(vi) Hardship on the tenant if evicted; and

(vii) Conduct related to other notices served within the last six months.

(b) The burden of proof for such relief under this subsection (3) shall be on the tenant. If the tenant seeks relief pursuant to this subsection (3) at the time of the show cause hearing, the court shall hear the matter at the time of the show cause hearing or as expeditiously as possible so as to avoid unnecessary delay or hardship on the parties.

(c) In any order issued pursuant to this subsection (3):

(i) The court shall not stay the writ of restitution more than ((~~ninety~~)) 90 days from the date of order, but may order repayment of the judgment balance within such time. If the payment plan is to exceed ((~~thirty~~)) 30 days, the total cumulative payments for each ((~~thirty-day~~)) 30-day period following the order shall be no less than one month of the tenant's share of the rent, and the total amount of the judgment and all additional rent that is due shall be paid within ((~~ninety~~)) 90 days.

(ii) Within any payment plan ordered by the court, the court shall require the tenant to pay to the landlord or to the court one month's rent within five court days of issuance of the order. If the date of the order is on or before the ((~~fifteenth~~)) 15th of the month, the tenant shall remain current with ongoing rental payments as they become due for the duration of the payment plan; if the date of the order is after the ((~~fifteenth~~)) 15th of the month, the tenant shall have the option to apportion the following month's rental payment within the payment plan, but monthly rental payments thereafter shall be paid according to the rental agreement.

(iii) The sheriff may serve the writ of restitution upon the tenant before the expiration of the five court days of issuance of the order; however, the sheriff shall not execute the writ of restitution until after expiration of the five court days in order for payment to be made of one month's rent as required by (c)(ii) of this subsection. In the event payment is made as provided in (c)(ii) of this subsection for one month's rent, the court shall stay the writ of restitution ex parte without prior notice to the landlord upon the tenant filing and presenting a motion to stay with a declaration of proof of payment demonstrating full compliance with the required payment of one month's rent. Any order staying the writ of restitution under this subsection (3)(c)(iii) shall require the tenant to serve a copy of the order on the landlord by personal delivery, first-class mail, facsimile, or email if agreed to by the parties.

(A) If the tenant has satisfied (c)(ii) of this subsection by paying one month's rent within five court days, but defaults on a subsequent payment required by the court pursuant to this subsection (3)(c), the landlord may enforce the writ of restitution after serving a notice of default in accordance with RCW 59.12.040 informing the tenant that he or she has defaulted on rent due under the lease agreement or payment plan entered by the court. Upon service of the notice of default, the tenant shall have three calendar days from the date of service to vacate the premises before the sheriff may execute the writ of restitution.

(B) If the landlord serves the notice of default described under this subsection (3)(c)(iii), an additional day is not included in calculating the time before the sheriff may execute the writ of restitution. The notice of default must be in substantially the following form:

NOTICE OF DEFAULT FOR RENT AND/OR PAYMENT PLAN ORDERED BY COURT

NAME(S)
ADDRESS
CITY, STATE, ZIP
THIS IS NOTICE THAT YOU ARE IN DEFAULT OF YOUR RENT AND/OR PAYMENT PLAN ORDERED BY THE COURT. YOUR LANDLORD HAS RECEIVED THE FOLLOWING PAYMENTS:
DATE
AMOUNT
DATE
AMOUNT
DATE
AMOUNT
THE LANDLORD MAY SCHEDULE YOUR PHYSICAL EVICTION WITHIN THREE CALENDAR DAYS OF SERVICE OF THIS NOTICE. TO STOP A PHYSICAL EVICTION, YOU ARE REQUIRED TO PAY THE BALANCE OF YOUR RENT AND/OR PAYMENT PLAN IN THE AMOUNT OF $. . . . ..
PAYMENT MAY BE MADE TO THE COURT OR TO THE LANDLORD. IF YOU FAIL TO PAY THE BALANCE WITHIN THREE CALENDAR DAYS, THE LANDLORD MAY PROCEED WITH A PHYSICAL EVICTION FOR POSSESSION OF THE UNIT THAT YOU ARE RENTING.
DATE
SIGNATURE
LANDLORD/AGENT
NAME
ADDRESS
PHONE

(iv) If a tenant seeks to satisfy a condition of this subsection (3)(c) by relying on an emergency rental assistance program provided by a government or nonprofit entity and provides an offer of proof, the court shall stay the writ of restitution as necessary to afford the tenant an equal opportunity to comply.

(v) The court shall extend the writ of restitution as necessary to enforce the order issued pursuant to this subsection (3)(c) in the event of default.

(d) A tenant who has been served with three or more notices to pay or vacate for failure to pay rent as set forth in RCW 59.12.040 within twelve months prior to the notice to pay or vacate upon which the proceeding is based may not seek relief under this subsection (3), unless the court determines any of the notices served were invalid or did not otherwise comply with the requirements of this chapter.

(e)(i) In any application seeking relief pursuant to this subsection (3) by either the tenant or landlord, the court shall issue a finding as to whether the tenant is low-income, limited resourced, or experiencing hardship to determine if the parties would be eligible for disbursement through the landlord mitigation program account established within RCW 43.31.605(1)((~~(c)~~)) (b). In making this finding, the court may include an inquiry regarding the tenant's income relative to area median income, household composition, any extenuating circumstances, or other factors, and may rely on written declarations or oral testimony by the parties at the hearing.

(ii) After a finding that the tenant is low-income, limited

resourced, or experiencing hardship, the court may issue an order: (A) Finding that the landlord is eligible to receive on behalf of the tenant and may apply for reimbursement from the landlord mitigation program; and (B) directing the clerk to remit, without further order of the court, any future payments made by the tenant in order to reimburse the department of commerce pursuant to RCW 43.31.605(1)(((~~c~~))) (b)(iii). In accordance with RCW 43.31.605(1)(((~~c~~))) (b), such an order must be accompanied by a copy of the order staying the writ of restitution. Nothing in this subsection (3)(e) shall be deemed to obligate the department of commerce to provide assistance in claim reimbursement through the landlord mitigation program if there are not sufficient funds.

(iii) If the department of commerce fails to disburse payment to the landlord for the judgment pursuant to this subsection (3)(e) within ((~~thirty~~)) 30 days from submission of the application, the landlord may renew an application for a writ of restitution pursuant to RCW 59.18.370 and for other rent owed by the tenant since the time of entry of the prior judgment. In such event, the tenant may exercise rights afforded under this section.

(iv) Upon payment by the department of commerce to the landlord for the remaining or total amount of the judgment, as applicable, the judgment is satisfied and the landlord shall file a satisfaction of judgment with the court.

(v) Nothing in this subsection (3)(e) prohibits the landlord from otherwise applying for reimbursement for an unpaid judgment pursuant to RCW 43.31.605(1)(((~~c~~))) (b) after the tenant defaults on a payment plan ordered pursuant to (c) of this subsection.

(vi) ((~~For the period extending one year beyond the expiration of the eviction moratorium, if~~)) If a tenant demonstrates an ability to pay in order to reinstate the tenancy by means of disbursement through the landlord mitigation program account established within RCW 43.31.605(1)(((~~c~~))) (b):

(A) Any restrictions imposed under (d) of this subsection do not apply in determining if a tenant is eligible for reinstatement under this subsection (3); and

(B) Reimbursement on behalf of the tenant to the landlord under RCW 43.31.605(1)(((~~c~~))) (b) may include up to three months of prospective rent to stabilize the tenancy as determined by the court.

(4) If a tenant seeks to stay a writ of restitution issued pursuant to this chapter, the court may issue an ex parte stay of the writ of restitution provided the tenant or tenant's attorney submits a declaration indicating good faith efforts were made to notify the other party or, if no efforts were made, why notice could not be provided prior to the application for an ex parte stay, and describing the immediate or irreparable harm that may result if an immediate stay is not granted. The court shall require service of the order and motion to stay the writ of restitution by personal delivery, mail, facsimile, or other means most likely to afford all parties notice of the court date.

(5) In all other cases the judgment may be enforced immediately. If a writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required.

(6) This section also applies if the writ of restitution is issued pursuant to a final judgment entered after a show cause hearing conducted in accordance with RCW 59.18.380.

Sec. 3. RCW 59.18.057 and 2021 c 115 s 10 are each amended to read as follows:

(1) Every 14-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

"TO: _____

AND TO: _____

ADDRESS: _____

FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES

You are receiving this notice because the landlord alleges you are not in compliance with the terms of the lease agreement by failing to pay rent and/or utilities and/or recurring or periodic charges that are past due.

(1) Monthly rent due for (list month(s)): $ (dollar amount)

AND/OR

(2) Utilities due for (list month(s)): $ (dollar amount)

AND/OR

(3) Other recurring or periodic charges identified in the lease for (list month(s)): $ (dollar amount)

TOTAL AMOUNT DUE: $ (dollar amount)

Note - payment must be made pursuant to the terms of the rental agreement or by nonelectronic means including, but not limited to, cashier's check, money order, or other certified funds.

You must pay the total amount due to your landlord within fourteen (14) days after service of this notice or you must vacate the premises. Any payment you make to the landlord must first be applied to the total amount due as shown on this notice. Any failure to comply with this notice within fourteen (14) days after service of this notice may result in a judicial proceeding that leads to your eviction from the premises.

The Washington state Office of the Attorney General has this notice in multiple languages as well as information on available resources to help you pay your rent, including state and local rental assistance programs, on its website at www.atg.wa.gov/landlord-tenant.

State law provides you the right to legal representation and the court may be able to appoint a lawyer to represent you without cost to you if you are a qualifying low-income renter. If you believe you are a qualifying low-income renter and would like an attorney appointed to represent you, please contact the Eviction Defense Screening Line at 855-657-8387 or apply online at https://nwjustice.org/apply-online. For additional resources, call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. – 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). You may find additional information to help you at http://www.washingtonlawhelp.org. Free or low-cost mediation services to assist in nonpayment of rent disputes before any judicial proceedings occur are also available at dispute resolution centers throughout the state. You can find your nearest dispute resolution center at https://www.resolutionwa.org.

State law also provides you the right to receive interpreter services at court.

OWNER/LANDLORD:_____DATE:_____

WHERE TOTAL AMOUNT DUE IS TO BE PAID: ___(owner/landlord name)_____(address)_____"

(2) ((~~Upon expiration of the eviction resolution pilot program established under RCW 59.18.660:~~

~~(a) The landlord must also provide the notice required in this section to the dispute resolution center located within or serving the county in which the dwelling unit is located. It is a defense to an eviction under RCW 59.12.030 that a landlord did not provide additional notice under this subsection.~~

~~(b) Dispute resolution centers are encouraged to notify the housing justice project or northwest justice project located within or serving the county in which the dispute resolution center is located, as appropriate, once notice is received from the landlord under this subsection.~~

~~(3)~~)) The form required in this section does not abrogate any

additional notice requirements to tenants as required by federal, state, or local law."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Kuderer moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5197.

Senators Kuderer and Fortunato spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kuderer that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5197.

The motion by Senator Kuderer carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5197 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5197, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5197, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Cleveland, 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, Padden, Rivers, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, L.

Excused: Senators Conway, Muzzall and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5197, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2023

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5208 with the following amendment(s): 5208-S AMH SGOV H1717.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.08.123 and 2019 c 6 s 3 are each amended to read as follows:

(1) A person qualified to vote who has a valid:

(a) Washington state driver's license((,));

(b) Washington state identification card((, or));

(c) Washington state learner's permit;

(d) Current Washington tribal identification; or

(e) Social Security number,

may submit a voter registration application electronically on the secretary of state's website, and provide either the state issued identification number, the tribal identification number, or the last four digits of the person's social security number. ((~~A person who has a valid tribal identification card may submit a voter registration electronically on the secretary of state's website if the secretary of state is able to obtain a copy of the applicant's signature from the federal government or the tribal government.~~))

(2) The applicant must attest to the truth of the information provided on the application and confirm the applicant's United States citizenship by reviewing the registration oath online and affirmatively accepting the information as true.

(3) ((~~The~~)) For applicants using Washington state issued identification, the applicant must affirmatively assent to use of ((~~his or her~~)) the applicant's driver's license((,)) or state identification card((~~, or tribal identification card~~)) signature for voter registration purposes.

(4) For applicants who are not using Washington state issued identification, the applicant must submit a signature image by either submitting a signature image to the secretary of state, or submitting a signature image as part of the confirmation notice process.

(5) A voter registration application submitted electronically is otherwise considered a registration by mail.

(((~~(5)~~))) (6) For each electronic application, the secretary of state must obtain a digital copy of the applicant's driver's license or state identification card signature from the department of licensing, the voter, or tribal identification issuing authority.

(((~~(6)~~))) (7) The secretary of state may employ additional security measures to ensure the accuracy and integrity of voter registration applications submitted electronically.

NEW SECTION. **Sec. 2.** This act takes effect July 15, 2024."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Trudeau moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5208.

Senator Trudeau spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Trudeau that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5208.

The motion by Senator Trudeau carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5208 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5208, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5208, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 18; Absent, 1; Excused, 3.

Voting yea: Senators Billig, Cleveland, Dhingra, Frame, Hasegawa, Hunt, Kauffman, Keiser, Kuderer, 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, Padden, Rivers, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, L.

Absent: Senator Liias

Excused: Senators Conway, Muzzall and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5208, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2023

MR. PRESIDENT:
The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5231 with the following amendment(s): 5231-S.E AMH CRJ ADAM 068

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 10.99.040 and 2021 c 215 s 122 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; ((and))

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence;

(e) Shall not deny issuance of a no-contact order based on the existence of an applicable civil protection order preventing the defendant from contacting the victim; and

(f) When issuing a no-contact order, shall attempt to determine whether there are any other active no-contact orders, protection orders, or restraining orders involving the defendant to assist the court in ensuring that any no-contact order it may impose does not lessen protections imposed by other courts under other such orders.

(2)(a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim and others. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. ((If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the)) The court authorizing release may issue((, by telephone,)) a no-contact order ((prohibiting)) that:

(i) Prohibits the person charged or arrested from ((having)) making any attempt to contact ((with the victim or)), including nonphysical contact, the victim or the victim's family or household members, either directly, indirectly, or through a third party;

(ii) Excludes the defendant from a residence shared with the victim, or from a workplace, school, or child care;

(iii) Prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or vehicle; and

(iv) Includes other related prohibitions to reduce risk of harm.

(b) ((In issuing the order, the court shall consider the provisions of)) The court shall verify that the requirements of RCW 10.99.030(3) have been satisfied, including that a sworn statement of a peace officer has been submitted to the court, documenting that the responding peace officers separated the parties and asked the victim or victims at the scene about firearms, other dangerous weapons, and ammunition that the defendant owns or has access to, and whether the defendant has a concealed pistol license. If the sworn statement of a peace officer or other information provided to the court indicates there may be a risk of harm if the defendant has access to firearms, dangerous weapons, or an active concealed pistol license, the court shall verify that peace officers have temporarily removed and secured all the firearms, dangerous weapons, and any concealed pistol license. The court shall then determine whether an order to surrender and prohibit weapons or an extreme risk protection order should be issued pursuant to RCW 9.41.800 or chapter 7.105 RCW, ((and shall order the defendant to surrender, and prohibit)) prohibiting the ((person)) defendant from possessing, ((all)) purchasing, receiving, having in the defendant's control or custody, accessing, or attempting to purchase or receive, any firearms, dangerous weapons, and any concealed pistol license and shall order the defendant to surrender, and prohibit the defendant from possessing, any firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800, or shall issue an extreme risk protection order as required by chapter 7.105 RCW. The court may make these determinations on the record or off the record with a written explanation when declining to impose the restrictions authorized in this subsection.

(((c) The no-contact order shall also be issued in writing as soon as possible, and shall state that it may be extended as provided in subsection (3) of this section. By January 1, 2011, the administrative office of the courts shall develop a pattern form for all no-contact orders issued under this chapter. A no-contact order issued under this chapter must substantially comply with the pattern form developed by the administrative office of the courts.))

(3)(a) At the time of arraignment, the court shall review the defendant's firearms purchase history provided by the prosecutor pursuant to RCW 10.99.045, and any other firearms information provided by law enforcement or court or jail staff, and shall determine whether a no-contact order, an order to surrender and prohibit weapons, or an extreme risk protection order shall be issued or, if previously issued, extended.

(b) So long as the court finds probable cause, the court may issue or extend a no-contact order, an order to surrender and prohibit weapons, or an extreme risk protection order, even if the defendant fails to appear at arraignment. The no-contact order shall terminate if the defendant is acquitted or the charges are dismissed. To the extent the court is aware, the court shall advise the defendant of the ongoing requirements of any other no-contact, restraining, or protection order that remains in effect.

(((b) In issuing the order, the court shall consider all information documented in the incident report concerning the person's possession of and access to firearms and whether law enforcement took temporary custody of firearms at the time of the arrest. The court may as a condition of release prohibit the defendant from possessing or accessing firearms and order the defendant to immediately surrender all firearms and any concealed pistol license to a law enforcement agency upon release.))

(c) If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring as defined in RCW 9.94A.030. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under ((subsection (2), (3), or (7) of)) this section is punishable as provided under RCW 7.105.450 or 7.105.460, or chapter 9.41 RCW.

(b) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 7.105 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A certified copy of the order shall be provided to the victim.

(5)(a) A peace officer may request, on an ex parte basis and before criminal charges or a petition for a protection order or an extreme risk protection order have been filed, an emergency no-contact order, order to surrender and prohibit weapons, or extreme risk protection order from a judicial officer on behalf of and with the consent of the victim of an alleged act involving domestic violence if the victim is able to provide such consent. If the victim is incapacitated as a result of the alleged act of domestic violence, a peace officer may request an emergency no-contact order, order to surrender and prohibit weapons, or extreme risk protection order on his or her behalf. The request shall be made based upon the sworn statement of a peace officer and may be made in person, by telephone, or by electronic means. If the court finds probable cause to believe that the victim is in imminent danger of domestic violence based on an allegation of the recent commission of an act involving domestic violence, the court shall issue an emergency no-contact order and an order to surrender and prohibit weapons or an extreme risk protection order as required by RCW 9.41.800 or chapter 7.105 RCW. An emergency no-contact order issued by a court will remain in effect until either the court terminates the emergency no-contact order, the court finds probable cause for a referred crime, or an ex parte hearing is held on a petition for a protection order or extreme risk protection order.

(b) If the court issues an order to surrender and prohibit weapons or an extreme risk protection order, and has not verified that peace officers have temporarily removed and secured all firearms and dangerous weapons, and any concealed pistol license, all orders issued by the court must be personally served by a peace officer and the peace officer shall take possession of all firearms, dangerous weapons, and any concealed pistol license belonging to the respondent that are surrendered, in plain sight, or discovered pursuant to a lawful search, as required by RCW 9.41.801.

(c) If the court does not issue an order to surrender and prohibit weapons or an extreme risk protection order, or has verified that all firearms, dangerous weapons, and any concealed pistol license have been temporarily removed by law enforcement, service of the court's orders may be effected electronically. Electronic service must be effected by a law enforcement agency transmitting copies of the petition and any supporting materials filed with the petition, any notice of hearing, and any orders, or relevant materials for motions, to the defendant at the defendant's electronic address or the defendant's electronic account associated with email, text messaging, social media applications, or other technologies. Verification of notice is required and may be accomplished through read-receipt mechanisms, a response, a sworn statement from the person who effected service verifying transmission and any follow-up communications such as email or telephone contact used to further verify, or an appearance by the defendant at a hearing. Sworn proof of service must be filed with the court by the person who effected service.

(d) A no-contact order, order to surrender and prohibit weapons, or extreme risk protection order authorized by telephonic or electronic means shall also be issued in writing as soon as possible and shall state that it may be extended as provided in subsection (3) of this section.

(6) If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed.

(((6))) (7) Whenever ((a no-contact)) an order is issued, modified, or terminated under ((subsection (2) or (3) of)) this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (3) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

(((7) All courts shall develop policies and procedures by January 1, 2011, to grant victims a process to modify or rescind a no-contact order issued under this chapter. The administrative office of the courts shall develop a model policy to assist the courts in implementing the requirements of this subsection.))

(8) For the purposes of this section, and unless context clearly requires otherwise, "emergency no-contact order" means a no-contact order issued by a court of competent jurisdiction before criminal charges have been filed or before a petition for a protection order or extreme risk protection order has been filed.

NEW SECTION. **Sec. 2.** 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."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Salomon moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5231.

Senator Salomon spoke in favor of the motion.

Senator Padden spoke on the motion.

The President declared the question before the Senate to be the motion by Senator Salomon that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5231.

The motion by Senator Salomon carried and the Senate

concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5231 by voice vote.

MOTION

On motion of Senator Nobles, Senator Liias was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5231, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5231, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 0; Excused, 4.

Voting yea: Senators Billig, Braun, Cleveland, Dhingra, Frame, Gildon, Hasegawa, Hunt, Kauffman, Keiser, King, Kuderer, Lovelett, Lovick, Mullet, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Shewmake, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Dozier, Fortunato, Hawkins, Holy, MacEwen, McCune, Padden, Schoesler, Short, Wagoner, Warnick and Wilson, L.

Excused: Senators Conway, Liias, Muzzall and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5231, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2023

MR. PRESIDENT:
The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5243 with the following amendment(s): 5243-S2.E AMH ENGR H1770.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the high school and beyond plan is both a graduation requirement and a critical component in our education system. However, the practices and technologies that school districts employ for facilitating high school and beyond plans vary significantly. These variances can create inequities for students and families, and do not reflect the legislature's vision for the role of the high school and beyond plan in promoting student success in secondary and postsecondary endeavors.

(2) A universal online high school and beyond plan platform that can be readily accessed by students, parents, teachers, and others who support academic progress will alleviate equity issues and create new opportunities for students to develop and curate plans that align with their needs and interests. With the assistance of a flexible, portable, and expandable platform, all students with high school and beyond plans will be able to easily personalize and revise their plans, explore education options of relevance and interest, and receive supports that will help them make informed choices about their education and career objectives.

(3) The legislature, therefore, intends to revise and strengthen high school and beyond plan requirements and to direct the office of the superintendent of public instruction to facilitate the transition to a universal online high school and beyond plan platform to guide students' secondary education experiences and ensure preparation for their postsecondary goals.

Sec. 2. RCW 28A.230.090 and 2021 c 307 s 2 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students, except as provided in RCW 28A.230.122 and 28A.655.250 and except those equivalencies established by local high schools or school districts under RCW 28A.230.097. The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) Except as provided otherwise in this subsection, the certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation. The requirement to earn a certificate of academic achievement to qualify for graduation from a public high school concludes with the graduating class of 2019. The obligation of qualifying students to earn a certificate of individual achievement as a prerequisite for graduation from a public high school concludes with the graduating class of 2021.

(c)((~~(i)~~)) Each student must have a high school and beyond plan to guide the student's high school experience and inform course taking that is aligned with the student's goals for education or training and career after high school((~~.~~

~~(ii)(A) A high school and beyond plan must be initiated for each student during the seventh or eighth grade. In preparation for initiating that plan, each student must first be administered a career interest and skills inventory.~~

~~(B) For students with an individualized education program, the high school and beyond plan must be developed in alignment with their individualized education program. The high school and beyond plan must be developed in a similar manner and with similar school personnel as for all other students.~~

~~(iii)(A) The high school and beyond plan must be updated to reflect high school assessment results in RCW 28A.655.070(3)(b) and to review transcripts, assess progress toward identified goals, and revised as necessary for changing interests, goals, and needs. The plan must identify available interventions and academic support, courses, or both, that are designed for students who are not on track to graduate, to enable them to fulfill high school graduation requirements. Each student's high school and beyond plan must be updated to inform junior year course taking.~~

~~(B) For students with an individualized education program, the high school and beyond plan must be updated in alignment with their school to postschool transition plan. The high school and beyond plan must be updated in a similar manner and with similar school personnel as for all other students.~~

~~(iv) School districts are encouraged to involve parents and guardians in the process of developing and updating the high school and beyond plan, and the plan must be provided to the students' parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district. Nothing in this subsection (1)(c)(iv) prevents districts from providing high school and beyond plans to parents and guardians in additional languages that are not required by this subsection.~~

~~(v) All high school and beyond plans must, at a minimum,~~

~~include the following elements:~~

~~(A) Identification of career goals, aided by a skills and interest assessment;~~

~~(B) Identification of educational goals;~~

~~(C) Identification of dual credit programs and the opportunities they create for students, including eligibility for automatic enrollment in advanced classes under RCW 28A.320.195, career and technical education programs, running start programs, AP courses, international baccalaureate programs, and college in the high school programs;~~

~~(D) Information about the college bound scholarship program established in chapter 28B.118 RCW;~~

~~(E) A four-year plan for course taking that:~~

~~(I) Includes information about options for satisfying state and local graduation requirements;~~

~~(II) Satisfies state and local graduation requirements;~~

~~(III) Aligns with the student's secondary and postsecondary goals, which can include education, training, and career;~~

~~(IV) Identifies course sequences to inform academic acceleration, as described in RCW 28A.320.195 that include dual credit courses or programs and are aligned with the student's goals; and~~

~~(V) Includes information about the college bound scholarship program, the Washington college grant, and other scholarship opportunities;~~

~~(F) Evidence that the student has received the following information on federal and state financial aid programs that help pay for the costs of a postsecondary program:~~

~~(I) Information about the documentation necessary for completing the applications; application timeliness and submission deadlines; the importance of submitting applications early; information specific to students who are or have been in foster care; information specific to students who are, or are at risk of being, homeless; information specific to students whose family member or guardians will be required to provide financial and tax information necessary to complete applications; and~~

~~(II) Opportunities to participate in sessions that assist students and, when necessary, their family members or guardians, fill out financial aid applications; and~~

~~(G) By the end of the twelfth grade, a current resume or activity log that provides a written compilation of the student's education, any work experience, and any community service and how the school district has recognized the community service pursuant to RCW 28A.320.193.~~

~~(d)~~)) as provided for under section 3 of this act and RCW 28A.230.215. Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level. Effective with the graduating class of 2015, the state board of education may not establish a requirement for students to complete a culminating project for graduation. A district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.

(((~~(e)~~))) (d)(i) The state board of education shall adopt rules to implement the career and college ready graduation requirement proposal adopted under board resolution on November 10, 2010, and revised on January 9, 2014, to take effect beginning with the graduating class of 2019 or as otherwise provided in this subsection (1)(((~~(e)~~))) (d). The rules must include authorization for a school district to waive up to two credits for individual students based on a student's circumstances, provided that none of the waived credits are identified as mandatory core credits by the state board of education. School districts must adhere to written policies authorizing the waivers that must be adopted by each board of directors of a school district that grants diplomas. The rules must also provide that the content of the third credit of mathematics and the content of the third credit of science may be chosen by the student based on the student's interests and high school and beyond plan with agreement of the student's parent or guardian or agreement of the school counselor or principal, or as provided in RCW 28A.230.300(4).

(ii) School districts may apply to the state board of education for a waiver to implement the career and college ready graduation requirement proposal beginning with the graduating class of 2020 or 2021 instead of the graduating class of 2019. In the application, a school district must describe why the waiver is being requested, the specific impediments preventing timely implementation, and efforts that will be taken to achieve implementation with the graduating class proposed under the waiver. The state board of education shall grant a waiver under this subsection (1)(((~~(e)~~))) (d) to an applying school district at the next subsequent meeting of the board after receiving an application.

(((~~(iii) A school district must update the high school and beyond plans for each student who has not earned a score of level 3 or level 4 on the middle school mathematics assessment identified in RCW 28A.655.070 by ninth grade, to ensure that the student takes a mathematics course in both ninth and tenth grades. This course may include career and technical education equivalencies in mathematics adopted pursuant to RCW 28A.230.097.~~))

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to ((~~earn a certificate of academic achievement,~~)) complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements.

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) Unless requested otherwise by the student and the student's family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh

and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.230 RCW to read as follows:

(1) This section establishes the school district, content, and other substantive requirements for the high school and beyond plan required by RCW 28A.230.090.

(2)(a) Beginning by the seventh grade, each student must be administered a career interest and skills inventory which is intended to be used to inform eighth grade course taking and development of an initial high school and beyond plan. No later than eighth grade, each student must have begun development of a high school and beyond plan that includes a proposed plan for first-year high school courses aligned with graduation requirements and secondary and postsecondary goals.

(b) For each student who has not earned a score of level 3 or 4 on the middle school mathematics assessment identified in RCW 28A.655.070 by ninth grade, the high school and beyond plan must be updated to ensure that the student takes a mathematics course in both ninth and 10th grades. These courses may include career and technical education equivalencies in mathematics adopted pursuant to RCW 28A.230.097.

(3) With staff support, students must update their high school and beyond plan annually, at a minimum, to review academic progress and inform future course taking.

(a) The high school and beyond plan must be updated in 10th grade to reflect high school assessment results in RCW 28A.655.061, ensure student access to advanced course options per the district's academic acceleration policy in RCW 28A.320.195, assess progress toward identified goals, and revised as necessary for changing interests, goals, and needs.

(b) Each school district shall provide students who have not met the standard on state assessments or who are behind in completion of credits or graduation pathway options with the opportunity to access interventions and academic supports, courses, or both, designed to enable students to meet all high school graduation requirements. The parents or legal guardians shall be notified about these opportunities as included in the student's high school and beyond plan, preferably through a student-led conference, including the parents or legal guardians, and at least annually until the student is on track to graduate.

(c) For students with an individualized education program, the high school and beyond plan must be developed and updated in alignment with their school to postschool transition plan. The high school and beyond plan must be developed and updated in a similar manner and with similar school personnel as for all other students.

(4) School districts shall involve parents and legal guardians to the greatest extent feasible in the process of developing and updating the high school and beyond plan.

(a) The plan must be provided to the student and the students' parents or legal guardians in a language the student and parents or legal guardians understand and in accordance with the school district's language access policy and procedures as required under chapter 28A.183 RCW, which may require language assistance for students and parents or legal guardians with limited English proficiency.

(b) School districts must annually provide students in grades eight through 12 and their parents or legal guardians with comprehensive information about the graduation pathway options offered by the district and are strongly encouraged to begin providing this information beginning in sixth grade. School districts must provide this information in a manner that conforms with the school district's language access policy and procedures as required under chapter 28A.183 RCW.

(5) School districts are strongly encouraged to partner with student serving, community-based organizations that support career and college exploration and preparation for postsecondary and career pathways. Partnerships may include high school and beyond plan coordination and planning, data sharing agreements, and safe and secure access to individual student's high school and beyond plans.

(6) All high school and beyond plans must, at a minimum, include the following elements:

(a) Identification of career goals and interests, aided by a skills and interest assessment;

(b) Identification of secondary and postsecondary education and training goals;

(c) An academic plan for course taking that:

(i) Informs students about course options for satisfying state and local graduation requirements;

(ii) Satisfies state and local graduation requirements;

(iii) Aligns with the student's secondary and postsecondary goals, which can include education, training, and career preparation;

(iv) Identifies available advanced course sequences per the school district's academic acceleration policy, as described in RCW 28A.320.195, that include dual credit courses or other programs and are aligned with the student's postsecondary goals;

(v) Informs students about the potential impacts of their course selections on postsecondary opportunities;

(vi) Identifies available career and technical education equivalency courses that can satisfy core subject area graduation requirements under RCW 28A.230.097;

(vii) If applicable, identifies career and technical education and work-based learning opportunities that can lead to technical college certifications and apprenticeships; and

(viii) If applicable, identifies opportunities for credit recovery and acceleration, including partial and mastery-based credit accrual to eliminate barriers for on-time grade level progression and graduation per RCW 28A.320.192;

(d) Evidence that the student has received the following information on federal and state financial aid programs that help pay for the costs of a postsecondary program:

(i) The college bound scholarship program established in chapter 28B.118 RCW, the Washington college grant created in RCW 28B.92.200, and other scholarship opportunities;

(ii) The documentation necessary for completing state and federal financial aid applications; application timeliness and submission deadlines; and the importance of submitting applications early;

(iii) Information specific to students who are or have been the subject of a dependency proceeding pursuant to chapter 13.34 RCW, who are or are at risk of being homeless, and whose family member or legal guardian will be required to provide financial and tax information necessary to complete applications;

(iv) Opportunities to participate in advising days and seminars

that assist students and, when necessary, their parents or legal guardians, with filling out financial aid applications in accordance with RCW 28A.300.815; and

(v) A sample financial aid letter and a link to the financial aid calculator created in RCW 28B.77.280; and

(e) By the end of the 12th grade, a current resume or activity log that provides a written compilation of the student's education, any work experience, extracurricular activities, and any community service including how the school district has recognized the community service pursuant to RCW 28A.320.193.

(7) In accordance with RCW 28A.230.090(1)(c) any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level, and a school district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.

(8) The state board of education shall adopt rules to implement this section.

Sec. 4. RCW 28A.230.215 and 2020 c 307 s 7 are each amended to read as follows:

(1) The legislature finds that fully realizing the potential of high school and beyond plans as meaningful tools for articulating and revising pathways for graduation will require additional school counselors and family coordinators. The legislature further finds that the development and implementation of an online electronic platform for high school and beyond plans will be an appropriate and supportive action that will assist students, parents and guardians, educators, ((~~and~~)) school counselors, and other staff who support students' career and college preparation as the legislature explores options for funding additional school counselors.

(2) ((~~Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall facilitate the creation of a list of available electronic platforms for the high school and beyond plan. Platforms eligible to be included on the list must meet the following requirements:~~

~~(a) Enable students to create, personalize, and revise their high school and beyond plan as required by RCW 28A.230.090;~~

~~(b) Grant parents or guardians, educators, and counselors appropriate access to students' high school and beyond plans;~~

~~(c) Employ a sufficiently flexible technology that allows for subsequent modifications necessitated by statutory changes, administrative changes, or both, as well as enhancements to improve the features and functionality of the platform;~~

~~(d) Include a sample financial aid letter and a link to the financial aid calculator created in RCW 28B.77.280, at such a time as those materials are finalized;~~

~~(e) Comply with state and federal requirements for student privacy;~~

~~(f) Allow for the portability between platforms so that students moving between school districts are able to easily transfer their high school and beyond plans; and~~

~~(g) To the extent possible, include platforms in use by school districts during the 2018-19 school year.~~

~~(3)~~)) Beginning in the 2020-21 school year, each school district must ensure that an electronic high school and beyond plan platform is available to all students who are required to have a high school and beyond plan.

(((~~(4)~~))) (3) The office of the superintendent of public instruction shall facilitate the transition to a universal online high school and beyond plan platform that will ensure consistent and equitable access to the needed information and support to guide students' educational experience and ensure preparation for their postsecondary plans.

(a) By January 1, 2024, the office of the superintendent of public instruction must develop a preliminary list of existing vendors who can provide or build a platform that meets the criteria outlined in subsection (4) of this section and that supports the high school and beyond plan elements identified in section 3 of this act and has the capabilities to support the new elements identified in section 5 of this act. The office of the superintendent of public instruction must submit the list of existing vendors and estimated costs associated with statewide implementation of the universal platform to the governor and the education policy and fiscal committees of the legislature.

(b) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must select the vendor that will be responsible for developing the universal platform by June 1, 2024.

(c) By October 1, 2024, the office of the superintendent of public instruction must develop an implementation plan including both an estimated timeline and updated cost estimates, including the technical assistance, technology updates, ongoing maintenance requirements, and adjustments to the technology funding formula, and statewide professional development that may be needed, for completing full statewide implementation of the universal platform in all school districts. In the implementation plan, the office of the superintendent of public instruction may include a cost alternative for educational service districts to host the universal platform for school districts of the second class when such a district does not have sufficient technology resources to implement and maintain the universal platform.

(4)(a) In addition to the requirements outlined in section 3 of this act, the universal platform must have the capability to be routinely updated and modified in order to include the following elements and capabilities to ensure equity in high school and beyond plans implementation and engagement across the state that:

(i) Enable students to create, personalize, and revise their high school and beyond plan;

(ii) Comply with all necessary state and federal requirements for student privacy and allow for students to opt in or opt out of portions of the universal platform related to third-party information sharing;

(iii) Use technology that can quickly be adapted to include future statutory changes, administrative changes, or both, as well as integrate enhancements to improve the features and functionality;

(iv) Facilitate the automatic import of academic course, credit, and grade data at a regular interval from the most commonly used district student information system platforms and manual import from less commonly used systems so that students' progress towards graduation in the high school beyond plan is accurately reflected at any given time;

(v) Allow for translation into the most common non-English languages across the state in accordance with the model language access policy and procedures as required under chapter 28A.183 RCW;

(vi) Include multiple and varied in-platform assessments with viewable results that can inform career and postsecondary goals including, but not limited to, personality, learning styles, interests, aptitudes, and skills assessments;

(vii) Include a catalog containing meaningful, high quality career exploration opportunities and resources beyond the traditional college, career, and aptitude assessments that are submitted by approved entities (community organizations,

institutions of higher education that are authorized to participate in state financial aid programs under chapter 28B.92 RCW, and employers) and vetted by state-selected approvers that allow students to register for or apply to participate in the opportunities (programs, classes, internships, preapprenticeships, online courses, etc.) or access the resources. The universal platform should use completion data from these opportunities to make recommendations to students to include in their high school beyond plans;

(viii) A dedicated space in which to build a direct connection to potential employers, including industry associations, trade associations, labor unions, service branches of the military, nonprofit organizations, and other state and local community organizations so students can learn from experts in different occupational fields about career opportunities and any necessary education and training requirements;

(ix) A secure space for staff, parents or guardians, and approved community partners who support students' academic progress and career and college preparation, to make notes that can inform staff efforts to connect students to academic and career connected learning opportunities and develop support and credit recovery plans for students, as needed;

(x) Accessibility options for students needing accommodations including, but not limited to, visual aids and voice dictation for students with limited literacy skills;

(xi) Indefinite access for students to their high school beyond plan, regardless of current school affiliation or lack thereof, in both mobile and desktop applications, that includes the capability to download and print their plan in one document, without requiring students to access multiple screens;

(xii) Inclusion of in-state labor market, apprenticeship, and postsecondary education performance data, including employment and earning outcomes, certificate and degree completion outcomes, and demographics of enrolled students or employees, to inform students' exploration and consideration of postsecondary options;

(xiii) A dedicated space where students can store additional evidence of their learning and postsecondary preparation, such as videos, essays, art, awards and recognitions, screencasts, letters of recommendation, industry certifications, microcredentials or other mastery-based learning recognitions, and work-integrated learning experiences. The universal platform should include the ability for students and staff to provide access to this portfolio in its entirety or in selected parts to relevant third parties, including institutions of higher education that are authorized to participate in state financial aid programs under chapter 28B.92 RCW, branches of the military, potential employers, or preapprenticeship opportunities;

(xiv) Access to data reporting features that allow schools, districts, and state agencies to review data stored within the universal platform, and allow data to be broken down by demographic, socioeconomic, and other identified characteristics, for the purposes of analyzing student use of the universal platform, improving student access to the information, guidance, and opportunities that can help them maximize their secondary education experience and postsecondary preparation, and informing state-level support for high school and beyond plan implementation;

(xv) A space for the student to indicate the graduation pathway option or options the student has selected to complete and how the selected option or options align with the student's career and postsecondary education goals; and

(xvi) The ability for school districts to customize or add features unique to local needs and local graduation requirements, including the capability to auto-align data with the local school districts' graduation requirements or the ability to enter those requirements manually.

(b) The office of the superintendent of public instruction must also ensure that the universal platform will permit transition plans required by RCW 28A.155.220 to be incorporated into the universal platform in a manner that eliminates the need to create duplicate or substantially similar transition plans in other electronic or nonelectronic formats.

(5)(a) Within two years of completing the universal platform development and alignment with the requirements in this section and section 3 of this act, school districts must provide students with access to the adopted universal platform.

(b) The office of the superintendent of public instruction must develop guidance and provide technical assistance and support for the facilitation of statewide professional development for school districts and partner organizations in using the universal platform.

(6) In carrying out subsections (3)(b) and (4) of this section, the office of the superintendent of public instruction shall seek input from the state board of education, educators, school and district administrators, school counselors, career counseling specialists, families, students, the Washington student achievement council, institutions of higher education that are authorized to participate in state financial aid programs under chapter 28B.92 RCW, and community partners who support students' career and college preparation. The office of the superintendent of public instruction may partner with existing community and regional networks and organizations who support students' career and college preparation in the analysis, selection, and implementation of the universal platform.

(7) As used in this section "universal platform" means the universal online high school and beyond plan platform.

(8) The office of the superintendent of public instruction may adopt and revise rules as necessary to implement this section.

NEW SECTION. **Sec. 5.** (1) After selection of the vendor for the universal online high school and beyond plan platform as required in RCW 28A.230.215, the office of the superintendent of public instruction, in consultation with the state board of education, shall report to the governor and education committees of the legislature recommendations for additional policy changes related to transitioning the current high school and beyond plan and universal platform into a more robust online learning platform that can be used starting as early as fifth grade and that will provide greater student agency over student learning and provide opportunities for students to more meaningfully explore their strengths, interests, and future aspirations. In addition to the existing high school and beyond plan elements identified in RCW 28A.230.215, the recommendations should examine and incorporate the following elements:

(a) A way to begin student use of a learning plan that utilizes the universal online high school and beyond plan platform no later than the fifth grade and includes ways to introduce career awareness and exploration opportunities in elementary grades as foundational support to students;

(b) Strategies for students to share their interests and engage with peers and mentors in order to obtain ongoing feedback and access to activities and learning opportunities that connect to their goals;

(c) Recommended calendar, schedule, and delivery options to ensure dedicated classroom time so that students are supported in engaging with and updating their plans multiple times per year;

(d) Strategies that increase student and family engagement with the learning plan process and encourages students to meaningfully explore their strengths, skills, and interests on an ongoing basis;

(e) Ways the universal online high school and beyond plan

platform can support implementation of recommendations developed by the state board of education under subsection (2) of this section.

(2) The state board of education shall develop recommendations on how the high school and beyond plan could be modified to further support student choice and flexibility in meeting graduation requirements and preparing for postsecondary education and training, including increasing access to mastery-based learning and mastery-based crediting opportunities. The state board of education shall report the recommendations developed under this subsection to the governor and education committees of the legislature.

(3) The reports required under this section shall be submitted to the governor and the education committees of the legislature, in accordance with RCW 43.01.036, by August 1, 2025.

(4) This section expires July 1, 2026.

Sec. 6. RCW 28A.230.091 and 2018 c 229 s 2 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall work with school districts, including teachers, principals, and school counselors, educational service districts, the Washington state school directors' association, institutions of higher education ((~~as defined in RCW 28B.10.016~~)) that are authorized to participate in state financial aid programs under chapter 28B.92 RCW, students, and parents and guardians to identify best practices for high school and beyond plans that districts and schools may employ when complying with high school and beyond plan requirements adopted in accordance with ((~~RCW 28A.230.090~~)) section 3 of this act and RCW 28A.230.215. The identified best practices, which must consider differences in enrollment and other factors that distinguish districts from one another, must be posted on the website of the office of the superintendent of public instruction by September 1, 2019, and may be revised periodically as necessary.

Sec. 7. RCW 28A.230.310 and 2020 c 307 s 4 are each amended to read as follows:

(1)(a) Beginning with the 2020-21 school year, all school districts with a high school must provide a financial aid advising day, as defined in RCW 28A.300.815.

(b) Districts must provide both a financial aid advising day and notification of financial aid opportunities at the beginning of each school year to parents and guardians of any student entering the twelfth grade. The notification must include information regarding:

(i) The eligibility requirements of the Washington college grant;

(ii) The requirements of the financial aid advising day;

(iii) The process for opting out of the financial aid advising day; and

(iv) Any community-based resources available to assist parents and guardians in understanding the requirements of and how to complete the free application for federal student aid and the Washington application for state financial aid.

(2) Districts may administer the financial aid advising day, as defined in RCW 28A.300.815, in accordance with information-sharing requirements set in the high school and beyond plan in ((~~RCW 28A.230.090~~)) section 3 of this act and RCW 28A.230.215.

(3) The Washington state school directors' association, with assistance from the office of the superintendent of public instruction and the Washington student achievement council, shall develop a model policy and procedure that school district board of directors may adopt. The model policy and procedure must describe minimum standards for a financial aid advising day as defined in RCW 28A.300.815.

(4) School districts are encouraged to engage in the Washington student achievement council's financial aid advising training.

(5) The office of the superintendent of public instruction may adopt rules for the implementation of this section.

Sec. 8. RCW 28A.230.320 and 2021 c 7 s 2 are each amended to read as follows:

(1) Beginning with the class of 2020, the state board of education may authorize school districts to grant individual student emergency waivers from credit and subject area graduation requirements established in RCW 28A.230.090, the graduation pathway requirement established in RCW 28A.655.250, or both if:

(a) The student's ability to complete the requirement was impeded due to a significant disruption resulting from a local, state, or national emergency;

(b) The school district demonstrates a good faith effort to support the individual student in meeting the requirement before considering an emergency waiver;

(c) The student was reasonably expected to graduate in the school year when the emergency waiver is granted; and

(d) The student has demonstrated skills and knowledge indicating preparation for the next steps identified in their high school and beyond plan under ((~~RCW 28A.230.090~~)) section 3 of this act and RCW 28A.230.215 and for success in postsecondary education, gainful employment, and civic engagement.

(2) A school district that is granted emergency waiver authority under this section shall:

(a) Maintain a record of courses and requirements waived as part of the individual student record;

(b) Include a notation of waived credits on the student's high school transcript;

(c) Maintain records as necessary and as required by rule of the state board of education to document compliance with subsection (1)(b) of this section;

(d) Report student level emergency waiver data to the office of the superintendent of public instruction in a manner determined by the superintendent of public instruction in consultation with the state board of education;

(e) Determine if there is disproportionality among student subgroups receiving emergency waivers and, if so, take appropriate corrective actions to ensure equitable administration. At a minimum, the subgroups to be examined must include those referenced in RCW 28A.300.042(3). If further disaggregation of subgroups is available, the school district shall also examine those subgroups; and

(f) Adopt by resolution a written plan that describes the school district's process for students to request or decline an emergency waiver, and a process for students to appeal within the school district a decision to not grant an emergency waiver.

(3)(a) By November 1, 2021, and annually thereafter, the office of the superintendent of public instruction shall provide the data reported under subsection (2) of this section to the state board of education.

(b) The state board of education, by December 15, 2021, and within existing resources, shall provide the education committees of the legislature with a summary of the emergency waiver data provided by the office of the superintendent of public instruction under this subsection (3) for students in the graduating classes of 2020 and 2021. The summary must include the following information:

(i) The total number of emergency waivers requested and issued, by school district, including an indication of what requirement or requirements were waived. Information provided

in accordance with this subsection ((~~[(3)]~~)) (3)(b)(i) must also indicate the number of students in the school district grade cohort of each student receiving a waiver; and

(ii) An analysis of any concerns regarding school district implementation, including any concerns related to school district demonstrations of good faith efforts as required by subsection (1)(b) of this section, identified by the state board of education during its review of the data.

(4) The state board of education shall adopt and may periodically revise rules for eligibility and administration of emergency waivers under this section. The rules may include:

(a) An application and approval process that allows school districts to apply to the state board of education to receive authority to grant emergency waivers in response to an emergency;

(b) Eligibility criteria for meeting the requirements established in subsection (1) of this section;

(c) Limitations on the number and type of credits that can be waived; and

(d) Expectations of the school district regarding communication with students and their parents or guardians.

(5) For purposes of this section:

(a) "Emergency" has the same meaning as "emergency or disaster" in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

(b) "School district" means any school district, charter school established under chapter 28A.710 RCW, tribal compact school operated according to the terms of state-tribal education compacts authorized under chapter 28A.715 RCW, private school, state school established under chapter 72.40 RCW, and community and technical college granting high school diplomas.

Sec. 9. RCW 28A.300.900 and 2018 c 228 s 1 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction, in consultation with the state board for community and technical colleges and the Washington state apprenticeship and training council, shall examine opportunities for promoting recognized preapprenticeship and registered youth apprenticeship opportunities for high school students.

(2) In accordance with this section, by November 1, 2018, the office of the superintendent of public instruction shall solicit input from persons and organizations with an interest or relevant expertise in registered preapprenticeship programs, registered youth apprenticeship programs, or both, and employer-based preapprenticeship and youth apprenticeship programs, and provide a report to the governor and the education committees of the house of representatives and the senate that includes recommendations for:

(a) Improving alignment between college-level vocational courses at institutions of higher education and high school curriculum and graduation requirements, including high school and beyond plans required by RCW 28A.230.090 and in accordance with section 3 of this act and RCW 28A.230.215. Recommendations provided under this subsection may include recommendations for the development or revision of career and technical education course equivalencies established in accordance with RCW 28A.700.080(1)(b) for college-level vocational courses successfully completed by a student while in high school and taken for dual credit;

(b) Identifying and removing barriers that prevent the wider exploration and use of registered preapprenticeship and registered youth apprenticeship opportunities by high school students and opportunities for registered apprenticeships by graduating secondary students; and

(c) Increasing awareness among teachers, counselors, students, parents, principals, school administrators, and the public about the opportunities offered by registered preapprenticeship and registered youth apprenticeship programs.

(3) As used in this section, "institution of higher education" has the same meaning as defined in RCW 28A.600.300.

Sec. 10. RCW 28A.655.250 and 2021 c 7 s 3 are each amended to read as follows:

(1)(a) Beginning with the class of 2020, except as provided in RCW 28A.230.320, graduation from a public high school and the earning of a high school diploma must include the following:

(i) Satisfying the graduation requirements established by the state board of education under RCW 28A.230.090 and any graduation requirements established by the applicable public high school or school district;

(ii) Satisfying credit requirements for graduation;

(iii) Demonstrating career and college readiness through completion of the high school and beyond plan as required by RCW 28A.230.090 and in accordance with section 3 of this act and RCW 28A.230.215; and

(iv) Meeting the requirements of at least one graduation pathway option established in this section. The pathway options established in this section are intended to provide a student with multiple pathways to graduating with a meaningful high school diploma that are tailored to the goals of the student. A student may choose to pursue one or more of the pathway options under (b) of this subsection, but any pathway option used by a student to demonstrate career and college readiness must be in alignment with the student's high school and beyond plan.

(b) The following graduation pathway options may be used to demonstrate career and college readiness in accordance with (a)(iv) of this subsection:

(i) Meet or exceed the graduation standard established by the state board of education under RCW 28A.305.130 on the statewide high school assessments in English language arts and mathematics as provided for under RCW 28A.655.070;

(ii) Complete and qualify for college credit in dual credit courses in English language arts and mathematics. For the purposes of this subsection, "dual credit course" means a course in which a student qualifies for college and high school credit in English language arts or mathematics upon successfully completing the course;

(iii) Earn high school credit in a high school transition course in English language arts and mathematics, an example of which includes a bridge to college course. For the purposes of this subsection (1)(b)(iii), "high school transition course" means an English language arts or mathematics course offered in high school where successful completion by a high school student ensures the student college-level placement at participating institutions of higher education as defined in RCW 28B.10.016. High school transition courses must satisfy core or elective credit graduation requirements established by the state board of education. A student's successful completion of a high school transition course does not entitle the student to be admitted to an institution of higher education as defined in RCW 28B.10.016;

(iv) Earn high school credit, with a C+ grade, or receiving a three or higher on the AP exam, or equivalent, in AP, international baccalaureate, or Cambridge international courses in English language arts and mathematics; or receiving a four or higher on international baccalaureate exams. For English language arts, successfully completing any of the following courses meets the standard: AP English language and composition literature, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or

comparative government and politics; or any of the international baccalaureate individuals and societies courses. For mathematics, successfully completing any of the following courses meets the standard: AP statistics, computer science, computer science principles, or calculus; or any of the international baccalaureate mathematics courses;

(v) Meet or exceed the scores established by the state board of education for the mathematics portion and the reading, English, or writing portion of the SAT or ACT;

(vi) Meet any combination of at least one English language arts option and at least one mathematics option established in (b)(i) through (v) of this subsection (1);

(vii) Meet standard in the armed services vocational aptitude battery; and

(viii) Complete a sequence of career and technical education courses that are relevant to a student's postsecondary pathway, including those leading to workforce entry, state or nationally approved apprenticeships, or postsecondary education, and that meet either: The curriculum requirements of core plus programs for aerospace, maritime, health care, information technology, or construction and manufacturing; or the minimum criteria identified in RCW 28A.700.030. Nothing in this subsection (1)(b)(viii) requires a student to enroll in a preparatory course that is approved under RCW 28A.700.030 for the purposes of demonstrating career and college readiness under this section.

(2) While the legislature encourages school districts to make all pathway options established in this section available to their high school students, and to expand their pathway options until that goal is met, school districts have discretion in determining which pathway options under this section they will offer to students.

(3) The state board of education shall adopt rules to implement the graduation pathway options established in this section.

NEW SECTION. **Sec. 11.** RCW 28A.655.270 (Student support for graduation—Student learning plans) and 2019 c 252 s 203 are each repealed."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Wellman moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5243.

Senators Wellman and Dozier spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wellman that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5243.

The motion by Senator Wellman carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5243 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5243, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5243, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Liias, Muzzall and Wilson, J.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5243, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 6, 2023

MR. PRESIDENT:
The House passed SENATE BILL NO. 5252 with the following amendment(s): 5252 AMH ENGR H1711.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.88B.080 and 2012 c 164 s 501 are each amended to read as follows:

A long-term care worker disqualified from working with vulnerable persons under chapter 74.39A RCW may not be certified or maintain certification as a home care aide under this chapter. ((~~To allow the department to satisfy its certification responsibilities under this chapter, the department of social and health services shall share the results of state and federal background checks conducted pursuant to RCW 74.39A.056 with the department. Neither department may share the federal background check results with any other state agency or person.~~))

Sec. 2. RCW 43.43.832 and 2021 c 203 s 1 are each amended to read as follows:

(1) The Washington state patrol identification and criminal history section shall disclose conviction records as follows:

(a) An applicant's conviction record, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian;

(b) The conviction record of an applicant for certification, upon the request of the Washington professional educator standards board;

(c) Any conviction record to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse, upon the request of a law enforcement agency, the office of the attorney general, prosecuting authority, or the department of social and health services; and

(d) A prospective client's or resident's conviction record, upon the request of a business or organization that qualifies for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter or transitional housing for children, persons with developmental disabilities, or vulnerable adults.

(2) The secretary of the department of social and health services and the secretary of children, youth, and families must establish rules and set standards to require specific action when considering the information received pursuant to subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as

defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities provided that: For persons residing in a home that will be utilized to provide foster care for dependent youth, a criminal background check will be required for all persons aged sixteen and older and the department of ((~~social and health services~~)) children, youth, and families may require a criminal background check for persons who are younger than sixteen in situations where it may be warranted to ensure the safety of youth in foster care;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment, including peer counseling, of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers as defined in RCW 74.39A.240 or providers paid by home care agencies provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(3) The secretary of the department of children, youth, and families shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (b) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

(4) The secretary of the department of children, youth, and families shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:

(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children; and

(e) When responding to a request from an individual for a certificate of parental improvement under chapter 74.13 RCW.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The office of financial management shall adopt rules to accomplish the purposes of this subsection as it applies to state employees. The department of social and health services shall adopt rules to accomplish the purpose of this subsection as it applies to long-term care workers subject to RCW 74.39A.056.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed Washington state criminal background inquiry information.

(b) Completed state criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the state criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the state criminal background information is no more than two years old.

(c) If state criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's state criminal background inquiry information. A new state criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share state criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the state criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(7) The department of social and health services may not consider any final founded finding of physical abuse or negligent

treatment or maltreatment of a child made pursuant to chapter 26.44 RCW that is accompanied by a certificate of parental improvement or dependency as a result of a finding of abuse or neglect pursuant to chapter 13.34 RCW that is accompanied by a certificate of parental improvement when evaluating an applicant or employee's character, competency, and suitability pursuant to any background check authorized or required by this chapter, RCW 43.20A.710 or 74.39A.056, or any of the rules adopted thereunder.

Sec. 3. RCW 43.43.837 and 2022 c 297 s 954 are each amended to read as follows:

(1) ((~~Except as provided in subsection (2) of this section, in~~)) In order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access to vulnerable adults, children, or juveniles, the secretary of the department of social and health services ((~~and the secretary of the department of children, youth, and families may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and~~)) shall require the applicant or service provider to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation when the applicant or service provider:

(a) ((~~Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;~~

~~(b) Is an individual sixteen years of age or older who: (i) Is not under the placement and care authority of the department of children, youth, and families; and (ii) resides in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department of children, youth, and families to provide services to children under RCW 74.15.030;~~

~~(c) Is an individual who is authorized by the department of social and health services to provide services to people with developmental disabilities under RCW 74.15.030; or~~

~~(d) Is an applicant or service provider providing in-home services funded by:~~

~~(i) Medicaid personal care under RCW 74.09.520;~~

~~(ii) Community options program entry system waiver services under RCW 74.39A.030;~~

~~(iii) Chore services under RCW 74.39A.110; or~~

~~(iv) Other~~)) Has resided in the state less than three consecutive years before application and:

(i) Is a contractor providing services funded by other home and community long-term care programs, established pursuant to chapters 71A.12, 74.09, 74.39, and 74.39A RCW, administered by the department of social and health services;

(ii) Is an individual who is authorized by the department of social and health services to provide services to people with developmental disabilities under RCW 74.15.030; or

(iii) Is applying for employment or is already employed by an area agency on aging or federally recognized Indian tribe, or is an employee of a contractor of an area agency on aging or federally recognized Indian tribe, that will, or may, have unsupervised access to vulnerable adults, children, or juveniles when engaging in the activities described in RCW 74.09.520(5);

(b) Is applying for employment or is already employed at any secure facility operated by the department of social and health services under chapter 71.09 RCW;

(c) Is applying to be an adult family home licensee, entity representative, or resident manager under chapter 70.128 RCW;

(d) Is applying to be an assisted living facility licensee or administrator under chapter 18.20 RCW;

(e) Is applying to be an enhanced services facility licensee or administrator under chapter 70.97 RCW;

(f) Is applying to be a certified community residential services and supports provider or administrator under chapter 71A.12 RCW;

(g) Has been categorized as a high-risk provider as defined in subsection (10)(f) of this section; or

(h) Is applying for employment or is already employed at any residential habilitation center or other state-operated program for individuals with developmental disabilities under chapter 71A.20 RCW.

(2) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject to fingerprint-based background checks under RCW 74.39A.056.

(3) ((~~To satisfy the shared background check requirements provided for in RCW 43.216.270 and 43.20A.710, the department of children, youth, and families and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may share the federal background check results with any other state agency or person.~~)) In order to determine the character, competence, and suitability of an applicant or service provider to have unsupervised access to children or juveniles, the secretary of the department of children, youth, and families shall require the applicant or service provider to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation when the applicant or service provider:

(a) Is applying for a license under RCW 74.15.030 or is an adult living in a home where a child is placed;

(b) Is applying for employment or already employed at a group care facility, regardless of whether the applicant is working directly with children;

(c) Is newly applying for an agency license, is newly licensed, is an employee of an agency that is newly licensed, or will newly have unsupervised access to children in child care, pursuant to RCW 43.216.270; or

(d) Has resided in the state less than three consecutive years before application; and:

(i) Is applying for employment, promotion, reallocation, or transfer to a position the department of children, youth, and families has identified as one that will, or may, require the applicant to have unsupervised access to children or juveniles because of the nature of the work;

(ii) Is a business or individual contracted to provide services to children or people with developmental disabilities under RCW 74.15.030; or

(iii) Is an individual 16 years of age or older who: (A) Is not under the placement and care authority of the department of children, youth, and families; and (B) resides in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department of children, youth, and families to provide services to children under RCW 74.15.030.

(4) The secretary of the department of children, youth, and families shall require a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law. Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based

background checks shall be paid by the department of children, youth, and families for applicants and service providers providing foster care as required in RCW 74.15.030.

(5) ((~~Any secure facility operated by the department of social and health services or the department of children, youth, and families under chapter 71.09 RCW shall require applicants and service providers to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.~~

~~(6) Service providers and service provider applicants~~)) Applicants and service providers of the department of social and health services, except for ((~~those~~)) long-term care workers ((~~exempted in subsection (2) of this section~~)) subject to RCW 74.39A.056, who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:

(a) A fingerprint-based background check is pending; and

(b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(((~~(7)~~))) (6) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the applicable department for applicants or service providers providing:

(a) Services to people with a developmental disability under RCW 74.15.030;

(b) In-home services funded by medicaid personal care under RCW 74.09.520;

(c) Community options program entry system waiver services under RCW 74.39A.030;

(d) Chore services under RCW 74.39A.110;

(e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department of social and health services or the department of children, youth, and families;

(f) Services in, or to residents of, a secure facility under RCW 71.09.115; and

(g) For fiscal year 2023, applicants for child care and early learning services to children under RCW 43.216.270.

(((~~(8)~~))) (7) Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.

(((~~(9)~~))) (8) Department of children, youth, and families service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.

(((~~(10)~~))) (9) The department of social and health services and the department of children, youth, and families shall develop rules identifying the financial responsibility of service providers, applicants, and the respective department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a Washington state patrol or federal bureau of investigation fingerprint-based background check.

(((~~(11)~~))) (10) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department of social and health services, department of children, youth, and families, or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual specified in subsection (1)(a) through (g) or (3)(a) through (d) of this section who will or may have unsupervised access to vulnerable adults, children, or juveniles because of the nature of the work or services he or she provides. "Applicant" includes ((~~but is not limited to~~)) any individual who will or may have unsupervised access to vulnerable adults, children, or juveniles and is:

(i) Applying for a license or certification from the department of social and health services or the department of children, youth, and families;

(ii) Seeking a contract with the department of social and health services, the department of children, youth, and families, or a service provider;

(iii) Applying for employment, promotion, reallocation, or transfer; or

(iv) An individual that a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered((~~; or~~

~~(v) A department of social and health services or department of children, youth, and families applicant who will or may work in a department-covered position~~)).

(b) "Area agency on aging" means an agency that is designated by the state to address the needs and concerns of older persons at the regional and local levels and is responsible for a particular geographic area that is a tribal reservation, a single county, or a multicounty planning area. Area agencies on aging have governance based on the corresponding county, city, tribal government, or council of governments.

(c) "Authorized" means the department of social and health services or the department of children, youth, and families grants an applicant, home, or facility permission to:

(i) Conduct licensing, certification, or contracting activities;

(ii) Have unsupervised access to vulnerable adults, juveniles, and children;

(iii) Receive payments from a department of social and health services or department of children, youth, and families program; or

(iv) Work or serve in a department of social and health services or department of children, youth, and families((~~-covered~~)) employment position.

(((~~(c) "Secretary" means the secretary of the department of social and health services.~~

~~(d) "Secure facility" has the meaning provided in RCW 71.09.020.~~

~~(e)~~)) (d) "Community residential services and supports provider" means a person or entity certified by the department of social and health services to deliver one or more of the services described in RCW 71A.12.040 to a person with a developmental disability, as defined in RCW 71A.10.020, who is eligible to receive services from the department of social and health services.

(e) "Entity representative" means the individual designated by an entity provider or entity applicant who:

(i) Is the representative of the entity for the purposes of fulfilling the training and qualification requirements of the state that only an individual can fulfill and an entity cannot;

(ii) Is responsible for overseeing the operation of the home; and

(iii) Does not hold the license on behalf of the entity.

(f) "High-risk provider" means a service provider that has been designated by the state medicaid agency as posing an increased financial risk of fraud, waste, or abuse to the medicaid program. A "high-risk provider" additionally includes any person who has a five percent or more direct or indirect ownership interest in such a provider.

(g) "Service provider" means entities, facilities, agencies,

businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department of social and health services or the department of children, youth, and families to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered.

Sec. 4. RCW 74.39A.056 and 2021 c 203 s 3 are each amended to read as follows:

(1)(a) All long-term care workers shall be screened through state and federal background checks in a uniform and timely manner to verify that they do not have a history that would disqualify them from working with vulnerable persons. The department must process background checks for long-term care workers and ((~~make the information available to employers, prospective employers, and others as authorized by law~~)), based on this screening, inform employers, prospective employers, and others as authorized by law, whether screened applicants are ineligible for employment.

(b)(i) For long-term care workers hired on or after January 7, 2012, the background checks required under this section shall include checking against the federal bureau of investigation fingerprint identification records system or its successor program. The department shall require these long-term care workers to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation. The department shall not pass on the cost of these criminal background checks to the workers or their employers.

(ii) A long-term care worker who is not disqualified by the state background check can work and have unsupervised access pending the results of the federal bureau of investigation fingerprint background check as allowed by rules adopted by the department.

(((~~(c) The department shall share state and federal background check results with the department of health in accordance with RCW 18.88B.080.~~

~~(d) Background check screening required under this section and department rules is not required for an employee of a consumer directed employer if all of the following circumstances apply:~~

~~(i) The individual has an individual provider contract with the department;~~

~~(ii) The last background check on the contracted individual provider is still valid under department rules and did not disqualify the individual from providing personal care services;~~

~~(iii) Employment by the consumer directed employer is the only reason a new background check would be required; and~~

~~(iv) The department's background check results have been shared with the consumer directed employer.~~

~~(e) The department may require a fingerprint based background check through both the Washington state patrol and the federal bureau of investigation at any time.~~))

(2) A provider may not be employed in the care of and have unsupervised access to vulnerable adults if:

(a) The provider is on the vulnerable adult abuse registry or on any other registry based upon a finding of abuse, abandonment, neglect, or financial exploitation of a vulnerable adult;

(b) On or after October 1, 1998, the department of children, youth, and families, or its predecessor agency, has made a founded finding of abuse or neglect of a child against the provider. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding, the provider is not disqualified under this section;

(c) A disciplining authority, including the department of health, has made a finding of abuse, abandonment, neglect, or financial exploitation of a minor or a vulnerable adult against the provider; or

(d) A court has issued an order that includes a finding of fact or conclusion of law that the provider has committed abuse, abandonment, neglect, or financial exploitation of a minor or vulnerable adult. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding of fact or conclusion of law, the provider is not disqualified under this section.

(3) The department shall establish, by rule, a state registry which contains identifying information about long-term care workers identified under this chapter who have final substantiated findings of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult as defined in RCW 74.34.020. The rule must include disclosure, disposition of findings, notification, findings of fact, appeal rights, and fair hearing requirements. The department shall disclose, upon request, final substantiated findings of abuse, neglect, financial exploitation, or abandonment to any person so requesting this information. This information must also be shared with the department of health to advance the purposes of chapter 18.88B RCW.

(4) For the purposes of this section, "provider" means:

(a) An individual provider as defined in RCW 74.39A.240;

(b) An employee, licensee, or contractor of any of the following: A home care agency licensed under chapter 70.127 RCW; a nursing home under chapter 18.51 RCW; an assisted living facility under chapter 18.20 RCW; an enhanced services facility under chapter 70.97 RCW; a certified resident services and supports agency licensed or certified under chapter 71A.12 RCW; an adult family home under chapter 70.128 RCW; or any long-term care facility certified to provide medicaid or medicare services; and

(c) Any contractor of the department who may have unsupervised access to vulnerable adults.

(5) The department shall adopt rules to implement this section."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Valdez moved that the Senate concur in the House amendment(s) to Senate Bill No. 5252.

Senators Valdez and Boehnke spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Valdez that the Senate concur in the House amendment(s) to Senate Bill No. 5252.

The motion by Senator Valdez carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5252 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5252, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5252, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Dhingra, Dozier, Fortunato, Frame, Gildon, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Lovelett, Lovick, MacEwen, McCune, Mullet, 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. and Wilson, L.

Excused: Senators Conway, Liias, Muzzall and Wilson, J.

SENATE BILL NO. 5252, as amended by the House, 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.

MESSAGE FROM THE HOUSE

March 20, 2023

MR. PRESIDENT:
The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5257 with the following amendment(s): 5257-S.E AMH ED H1640.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature recognizes that recess is an essential part of the day for elementary school students. Young students learn through play, and recess supports the mental, physical, and emotional health of students and positively impacts their learning and behavior. Given the state's youth mental health and physical inactivity crisis, as well as learning loss due to the COVID-19 pandemic, recess is vital to support student well-being and academic success.

(2) The legislature also acknowledges that the amount of time spent on recess varies throughout the state; therefore, youth do not have equitable access to opportunities for physical activity, self-directed play, and time outdoors. The legislature intends to set a minimum requirement for daily recess to ensure that all students have equal access to recess, but school districts are encouraged to exceed this requirement.

(3) Further, the legislature intends to clarify that recess should not be withheld as a disciplinary or punitive action during the school day, and that recess should not be withheld to compel students to complete academic work. The legislature believes that these clarifications and other policies will help make elementary school recess safe, inclusive, and high quality for all students.

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

(1)(a) Beginning with the 2024-25 school year, public schools, for each school day that exceeds five hours in duration, must provide a minimum of 30 minutes of daily recess within the school day for all students in grades kindergarten through five and students in grade six that attend an elementary school.

(b) The office of the superintendent of public instruction may waive the requirement in (a) of this subsection during the 2024-25 school year for public schools demonstrating that they are unable to comply with the requirement.

(c) Public schools may provide additional recess before or after the school day, but that time may not be used to meet the requirements of this subsection (1).

(d) Time spent changing to and from clothes for outdoor play should not be used to meet the requirements of this subsection (1).

(2)(a) Recess must be supervised and student directed and must aim to be safe, inclusive, and high quality as described in the model policy and procedure referenced in section 3 of this act. It may include organized games, but public schools should avoid including, or permitting the student use of, computers, tablets, or phones during recess.

(b) Recess should be held outside whenever possible. If recess is held indoors, public schools should use an appropriate space that promotes physical activity.

(3) The daily recess required under this section may not be used to meet the physical education requirements under RCW 28A.230.040.

(4) For the purposes of this section, "public schools" has the same meaning as in RCW 28A.150.010.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.210 RCW to read as follows:

(1)(a) By April 1, 2024, the Washington state school directors' association, with the assistance of the office of the superintendent of public instruction, must review and update a model policy and procedure regarding nutrition, health, and physical education.

(b) The model policy and procedure must:

(i) Aim to make elementary school recess safe, inclusive, and high quality for all students;

(ii) Encourage physical activity breaks for middle and high school students;

(iii) Align with the requirements in section 2 of this act;

(iv) Encourage elementary school recess to be scheduled before lunch, whenever possible, to reduce food waste, maximize nutrition, and allow students to be active before eating;

(v) Discourage withholding recess as a disciplinary or punitive action except when a student's participation in recess poses an immediate threat to the safety of the student or others, and create a process to find and deploy alternatives to the withholding of recess;

(vi) Discourage the withholding of recess to have a student complete academic work;

(vii) Prohibit the use of physical activity during the school day as punishment, such as having students run laps or do push-ups as a punitive action; and

(viii) Align with corporal punishment requirements established in WAC 392-400-825.

(2) By the beginning of the 2024-25 school year, school districts must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements described in subsection (1) of this section."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Nobles moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5257.

Senators Nobles and Dozier spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Nobles that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5257.

The motion by Senator Nobles carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5257 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5257, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5257, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 18; Absent, 0; Excused, 4.

Voting yea: Senators Billig, Braun, Cleveland, Dhingra, Frame, Hasegawa, Hunt, Kauffman, Keiser, Kuderer, Lovelett, Lovick, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Dozier, Fortunato, Gildon, Hawkins, Holy, King, MacEwen, McCune, Padden, Rivers, Schoesler, Short, Torres, Van De Wege, Wagoner, Warnick and Wilson, L.

Excused: Senators Conway, Liias, Muzzall and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5257, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2023

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5263 with the following amendment(s): 5263-S2 AMH HCW H1818.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature intends to establish an advisory board, interagency work group, and a task force to provide advice and recommendations on developing a comprehensive regulatory framework for access to regulated psilocybin for Washington residents who are at least 21 years of age.

NEW SECTION. **Sec. 2.** The legislature declares that the purposes of this chapter are:

(1) To develop a long-term strategic plan for ensuring that psilocybin services become and remain a safe, accessible, and affordable option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate or as part of their indigenous religious or cultural practices;

(2) To protect the safety, welfare, health, and peace of the people of this state by prioritizing this state's limited law enforcement resources in the most effective, consistent, and rational way;

(3) To develop a comprehensive regulatory framework concerning psilocybin products and psilocybin services under state law;

(4) To prevent the distribution of psilocybin products to other persons who are not permitted to possess psilocybin products under this chapter including but not limited to persons under 21 years of age; and

(5) To prevent the diversion of psilocybin products from this state to other states.

NEW SECTION. **Sec. 3.** This chapter may be known and cited as the Washington psilocybin services act.

NEW SECTION. **Sec. 4.** (1) The Washington psilocybin advisory board is established within the department of health to provide advice and recommendations to the department of health, the liquor and cannabis board, and the department of agriculture. The Washington psilocybin advisory board shall consist of:

(a) Members appointed by the governor as specified in subsection (2) of this section;

(b) The secretary of the department of health or the secretary's designee;

(c) The state health officer or a physician acting as the state health officer's designee;

(d) A representative from the department of health who is familiar with public health programs and public health activities in this state; and

(e) A designee of the public health advisory board.

(2) The governor shall appoint the following individuals to the Washington psilocybin advisory board:

(a) Any four of the following:

(i) A state employee who has technical expertise in the field of public health;

(ii) A local health officer;

(iii) An individual who is a member of, or who represents, a federally recognized Indian tribe in this state;

(iv) An individual who is a member of, or who represents, a body that provides policy advice relating to substance use disorder policy;

(v) An individual who is a member of, or who represents, a body that provides policy advice relating to health equity;

(vi) An individual who is a member of, or who represents, a body that provides policy advice related to palliative care and quality of life; or

(vii) An individual who represents individuals who provide public health services directly to the public;

(b) A military veteran, or representative of an organization that advocates on behalf of military veterans, with knowledge of psilocybin;

(c) A social worker, mental health counselor, or marriage and family therapist licensed under chapter 18.225 RCW;

(d) A person who has knowledge regarding the indigenous or religious use of psilocybin;

(e) A psychologist licensed under chapter 18.83 RCW who has professional experience engaging in the diagnosis or treatment of a mental, emotional, or behavioral condition;

(f) A physician licensed under chapter 18.71 RCW;

(g) A naturopath licensed under chapter 18.36A RCW;

(h) An expert in the field of public health who has a background in academia;

(i) Any three of the following:

(i) A person who has professional experience conducting scientific research regarding the use of psychedelic compounds in clinical therapy;

(ii) A person who has experience in the field of mycology;

(iii) A person who has experience in the field of ethnobotany;

(iv) A person who has experience in the field of psychopharmacology; or

(v) A person who has experience in the field of harm reduction;

(j) A person designated by the liquor and cannabis board who has experience working with the cannabis central reporting system developed for tracking the transfer of cannabis items;

(k) The attorney general or the attorney general's designee; and

(l) One, two, or three at large members.

(3)(a) Members of the Washington psilocybin advisory board shall serve for a term of four years, but at the pleasure of the governor. Before the expiration of the term of a member, the governor shall appoint a successor whose term begins on January 1st of the following year. A member is eligible for reappointment. If there is a vacancy for any cause, the governor shall make an appointment to become immediately effective for the unexpired term.

(b) Members of the board described in subsection (1)(b) through (e) of this section are nonvoting ex officio members of the board.

(4) A majority of the voting members of the board constitutes a quorum. Official adoption of advice or recommendations by the Washington psilocybin advisory board requires the approval of a majority of the voting members of the board.

(5) The board shall elect one of its voting members to serve as chair.

(6) Until July 1, 2024, the Washington psilocybin advisory board shall meet at least five times a calendar year at a time and place determined by the chair or a majority of the voting members of the board. After July 1, 2024, the board shall meet at least once every calendar quarter at a time and place determined by the chair or a majority of the voting members of the board. The board may meet at other times and places specified by the call of the chair or of a majority of the voting members of the board.

(7) The Washington psilocybin advisory board may adopt rules necessary for the operation of the board.

(8) The Washington psilocybin advisory board may establish committees and subcommittees necessary for the operation of the board.

(9) The members of the Washington psilocybin advisory board may receive reimbursement or an allowance for expenses within amounts appropriated for that specific purpose consistent with RCW 43.03.220.

NEW SECTION. **Sec. 5.** (1) An interagency psilocybin work group of the department of health, the liquor and cannabis board, and the department of agriculture is created to provide advice and recommendations to the advisory board on the following:

(a) Developing a comprehensive regulatory framework for a regulated psilocybin system, including a process to ensure clean and pesticide free psilocybin products;

(b) Reviewing indigenous practices with psilocybin, clinical psilocybin trials, and findings;

(c) Reviewing research of medical evidence developed on the possible use and misuse of psilocybin therapy; and

(d) Ensuring that a social opportunity program is included within any licensing program created under this chapter to remedy the targeted enforcement of drug-related laws on overburdened communities.

(2) The findings of the psilocybin task force in section 6 of this act must be submitted to the interagency work group created in this section and to the psilocybin advisory board.

(3) The interagency psilocybin work group must submit regular updates to the psilocybin advisory board.

NEW SECTION. **Sec. 6.** (1) The health care authority must establish a psilocybin task force to provide a report on psilocybin services. The director of the health care authority or the director's designee must be a member of the task force and serve as chair. The task force must also include, without limitation, the following members:

(a) The secretary of the department of health or the secretary's designee;

(b) The director of the liquor and cannabis board or the director's designee; and

(c) As appointed by the director of the health care authority, or the director's designee:

(i) A military veteran, or representative of an organization that advocates on behalf of military veterans, with knowledge of psilocybin;

(ii) Up to two recognized indigenous practitioners with knowledge of the use of psilocybin or other psychedelic compounds in their communities;

(iii) An individual with expertise in disability rights advocacy;

(iv) A public health practitioner;

(v) Two psychologists with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;

(vi) Two mental health counselors, marriage and family therapists, or social workers with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;

(vii) Two physicians with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;

(viii) A health researcher with expertise in health equity or conducting research on psilocybin;

(ix) A pharmacologist with expertise in psychopharmacology;

(x) A representative of the cannabis industry with knowledge of regulation of medical cannabis and the cannabis business in Washington;

(xi) An advocate from the LGBTQIA community with knowledge of the experience of behavioral health issues within that community;

(xii) A member of the psychedelic medicine alliance of Washington; and

(xiii) Up to two members with lived experience of utilizing psilocybin.

(2) The health care authority must convene the first meeting of the task force by June 30, 2023.

(3) The health care authority must provide a final report to the governor and appropriate committees of the legislature by December 1, 2023, in accordance with RCW 43.01.036. The health care authority may form subcommittees within the task force and adopt procedures necessary to facilitate its work.

(4) The duties of the health care authority in consultation with the task force must include, without limitation, the following activities:

(a) Reviewing the available clinical information around specific clinical indications for use of psilocybin, including what co-occurring diagnoses or medical and family histories may exclude a person from use of psilocybin. Any review of clinical information should:

(i) Discuss populations excluded from existing clinical trials;

(ii) Discuss factors considered when approval of a medical intervention is approved;

(iii) Consider the diversity of participants in clinical trials and the limitations of each study when applying learnings to the population at large; and

(iv) Identify gaps in the clinical research for the purpose of identifying opportunities for investment by the state for the University of Washington, Washington State University, or both to consider studying.

(b) Reviewing and discussing regulatory structures for clinical use of psilocybin in Washington and other jurisdictions nationally and globally. This should include discussing how various regulatory structures do or do not address concerns around public health and safety the task force has identified.

(5) The department of health, liquor and cannabis board, and department of agriculture must provide subject matter expertise and support to the task force and any subcommittee meetings. For the department of health, subject matter expertise includes an individual or individuals with knowledge and experience in rule making, the regulation of health professionals, and the regulation of health facilities.

(6) Meetings of the task force under this section must be open to participation by members of the public.

(7) Task force members participating on behalf of an employer, governmental entity, or other organization are not entitled to be

reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(8) It is the legislature's intent that the provisions of this section supersede section 211(99), chapter 297, Laws of 2022.

(9) This section expires June 30, 2024.

NEW SECTION. **Sec. 7.** (1) The duties, functions, and powers of the department of health specified in this chapter include the following:

(a) To examine, publish, and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions including, but not limited to, addiction, depression, anxiety disorders, and end-of-life psychological distress, and the potential for psilocybin to promote community, address trauma, and enhance physical and mental wellness;

(b) To adopt, amend, or repeal rules necessary to carry out the intent and provisions of this chapter, including rules that the department of health considers necessary to protect the public health and safety;

(c) To exercise all powers incidental, convenient, or necessary to enable the department of health to administer or carry out this chapter or any other law of this state that charges the department of health with a duty, function, or power related to psilocybin products and psilocybin services. Powers described in this subsection include, but are not limited to:

(i) Issuing subpoenas;

(ii) Compelling the attendance of witnesses;

(iii) Administering oaths;

(iv) Certifying official acts;

(v) Taking depositions as provided by law; and

(vi) Compelling the production of books, payrolls, accounts, papers, records, documents, and testimony.

(2) The jurisdiction, supervision, duties, functions, and powers held by the department of health under this section are not shared by the pharmacy quality assurance commission under chapter 18.64 RCW.

NEW SECTION. **Sec. 8.** (1) Subject to amounts appropriated for this purpose, the psilocybin therapy services pilot program is established within, and administered by, the University of Washington department of psychiatry and behavioral sciences. No later than January 1, 2025, the University of Washington department of psychiatry and behavioral sciences must implement this section.

(2) The pilot program must:

(a) Offer psilocybin therapy services through pathways approved by the federal food and drug administration, to populations including first responders and veterans who are:

(i) 21 years of age or older; and

(ii) Experiencing posttraumatic stress disorder, mood disorders, or substance use disorders;

(b) Offer psilocybin therapy services facilitated by:

(i) An advanced social worker, independent clinical social worker, or mental health counselor licensed under chapter 18.225 RCW;

(ii) A physician licensed under chapter 18.71 RCW; or

(iii) A psychiatric advanced registered nurse practitioner licensed under chapter 18.79 RCW as defined in RCW 71.05.020;

(c) Ensure psilocybin therapy services are safe, accessible, and affordable;

(d) Require an initial assessment to understand participant goals and expectations, and assess the participant's history for any concerns that require further intervention or information before receiving psilocybin therapy services, and an integration session after receiving psilocybin therapy services; and

(e) Use outreach and engagement strategies to include participants from communities or demographic groups that are more likely to be historically marginalized and less likely to be included in research and clinical trials represented by race, sex, sexual orientation, socioeconomic status, age, or geographic location.

NEW SECTION. **Sec. 9.** Medical professionals licensed by the state of Washington shall not be subject to adverse licensing action for recommending psilocybin therapy services.

NEW SECTION. **Sec. 10.** (1) The liquor and cannabis board shall assist and cooperate with the department of health and the department of agriculture to the extent necessary to carry out their duties under this chapter.

(2) The department of agriculture shall assist and cooperate with the department of health to the extent necessary for the department of health to carry out the duties under this chapter.

NEW SECTION. **Sec. 11.** The department of health, the department of agriculture, and the liquor and cannabis board may not refuse to perform any duty under this chapter on the basis that manufacturing, distributing, dispensing, possessing, or using psilocybin products is prohibited by federal law.

NEW SECTION. **Sec. 12.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 13.** Sections 1 through 5 and 7 through 11 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 14.** Sections 4 through 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Salomon moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5263.

Senator Salomon spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Salomon that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5263.

The motion by Senator Salomon carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5263 by voice vote.

MOTION

On motion of Senator Nobles, Senator Kuderer was excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5263, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5263, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 4; Absent, 0; Excused, 5.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland,

Dhingra, Dozier, Fortunato, Frame, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Lovelett, Lovick, MacEwen, Mullet, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Warnick, Wellman, Wilson, C. and Wilson, L.

Voting nay: Senators Gildon, McCune, Padden and Wagoner

Excused: Senators Conway, Kuderer, Liias, Muzzall and Wilson, J.

SECOND SUBSTITUTE SENATE BILL NO. 5263, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2023

MR. PRESIDENT:
The House passed SECOND SUBSTITUTE SENATE BILL NO. 5268 with the following amendment(s): 5268-S2 AMH POLL STEP 039

On page 28, line 19, after "area." insert "A state agency or authorized local government utilizing direct contracting pursuant to this subsection must rotate through the contractors on the appropriate small works roster and must, when qualified contractors are available from the roster who may perform the work or deliver the services within the budget described in the notice or request for proposals, utilize different contractors on different projects."

On page 28, after line 23, insert the following:

"(iii) The state agency or authorized local government must notify small, minority, women, or veteran-owned businesses on the applicable roster when direct contracting is utilized."

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

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5268.

Senator Hasegawa spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pedersen that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5268.

The motion by Senator Pedersen carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5268 by voice vote.

MOTION

On motion of Senator Wagoner, Senator Padden was excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5268, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5268, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

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

Excused: Senators Conway, Kuderer, Liias, Muzzall, Padden and Wilson, J.

SECOND SUBSTITUTE SENATE BILL NO. 5268, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 6, 2023

MR. PRESIDENT:
The House passed SECOND SUBSTITUTE SENATE BILL NO. 5269 with the following amendment(s): 5269-S2 AMH APP H1878.1

Strike everything after the enacting clause and insert the following:

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

(1) In 2021, Washington state set an aspirational goal in statute to double manufacturing jobs, firms, and the participation of women and minorities in the ownership of manufacturing firms. To create and maintain unity around the state manufacturing growth target, chapter 64, Laws of 2021 sought to foster a partnership between business and labor. It established a manufacturing council with membership that was intentionally balanced equally between business and labor and represented the geographic and demographic diversity of the state. The manufacturing council was tasked with advising the department of commerce on policy recommendations to strengthen the manufacturing sector by 2030 and submitting reports to the legislature every two years containing those recommendations.

(2) The legislature intends for an independent assessment of growth opportunities in clean manufacturing to be considered by the manufacturing council. Furthermore, the legislature intends that a state industrial strategy that incorporates any input from the independent assessment not be published in any form or considered the state strategy until there is consensus of the manufacturing council on the recommendations and policies to be included in that strategy.

(3) Washington state, with its strong climate commitments, highly skilled workforce, and existing world-class manufacturing base is well positioned to be a global leader in clean manufacturing.

(4) A strong state and domestic manufacturing sector can provide stable, high-wage jobs and is a prerequisite to achieving Washington state's statutory commitment to net zero greenhouse gas emissions by 2050.

(5) All Washingtonians deserve the opportunity of a high-road manufacturing career. In building the Washington manufacturing workforce pipeline, the state should fully leverage the transferable skills of our existing manufacturing workforce and develop a comprehensive, in-state pipeline with wraparound services and equitable opportunities to ensure that every

Washingtonian has a fair shake at a manufacturing career and intergenerational well-being and career growth opportunities.

(6) A holistic and coordinated state industrial strategy that seeks simultaneously to transform and revitalize Washington state's manufacturing base is vital to prevent the leakage of jobs and carbon pollution.

(7) Washington has demonstrated a deep commitment to growing manufacturing. In 2021, the legislature set a goal of doubling the state's manufacturing base over 10 years. In 2022, the legislature created tax incentives and updated siting and permitting practices to accelerate the in-state production of clean energy product manufacturing. Developing a statewide industrial strategy is an important complement to accelerate progress and maximize the benefit of new tax incentives and siting and permitting practices.

(8) The bipartisan infrastructure act and inflation reduction act present a once in a generation opportunity to rapidly transform and grow Washington's manufacturing base in a way that advances the state's climate goals. The state has an important role to play in ensuring that Washington fully leverages federal funding opportunities and that the benefits are shared equitably.

(9) Washington must take steps to ensure that the transformation and growth of the state's manufacturing base simultaneously addresses and does not contribute to the disproportionate burden of pollution on overburdened communities.

NEW SECTION. **Sec. 2.** (1) The department of commerce must perform an independent assessment of opportunities for Washington to capture new and emerging industries that align with statewide greenhouse gas reduction limits and strengthen its existing manufacturing base. By October 1, 2024, and in compliance with RCW 43.01.036, the department of commerce shall submit the independent assessment to the appropriate committees of the legislature, and shall submit the assessment to the state manufacturing council established in RCW 43.330.762.

(2) By June 1, 2025, the department of commerce must develop a proactive state industrial strategy that seeks to strengthen and transform Washington's existing manufacturing base and capture new and emerging industries. The strategy should be informed by the independent assessment required by subsection (1) of this section. The manufacturing council convened pursuant to RCW 43.330.762 shall advise and consult on the development of the strategy.

(3) The independent assessment must include, but is not limited to:

(a) Assessing how the transition to net-zero emissions by 2050 will impact the potential futures of manufacturing in Washington, including identifying specific opportunities for Washington to actively seek investment in new and emerging industries and to transform and strengthen the state's existing manufacturing base to meet the needs of a net-zero economy, taking into account the Washington's existing key sectors, job quality, and regional diversity;

(b) Assessing the needs of Washington's existing manufacturers, including supply chain challenges and resources required to meet the statutory greenhouse gas emissions reductions in RCW 70A.45.020;

(c) Identifying opportunities to build and maximize the environmental and economic benefits of a circular economy for both new and existing industries in building out and strengthening Washington's manufacturing base;

(d) Identifying what is required to attract new private investment and transform and strengthen Washington's existing manufacturing base, including needs related to:

(i) Transportation and port infrastructure;

(ii) Supply chains;

(iii) Workforce; and

(iv) Energy;

(e) Identifying opportunities to support minority and women-owned firms and small and medium-sized firms in capturing new and emerging industries;

(f) Identifying existing and potential future gaps in the state's manufacturing sector that inhibit in-state manufacturers from producing the necessary goods, services, and infrastructure to transition to the net-zero economy and attract new investment in the state to accelerate the in-state production of clean energy product manufacturing; and

(g) Evaluating opportunities for the state's use of public ownership investment in developed and emerging manufacturing industries to address the existing and potential future gaps identified in (f) of this subsection. This evaluation shall provide recommendations on the highest and best uses of public resources as part of the state industrial strategy as provided in subsection (2) of this section.

(4) The workforce assessment referenced in subsection (3)(d)(iii) of this section should: (a) Catalogue and examine how to maximize the use of the existing manufacturing workforce's transferable skills; (b) address any remaining skills gaps and identify opportunities to build a manufacturing workforce pipeline that ensures all current and future Washingtonians have fair access to a manufacturing career by sector; and (c) ensure equitable and accessible pathways and advancement opportunities in manufacturing by sector.

(5) The energy assessment referenced in subsection (3)(d)(iv) of this section should include the quantity, price, and location of electricity necessary to decarbonize and grow Washington's existing manufacturing base and capture new and emerging industries.

(6) The independent assessment will not replace but may inform the work of the manufacturing council created in RCW 43.330.762 to advise and consult on the department of commerce's recommendations to achieve the goals established in RCW 43.330.760.

NEW SECTION. **Sec. 3.** (1) The department of commerce must appoint an industrial policy advisor to ensure that Washington state fully leverages available federal funding for manufacturing to meet the state's economic development goals in RCW 43.330.760 and the statutory greenhouse gas emissions reductions in RCW 70A.45.020 and guide the implementation of the state industrial strategy created pursuant to section 2 of this act.

(2) The industrial policy advisor must:

(a) Track federal and other funding opportunities to transform and strengthen existing Washington manufacturers and promote the growth of new and emerging industries;

(b) Alert Washington manufacturers to relevant federal and other funding opportunities;

(c) Support Washington manufacturers in applying for federal and other funding opportunities and in completing required reporting;

(d) Work to ensure that Washington's pursuit of its goals in RCW 43.330.760 and 70A.45.020 are aligned and mutually reinforcing;

(e) Foster interagency and coordination and collaboration, including with the department of commerce sector leads, on manufacturing-related policymaking and activities, including both climate and economic development manufacturing-related policymaking;

(f) Coordinate with the workforce innovation sector lead, particularly with respect to building the manufacturing workforce

pipeline; and

(g) Provide quarterly reports to the manufacturing council created in RCW 43.330.762.

(3) The industry policy advisor may also:

(a) Form expert committees with industry representatives to develop sector-specific strategies for attracting new investment and transforming and strengthening existing manufacturing consistent with the industrial strategy created pursuant to section 2 of this act;

(b) Assist local governments with economic plans to attract new investment and transform and strengthen existing manufacturing consistent with the industrial strategy created pursuant to section 2 of this act; and

(c) Support communities negatively impacted by the closure or relocation of manufacturing facilities by supporting efforts to attract new investment consistent with the industrial strategy created pursuant to section 2 of this act and facilitate the movement of existing skilled manufacturing workers into new industrial sectors.

NEW SECTION. **Sec. 4.** This act may be known and cited as the Washington clean manufacturing leadership act.

NEW SECTION. **Sec. 5.** Section 2 of this act is added to chapter 43.330 RCW and codified with the subchapter heading of "MANUFACTURING AND RESEARCH AND DEVELOPMENT SECTOR PROMOTION.""

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Shewmake moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5269.

Senators Shewmake and Dozier spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Shewmake that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5269.

The motion by Senator Shewmake carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5269 by voice vote.

MOTION

On motion of Senator Nobles, Senator Wellman was excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5269, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5269, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 14; Absent, 0; Excused, 7.

Voting yea: Senators Billig, Cleveland, Dhingra, Frame, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, Lovelett, Lovick, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Van De Wege, Warnick and Wilson, C.

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, Gildon, King, MacEwen, McCune, Rivers, Schoesler, Short, Torres, Wagoner and Wilson, L.

Excused: Senators Conway, Kuderer, Liias, Muzzall, Padden, Wellman and Wilson, J.

SECOND SUBSTITUTE SENATE BILL NO. 5269, as amended by the House, 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 3:24 p.m., on motion of Senator Pedersen, the Senate adjourned until 10 o'clock a.m. Monday, April 17, 2023.

DENNY HECK, President of the Senate

SARAH BANNISTER, Secretary of the Senate

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Kaur, Ms. Jasneet, Outreach Coordinator, Pacific Northwest Gurdwara Council 1
FLAG BEARERS
Dunfee, Miss Marisa..... 1
Schaibe, Mr. Samuel..... 1
GUESTS
Kaur, Ms. Satwinder, Kent City Councilmember..... 2
Pamplin, Miss Katherine, Pledge of Allegiance 1
Sidhu, Mr. Satpal, Whatcom County Executive..... 2