

SIXTY EIGHTH LEGISLATURE - REGULAR SESSION

SIXTY FOURTH DAY

House Chamber, Olympia, Monday, March 13, 2023

The House was called to order at 9:55 a.m. by the Speaker (Representative Bronoske presiding).

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

There being no objection, the House advanced to the fifth order of business.

REPORTS OF STANDING COMMITTEES

March 9, 2023

HB 1711 Prime Sponsor, Representative Chapman: Providing a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe. Reported by Committee on Finance

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Stokesbary; Thai; Walen and Wylie.

Referred to Committee on Rules for second reading

March 9, 2023

HB 1729 Prime Sponsor, Representative Abbarno: Creating and expanding tax incentives for the research, development, production, and sale of hydrogen fuel products in Washington state. Reported by Committee on Finance

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Barnard; Ramel; Santos; Springer; Stokesbary; Thai; Walen and Wylie.

MINORITY recommendation: Do not pass. Signed by Representative Chopp.

MINORITY recommendation: Without recommendation. Signed by Representative Jacobsen, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading

March 9, 2023

HB 1756 Prime Sponsor, Representative Ramel: Supporting clean energy through tax changes that increase revenue to local governments, schools, and impacted communities. Reported by Committee on Finance

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Barnard; Ramel; Santos; Springer; Thai; Walen and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representatives Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Chopp; and Stokesbary.

Referred to Committee on Rules for second reading

March 9, 2023

HB 1757 Prime Sponsor, Representative Corry: Providing a sales and use tax remittance to qualified farmers. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Stokesbary; Thai; Walen and Wylie.

Referred to Committee on Rules for second reading

March 9, 2023

HB 1768 Prime Sponsor, Representative Shavers: Exempting certain sales of electricity to qualifying green businesses from the public utilities tax. Reported by Committee on Finance

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Ramel; Santos; Springer; Stokesbary; Thai; Walen and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representative Chopp.

Referred to Committee on Rules for second reading

March 10, 2023

SB 5003 Prime Sponsor, Senator Lovick: Increasing the number of district court judges in Snohomish county. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Farivar, Vice Chair; Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Cheney; Entenman; Goodman; Peterson; Rude; Thai and Walen.

Referred to Committee on Rules for second reading

March 10, 2023

SB 5004 Prime Sponsor, Senator Pedersen: Making updates to the Washington business corporation act. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 23B.01.400 and 2022 c 42 s 101 are each amended to read as follows:

~~((Unless the context clearly requires otherwise, the))~~ The definitions in this section apply throughout this title unless the context clearly requires otherwise.

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so prepared that a reasonable person against whom the writing is to operate should have noticed it. For example, text in italics, boldface, contrasting color, capitals, or underlined is conspicuous.

(4) "Controlling interest" means ownership of an entity's outstanding shares or interests in such number as to entitle the holder at the time to elect a majority of the entity's directors or other governors without regard to voting power which may thereafter exist upon a default, failure, or other contingency.

(5) "Corporate action" means any resolution, act, policy, contract, transaction, plan, adoption or amendment of articles of incorporation or bylaws, or other matter approved by or submitted for approval to a corporation's incorporators, board of directors or a committee thereof, or shareholders.

(6) "Corporation" or "domestic corporation" means a corporation for profit, including a social purpose corporation, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(7) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and, if authorized in accordance with RCW 23B.01.410, by electronic transmission.

(8) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(9) "Document" means:

(a) Any tangible medium on which information is inscribed, and includes handwritten, typed, printed, or similar instruments or copies of such instruments; and

(b) An electronic record.

(10) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(11) "Electronic mail" means an electronic transmission directed to a unique electronic mail address, which electronic mail will be deemed to include any files attached thereto and any information hyperlinked to a website if the electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing such files and information.

(12) "Electronic mail address" means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox, commonly referred to as the "local part" of the address, and a reference to an internet domain, commonly referred to as the "domain part" of the address, whether or not displayed, to which electronic mail can be sent or delivered.

(13) "Electronic record" means information that is stored in an electronic or other nontangible medium and: (a) Is retrievable in paper form by the recipient through an automated process used in conventional commercial practice; or (b) if not retrievable in paper form by the recipient through an automated process used in conventional commercial practice, is otherwise authorized in accordance with RCW 23B.01.410(10).

(14) "Electronic transmission" or "electronically transmitted" means internet transmission, telephonic transmission, electronic mail transmission, transmission of a telegram, cablegram, or datagram, the use of, or participation in, one or more electronic networks or databases including one or more distributed electronic networks or databases, or any other form or process of communication, not directly involving the physical transfer of paper or another tangible medium, which:

(a) Is suitable for the retention, retrieval, and reproduction of information by the recipient; and

(b) Is retrievable in paper form by the recipient through an automated process used in conventional commercial practice, or, if not retrievable in paper form by the recipient through an automated process used in conventional commercial practice, is otherwise authorized in accordance with RCW 23B.01.410(10).

(15) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

(16) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, two or more persons having a joint or common economic interest, the state, United States, and a foreign governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(17) "Execute," "executes," or "executed" means, with present intent to authenticate or adopt a document:

(a) To sign or adopt a tangible symbol to the document, and includes any manual, facsimile, or conformed signature;

(b) To attach or logically associate with an electronic transmission an electronic sound, symbol, or process, and includes an electronic signature; or

(c) With respect to a document to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(18) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(19) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

(20) "General social purpose" means the general social purpose for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(1)(c).

(21) "Governmental subdivision" includes authority, county, district, and municipality.

(22) "Governor" has the meaning given that term in RCW 23.95.105.

(23) "Includes" denotes a partial definition.

(24) "Individual" includes the estate of an incompetent or deceased individual.

(25) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(26) "Means" denotes an exhaustive definition.

(27) "Notice" has the meaning provided in RCW 23B.01.410.

(28) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(29) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(30) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(31) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

(32) "Qualified director" means (a) with respect to a director's conflicting interest transaction as defined in RCW 23B.08.700, any director who does not have either (i) a conflicting interest respecting the transaction, or (ii) a familial, financial, professional, or employment relationship with a second director who does have a conflicting interest respecting the transaction, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction; (b) with respect to RCW 23B.08.735, a qualified director under (a) of this subsection if the business opportunity were a director's conflicting interest transaction; and (c)

with respect to RCW 23B.02.020(2)(g), a director who is not a director (i) to whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply, or (ii) who has a familial, financial, professional, or employment relationship with another officer to whom the limitation or elimination would apply, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the limitation or elimination.

(33) "Record date" means the date fixed for determining the identity of a corporation's shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(34) "Registered office" means the address of the corporation's registered agent.

(35) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(36) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(37) "Shares" means the units into which the proprietary interests in a corporation are divided.

(38) "Social purpose" includes any general social purpose and any specific social purpose.

(39) "Social purpose corporation" means a corporation that has elected to be governed as a social purpose corporation under chapter 23B.25 RCW.

(40) "Specific social purpose" means the specific social purpose or purposes for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(2)(a).

(41) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

(42) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(43) "Subsidiary" means an entity in which the corporation has, directly or indirectly, a controlling interest.

(44) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

(45) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the

articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

(46) "Writing" or "written" means any information in the form of a document.

(47) "Forward stock split" means the pro rata division of all the outstanding shares of a class of stock into a greater number of shares of the same class, whether or not the authorized shares of such a class are increased in the same proportion, but does not include a share dividend under RCW 23B.06.230.

(48) "Reverse stock split" means the pro rata combination of all the outstanding shares of a class of stock into a smaller number of shares of the same class, whether or not the authorized shares of such a class are reduced in the same proportion.

(49) "Stock split" means a forward stock split or a reverse stock split.

Sec. 2. RCW 23B.06.210 and 2009 c 189 s 8 are each amended to read as follows:

(1) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(2) Any issuance of shares must be approved by the board of directors. Shares may be issued ~~((for))~~:

(a) For consideration determined by the board of directors from time to time consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation; or

(b) As a share dividend or upon a stock split, reclassification of outstanding shares into shares of another class or series, or conversion of outstanding shares into shares of another class or series.

(3) A good faith determination by the board of directors that the consideration received or to be received for the shares to be issued is adequate is conclusive insofar as the adequacy of consideration relates to whether the shares are validly issued, fully paid and nonassessable. When the board of directors has made such a determination and the corporation has received the consideration, the shares issued therefor are fully paid and nonassessable. Shares issued as a share dividend or upon a stock split, reclassification of outstanding shares into shares of another class or series, or conversion of outstanding shares into shares of another class or series are fully paid and nonassessable.

(4) The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect to the shares against their purchase price, until the services are performed, the benefits are received, or the note is paid. If the services are not performed, the benefits are not received, or the note is not paid, the shares escrowed or restricted and the distributions credited may be canceled in whole or part.

(5) Where it cannot be determined that outstanding shares are fully paid and nonassessable, there shall be a conclusive presumption that such shares are fully paid and nonassessable if the board of directors makes a good faith determination that there is no substantial evidence that the full consideration for such shares has not been paid.

NEW SECTION. Sec. 3. A new section is added to chapter 23B.06 RCW to read as follows:

(1) A corporation may effect a stock split by means of an amendment to the articles of incorporation stating the effect of the stock split on the outstanding shares of the affected class.

(2) An amendment to the articles of incorporation to effect a stock split may, but is not required to, include a change in the authorized shares of the affected class.

(3) Except for a forward stock split that complies with RCW 23B.10.020(4)(a) or a reverse stock split that complies with RCW 23B.10.020(4)(b), an amendment to the articles of incorporation to effect a stock split must be approved in accordance with RCW 23B.10.030 and, if applicable, RCW 23B.10.040.

(4) The board of directors may fix the record date for determining shareholders affected by a stock split, which date may not precede the date on which the amendment to the articles of incorporation effecting the stock split becomes effective in accordance with RCW 23.95.210. If the board of directors does not fix the record date for determining shareholders affected by a stock split, the record date is the date on which the amendment to the articles of incorporation effecting the stock split becomes effective in accordance with RCW 23.95.210.

Sec. 4. RCW 23B.10.020 and 2009 c 189 s 31 are each amended to read as follows:

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles of incorporation without shareholder approval:

(1) If the corporation has only one class of shares outstanding, to provide, change, or eliminate any provision with respect to the par value of any class of shares;

(2) To delete the names and addresses of the initial directors;

(3) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state;

(4) If the corporation has only one class of shares outstanding, solely to:

(a) Effect a forward stock split of, or change the number of authorized shares of that class in proportion to a forward stock split of, or ~~((stock))share~~ dividend in, the corporation's outstanding shares; or

(b) Effect a reverse stock split of the corporation's outstanding shares ~~((and))~~ if the number of authorized shares of that class ~~((in the same proportions))~~ is proportionately reduced by the amendment;

(5) To change the corporate name; or

(6) To make any other change expressly permitted by this title to be made without shareholder approval.

Sec. 5. RCW 23B.11.030 and 2022 c 42 s 108 are each amended to read as follows:

(1) After ~~((adopting))~~ a plan of merger or share exchange has been adopted in accordance with RCW 23B.11.020 or 23B.11.040, the board of directors of each corporation party to the merger, ~~((and))~~ or the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan ~~((of merger))~~ for approval by the shareholders, except as provided in subsection (7) or (9) of this section ~~((, or share exchange for approval by its shareholders))~~ or as provided in RCW 23B.11.040 or section 6 of this act.

(2) For a plan of merger or share exchange to be approved by shareholders:

(a) The board of directors must recommend that the shareholders approve the plan of merger or share exchange ~~((to the shareholders))~~, unless (i) the board of directors determines that because of conflict of interest or other special circumstances it should not make ~~((a))~~ such a recommendation or (ii) RCW 23B.08.245 applies, and in either case the board of directors communicates the basis for so proceeding to the shareholders; and

(b) The shareholders entitled to vote must approve the plan ~~((, except as provided in subsection (7) of this section))~~.

(3) The board of directors may condition its submission of the proposed plan of merger or share exchange on any basis, including the affirmative vote of holders of a specified percentage of shares held by any group of shareholders not otherwise entitled under this title or the articles of incorporation to vote as a separate voting group on the proposed plan of merger or share exchange.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with RCW 23B.07.050. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and must contain or be accompanied by a copy of the plan or a summary of the material terms and conditions of the proposed merger or share exchange and the consideration to be received by shareholders.

(5) ~~((If))~~ If the plan of merger is required to be approved by the shareholders, in addition to any other voting conditions imposed by the board of directors under subsection (3) of this section, the plan of merger must be approved by two-thirds of the voting group comprising all the votes entitled to be cast on the plan, and of each other voting group entitled under RCW 23B.11.035 or the articles of incorporation to vote separately on the plan ~~((, unless shareholder approval is not required under subsection (7) of this section))~~. The articles of incorporation may require a greater or lesser vote than that provided in this subsection, or a greater or lesser vote by separate voting groups, so long as the

required vote is not less than a majority of all the votes entitled to be cast on the plan of merger and of each other voting group entitled to vote separately on the plan. Separate voting by additional voting groups is required on a plan of merger under the circumstances described in RCW 23B.11.035.

(6) In addition to any other voting conditions imposed by the board of directors under subsection (3) of this section, the plan of share exchange must be approved by two-thirds of the voting group comprising all the votes entitled to be cast on the plan, and of each other voting group entitled under RCW 23B.11.035 or the articles of incorporation to vote separately on the plan. The articles of incorporation may require a greater or lesser vote than that provided in this subsection, or a greater or lesser vote by separate voting groups, so long as the required vote is not less than a majority of all the votes entitled to be cast on the plan of share exchange and of each other voting group entitled to vote separately on the plan. Separate voting by additional voting groups is required on a plan of share exchange under the circumstances described in RCW 23B.11.035.

(7) Approval by the shareholders of the surviving corporation on a plan of merger is not required if:

(a) The articles of incorporation of the surviving corporation will not differ, except for amendments enumerated in RCW 23B.10.020, from its articles of incorporation before the merger;

(b) Each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after the merger;

(c) The number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed the total number of voting shares of the surviving corporation authorized by its articles of incorporation immediately before the merger; and

(d) The number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed the total number of participating shares authorized by its articles of incorporation immediately before the merger.

(8) As used in subsection (7) of this section:

(a) "Participating shares" means shares that entitle their holders to participate without limitation in distributions.

(b) "Voting shares" means shares that entitle their holders to vote unconditionally in elections of directors.

(9) Unless the articles of incorporation provide otherwise, approval by the shareholders of a public company is not required for a plan of merger if:

(a) The plan of merger expressly: (i) Permits or requires the merger to be effected under this subsection; and (ii) provides that, if the merger is to be effected under this subsection, the merger will be effected as soon as practicable following the satisfaction of the requirements of (f) of this subsection;

(b) Another party to the merger or a parent of another party to the merger makes an offer to purchase, on the terms stated in the plan of merger, any and all of the outstanding shares of the corporation that, absent this subsection, would be entitled to vote on the plan of merger, except that the offer may exclude shares of the corporation that are owned at the commencement of the offer by the corporation, the offeror, or any parent of the offeror, or by any wholly owned subsidiary of any of the foregoing;

(c) The offer discloses that the plan of merger states that the merger will be effected as soon as practicable following the satisfaction of the requirements of (f) of this subsection and that the shares of the corporation that are not tendered in response to the offer will be treated as provided in (h) of this subsection;

(d) The offer remains open for at least 10 days;

(e) The offeror purchases all shares properly tendered in response to the offer and not properly withdrawn;

(f) The: (i) Shares purchased by the offeror in accordance with the offer; (ii) shares otherwise owned by the offeror or by any parent of the offeror or any wholly owned subsidiary of any of the foregoing; and (iii) shares subject to an agreement that they are to be transferred, contributed, or delivered to the offeror, any parent of the offeror, or any wholly owned subsidiary of any of the foregoing in exchange for shares or other interests in that offeror, parent, or subsidiary, are collectively entitled to cast at least the minimum number of votes on the merger that, absent this subsection, would be required by this chapter for the approval of the merger by the shareholders entitled to vote on the merger at a meeting at which all shares entitled to vote on the approval were present and voted;

(g) The offeror or a wholly owned subsidiary of the offeror merges with or into the corporation; and

(h) Each outstanding share of each class or series of shares of the corporation that the offeror is offering to purchase in accordance with the offer, and which is not purchased in accordance with the offer, is to be converted in the merger into, or into the right to receive, the same amount and kind of securities, eligible interests, obligations, rights, cash, or other property to be paid or exchanged in accordance with the offer for each share of that class or series of shares that is tendered in response to the offer, except that shares of the corporation that are owned by the corporation or that are described in (f)(ii) or (iii) of this subsection need not be

converted into or exchanged for the consideration described in this subsection (9)(h).

(10) As used in subsection (9) of this section:

(a) "Offer" means the offer referred to in subsection (9)(b) of this section.

(b) "Offeror" means the person making the offer.

(c) "Parent" of an entity means a person that owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares of or other interests in that entity.

(d) Shares tendered in response to the offer will be deemed to have been "purchased" in accordance with the offer at the earlier time as of which:

(i) The offeror has irrevocably accepted those shares for payment; and

(ii) Either: (A) In the case of shares represented by certificates, the offeror, or the offeror's designated depository or other agent, has physically received the certificates representing those shares; or (B) in the case of shares without certificates, those shares have been transferred into the account of the offeror or its designated depository or other agent, or an agent's message relating to those shares has been received by the offeror or its designated depository or other agent.

(e) "Wholly owned subsidiary" of a person means an entity of or in which that person owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares or other interests.

(11) After a merger or share exchange is approved, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned, subject to any contractual rights, without further shareholder approval, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board of directors.

NEW SECTION. Sec. 6. A new section is added to chapter 23B.11 RCW to read as follows:

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

(a) "Holding company" means the corporation that is or becomes the direct parent of the surviving corporation of a merger accomplished under this section and whose capital stock is issued in that merger.

(b) "Parent constituent corporation" means the parent corporation that merges with or into the subsidiary constituent corporation in the merger.

(c) "Subsidiary constituent corporation" means the subsidiary corporation with or into which the parent constituent corporation merges in the merger.

(2) Unless the articles of incorporation provide otherwise, a parent constituent corporation may merge with or into a single indirect wholly owned subsidiary of the parent constituent corporation without the approval of the plan of merger by the

shareholders of the parent constituent corporation if:

(a) The plan expressly permits or requires the merger to be effected under this subsection;

(b) The holding company and the constituent corporations to the merger are each organized under this title;

(c) At all times from its incorporation until consummation of a merger under this section, the holding company was a direct wholly owned subsidiary of the parent constituent corporation;

(d) Immediately before consummation of a merger under this section, the subsidiary constituent corporation is a direct wholly owned subsidiary of the holding company and an indirect wholly owned subsidiary of the parent constituent corporation;

(e) The parent constituent corporation and the subsidiary constituent corporation are the only constituent entities to the merger;

(f) Immediately after the merger becomes effective, the surviving corporation of the merger becomes or remains a direct wholly owned subsidiary of the holding company;

(g) Each share or fraction of a share of the parent constituent corporation outstanding immediately before the merger becomes effective is converted in the merger into a share or equal fraction of a share of the holding company having the same designations and relative preferences, rights, and limitations as the share or fraction of a share of the parent constituent corporation being converted in the merger;

(h) The articles of incorporation and bylaws of the holding company immediately after the merger becomes effective contain provisions identical to the articles of incorporation and bylaws of the parent constituent corporation immediately before the merger becomes effective, other than any provisions regarding the incorporator or incorporators, the corporate name, the registered office and agent, the initial board of directors and the initial subscribers for shares, and the provisions contained in any amendment to the articles of incorporation of the parent constituent corporation that were necessary to effect an exchange, reclassification, or cancellation of shares if the exchange, reclassification, or cancellation has become effective;

(i) The articles of incorporation and bylaws of the surviving corporation immediately after the merger becomes effective contain provisions by specific reference to this subsection requiring that any corporate action by or involving the surviving corporation, other than the election or removal of directors of the surviving corporation, must be approved by the shareholders of the holding company, or any successor by merger, by the same vote as is required by this title or under the articles of incorporation or bylaws of the parent constituent corporation immediately before the merger becomes effective, if that corporate action would have required the approval of the shareholders of the parent constituent corporation under this title or under the articles of incorporation or bylaws of the parent constituent corporation

immediately before the merger becomes effective;

(j) The directors of the parent constituent corporation immediately before the merger becomes effective become or remain the directors of the holding company immediately after the merger becomes effective; and

(k) The shareholders of the parent constituent corporation will not recognize gain or loss for United States federal income tax purposes as a result of the merger, as determined by the board of directors of the parent constituent corporation.

(3) The holding company must, promptly after the effective date of a merger effected under subsection (2) of this section, notify each person who was a shareholder of the parent constituent corporation as of the date the board of directors approves the merger that the merger has become effective. The notice must contain or be accompanied by a copy of the plan of merger or a summary of the material terms and conditions of the merger and the consideration to be received by those shareholders.

(4) To the extent restrictions under chapter 23B.19 RCW applied to the parent constituent corporation or any of its shareholders at the effective time of the merger, those restrictions apply to the holding company and its shareholders immediately after the merger becomes effective as though the holding company were the parent constituent corporation, and all shares of stock of the holding company acquired in the merger will, for the purposes of chapter 23B.19 RCW, be deemed to have been acquired at the time that the corresponding shares of stock of the parent constituent corporation were acquired. No shareholder who, immediately before the merger becomes effective, was not an acquiring person of the parent constituent corporation under chapter 23B.19 RCW will, solely by reason of the merger, become an acquiring person of the holding company under chapter 23B.19 RCW.

(5) To the extent a shareholder of the parent constituent corporation immediately before the merger was eligible to commence a proceeding in the right of the parent constituent corporation in accordance with RCW 23B.07.400, nothing in this section is deemed to limit or extinguish that eligibility.

(6) Except as provided in subsections (2), (3), (4), and (5) of this section, a merger between a parent constituent corporation and a subsidiary constituent corporation is governed by the provisions of this chapter applicable to mergers generally."

Correct the title.

Signed by Representatives Farivar, Vice Chair; Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Cheney; Entenman; Goodman; Peterson; Rude; Thai and Walen.

Referred to Committee on Rules for second reading

March 10, 2023

SB 5036 Prime Sponsor, Senator Muzzall: Concerning telemedicine. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard; Bronoske; Davis; Graham; Harris; Macri; Maycumber; Mosbrucker; Orwall; Simmons; Stonier; Thai and Tharinger.

Referred to Committee on Rules for second reading

March 9, 2023

SB 5065 Prime Sponsor, Senator Short: Encouraging public school instruction in awareness of bone marrow donation. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature recognizes that it has previously found that every three minutes an American child or adult is diagnosed with a potentially fatal blood disease. For many of these individuals, bone marrow transplantation is the only chance for survival. The legislature finds that 70 percent of patients do not have a fully matched donor in their family and rely on a registry to find an unrelated donor. The legislature further finds that 40 to 71 percent of individuals with diverse heritage never find a bone marrow match. The ultimate key to survivability lies in increasing the number of bone marrow donors across all ethnicities, which will increase the potential for a suitable match.

(2) It is the intent of the legislature to continue to increase awareness of bone marrow donation by encouraging school districts, charter schools, and state-tribal compact schools to offer instruction on this topic to high school students in at least one health class necessary for graduation. The legislature also intends for this instruction to be optional for elementary and middle school students.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) Each school district, charter school, and state-tribal education compact school that serves students in any of grades nine through 12 is encouraged to offer instruction in awareness of bone marrow donation to students as provided in this section. Beginning with the 2023-24 school year, instruction in awareness of bone marrow donation may be included in at least one health class necessary for graduation.

(2)(a) Instruction in awareness of bone marrow donation under this section must be an instructional program provided by the national marrow donor program or other relevant nationally recognized organization.

(b) The office of the superintendent of public instruction must post on its website

a link to the instructional program described in this subsection (2).

(3) Each school district, charter school, and state-tribal education compact school that serves students in any of grades kindergarten through eight may offer instruction in awareness of bone marrow donation to students. The instruction described in subsection (2) of this section may be adapted to be age appropriate.

(4) School districts, charter schools, and state-tribal education compact schools may offer the instruction in awareness of bone marrow donation directly or arrange for the instruction to be provided by available community-based providers. The instruction does not have to be provided by certificated instructional staff."

Correct the title.

Signed by Representatives Santos, Chair; Shavers, Vice Chair; Rude, Ranking Minority Member; Bergquist; Callan; Eslick; Harris; McClintock; Ortiz-Self; Pollet; Sandlin; Steele; Stonier and Timmons.

Referred to Committee on Rules for second reading

March 9, 2023

SSB 5072 Prime Sponsor, Early Learning & K-12 Education: Advancing equity in programs for highly capable students. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. The legislature has directed school districts to prioritize equitable identification of low-income students for participation in highly capable programs and services. The research literature strongly supports using universal screening and multiple criteria to equitably identify students for highly capable programs. There are multiple approaches to implementing universal screening and the use of multiple criteria. The legislature intends all school districts to use best practices and does not intend to prescribe a single method.

(2) The legislature further intends to allocate state funding for the highly capable program based on five percent of each school district's student population. The legislature does not intend to limit highly capable services to five percent of the student population. School districts may identify and serve more than five percent of their students for highly capable programs and services.

Sec. 2. RCW 28A.185.020 and 2017 3rd sp.s. c 13 s 412 are each amended to read as follows:

~~((1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education.~~

~~There are multiple definitions of highly capable, from intellectual to academic to artistic. The research literature strongly supports using multiple criteria to identify highly capable students, and therefore, the legislature does not intend to prescribe a single method. Instead, the legislature intends to allocate funding based on 5.0 percent of each school district's population and authorize school districts to identify through the use of multiple, objective criteria those students most highly capable and eligible to receive accelerated learning and enhanced instruction in the program offered by the district.)) District practices for identifying ((the most)) highly capable students must prioritize equitable identification of low-income students. Access to accelerated learning and enhanced instruction through the program for highly capable students does not constitute an individual entitlement for any particular student.~~

~~((2) Supplementary funds provided by the state for the program for highly capable students under RCW 28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030.))~~

NEW SECTION. Sec. 3. A new section is added to chapter 28A.185 RCW to read as follows:

(1) Other basic education funding can be used alongside categorical funding to identify students and provide programs and services for highly capable students.

(2) Each school district must conduct universal screenings in accordance with RCW 28A.185.030 to find students who may qualify for potential highly capable program placement.

Sec. 4. RCW 28A.185.030 and 2009 c 380 s 4 are each amended to read as follows:

~~((Local school))~~ (1) School districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. ~~((Local school))~~

(2) School districts ~~((which))~~ that establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

~~((1))~~ (a) In accordance with rules adopted by the superintendent of public instruction, school districts shall implement procedures for ~~((nomination))~~ referral, screening, assessment ~~((and selection))~~, identification, and placement of ~~((their most))~~ highly capable students. ~~((Nominations shall be based upon data from))~~

(i) Referrals must be available for all grade levels not being universally screened, and may be submitted by teachers, other staff, parents, students, and members of the community.

(ii) Each school district must select a grade level to implement universal screening

procedures for each student. Universal screening must occur once in or before second grade, and again in or before sixth grade. The purpose of universal screening is to include students who traditionally are not referred for highly capable programs and services. Students discovered during universal screening may need further assessment to determine whether the student is eligible for placement in a program for highly capable students. Districts must consider at least two student data points during universal screening, which may include previously administered standardized, classroom-based, performance, cognitive, or achievement assessments, or research-based behavior ratings scales. There is no requirement to administer a new assessment for the purpose of universal screening, however districts may do so if they desire.

((iii)) Assessments ~~((shall))~~ for highly capable program services must be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Any screenings or additional assessments must be conducted within the school day and at the school the student attends, except that school districts, on a case-by-case basis and with the consent of the parent or guardian, may offer a student screenings or additional assessment opportunities during the summer, outside of school hours, or at an alternative site.

~~((Selection))~~ (iv) Identification and placement decisions shall be made by a ~~((broadly based committee of professionals,))~~ multidisciplinary selection committee after consideration of the results of the ~~((multiple criteria assessment))~~ universal screening, any further assessment, and any available district data. Students identified pursuant to procedures outlined in this section must be provided, to the extent feasible, an educational opportunity that takes into account each student's unique needs and capabilities, and the limits of the resources and program options available to the district, including those options that can be developed or provided using funds allocated by the superintendent of public instruction for this specific purpose.

(b) In addition to the criteria listed in (a) of this subsection, district practices for identifying highly capable students must seek to expand access to accelerated learning and enhanced instruction at elementary and secondary schools and advance equitable enrollment practices so that all students, especially students from historically underrepresented and low-income groups, who are ready to engage in more rigorous coursework can benefit from accelerated learning and enhanced instruction.

~~((2))~~ (3) When a student, who is a child of a military family in transition, has been assessed or enrolled as highly capable by a sending school, the receiving school shall initially honor placement of the student into a like program.

(a) The receiving school shall determine whether the district's program is a like

program when compared to the sending school's program; and

(b) The receiving school may conduct subsequent assessments to determine appropriate placement and continued enrollment in the program.

~~((3) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose.))~~

(4) ~~((The))~~ For a student who is a child of a military family in transition, the definitions in Article II of RCW 28A.705.010 apply to subsection ~~((2))~~ (3) of this section.

Sec. 5. RCW 28A.185.050 and 2002 c 234 s 1 are each amended to read as follows:

(1) In order to ensure that school districts are meeting the requirements of an approved program for highly capable students, the superintendent of public instruction shall monitor highly capable programs at least once every five years. Monitoring shall begin during the 2002-03 school year.

(2) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the office of the superintendent of public instruction. In its review, the office shall monitor program components that include but need not be limited to the process used by the district to identify and reach out to highly capable students with diverse talents and from diverse backgrounds, assessment data ~~((and))~~, other indicators to determine how well the district is meeting the academic needs of highly capable students, and district expenditures used to enrich or expand opportunities for these students.

(3) Beginning June 30, 2003, and every five years thereafter, the office of the superintendent of public instruction shall submit a report to the education committees of the house of representatives and the senate that provides the following:

(a) A brief description of the various instructional programs offered to highly capable students; and

(b) Relevant data to the programs for highly capable students collected under RCW 28A.300.042.

(4) Beginning November 1, 2023, and annually thereafter, the superintendent of public instruction must make data publicly available that includes a comparison of the race, ethnicity, and low-income status of highly capable students compared to the same demographic groups in the general student population of each school district. Reporting must also include comparisons for students who are English language learners, have an individualized education program, have a 504 plan, are covered by provisions of the McKinney-Vento homeless assistance act, or are highly mobile.

(5) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

Sec. 6. RCW 28A.300.042 and 2016 c 72 s 501 are each amended to read as follows:

(1) ~~((Beginning with the 2017-18 school year, and using the phase in provided in subsection (2) of this section, the))~~ The superintendent of public instruction must collect and school districts must submit all student-level data using the United States department of education 2007 race and ethnicity reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

(a) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;

(b) Further disaggregation of countries of origin for Asian students;

(c) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and

(d) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, highly capable, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

(4) All student data-related reports prepared by the superintendent of public instruction regarding student suspensions and expulsions as required under this title are subject to disaggregation by subgroups including:

(a) Gender;

(b) Foster care;

(c) Homeless, if known;

(d) School district;

(e) School;

(f) Grade level;

(g) Behavior infraction code, including:

(i) Bullying;

(ii) Tobacco;

(iii) Alcohol;

(iv) Illicit drug;

(v) Fighting without major injury;

(vi) Violence without major injury;

(vii) Violence with major injury;

(viii) Possession of a weapon; and

(ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;

(h) Intervention applied, including:

(i) Short-term suspension;

(ii) Long-term suspension;

(iii) Emergency expulsion;

(iv) Expulsion;

(v) Interim alternative education settings;

(vi) No intervention applied; and

(vii) Other intervention applied that is not described in this subsection (4)(h);

(i) Number of days a student is suspended or expelled, to be counted in half or full days; and

(j) Any other categories added at a future date by the data governance group.

(5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:

(a) School and district;

(b) Race, low income, highly capable, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;

(c) Behavior infraction code; and

(d) Intervention applied.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data (~~(on student race and ethnicity)~~) under this section in other training or professional development related to data provided by the office."

Correct the title.

Signed by Representatives Santos, Chair; Shavers, Vice Chair; Rude, Ranking Minority Member; Bergquist; Callan; Eslick; Harris; McClintock; Ortiz-Self; Pollet; Sandlin; Steele; Stonier and Timmons.

Referred to Committee on Rules for second reading

March 10, 2023

SSB 5121

Prime Sponsor, Health & Long Term Care: Establishing the joint select committee on health care and behavioral health oversight. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard; Bronoske; Davis; Graham; Harris; Macri; Maycumber; Mosbrucker; Orwall; Simmons; Stonier; Thai and Tharinger.

Referred to Committee on Rules for second reading

March 10, 2023

ESSB 5179

Prime Sponsor, Health & Long Term Care: Increasing access to the provisions of the Washington death with dignity act. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Riccelli, Chair; Bateman, Vice Chair; Bronoske; Davis; Macri; Orwall; Simmons; Stonier; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard; Graham; Harris; Maycumber; and Mosbrucker.

Referred to Committee on Rules for second reading

March 9, 2023

ESSB 5257

Prime Sponsor, Early Learning & K-12 Education: Ensuring elementary school students receive sufficient daily recess. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

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.

Signed by Representatives Santos, Chair; Shavers, Vice Chair; Bergquist; Callan; Eslick; McClintock; Ortiz-Self; Pollet; Sandlin; Stonier and Timmons.

MINORITY recommendation: Do not pass. Signed by Representative Rude, Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives Harris; and Steele.

Referred to Committee on Rules for second reading

March 10, 2023

SSB 5338

Prime Sponsor, Health & Long Term Care: Reviewing the state's essential health benefits. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The office of the insurance commissioner, in consultation with relevant interested persons and entities, shall review Washington's benchmark plan establishing the state's essential health benefits to determine whether to request approval from the centers for medicare and medicaid services under 45 C.F.R. Sec. 156.111 to modify the state's essential health benefits benchmark plan.

(2) As part of its review, the office shall determine the potential impacts on individual and small group health plan design, actuarial values, and premium rates if coverage for each of the following was included as an essential health benefit:

(a) Donor human milk as provided in RCW 48.43.815 and directed by RCW 48.43.715;

(b) Hearing instruments and associated services as described in section 1, chapter . . . (House Bill No. 1222), Laws of 2023 and directed by RCW 48.43.715;

(c) Fertility services;

(d) Biomarker testing;

(e) Contralateral prophylactic mastectomies;

(f) Treatment for pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections; and

(g) Magnetic resonance imaging for breast cancer screening.

(3) By December 31, 2023, the office shall report the results of the review to the relevant committees of the legislature, including any findings related to modifying the state's essential health benefits.

Sec. 2. RCW 48.43.715 and 2022 c 236 s 2 are each amended to read as follows:

(1) ~~((The))~~Until the effective date of an updated essential health benefits benchmark plan submitted under section 1 of this act, the commissioner, in consultation with the board and the health care authority, shall, by rule, select the largest small group plan in the state by enrollment as the benchmark plan for the individual and small group market for purposes of establishing the essential health benefits in Washington state.

(2) If the essential health benefits benchmark plan for the individual and small group market does not include all of the ~~((ten))~~10 essential health benefits categories, the commissioner, in consultation with the board and the health care authority, shall, by rule, supplement the benchmark plan benefits as needed.

(3) All individual and small group health plans must cover the ~~((ten))~~10 essential health benefits categories, other than a health plan offered through the federal basic health program, a grandfathered health plan, or medicaid. Such a health plan may not be offered in the state unless the commissioner finds that it is substantially equal to the benchmark plan. When making this determination, the commissioner:

(a) Must ensure that the plan covers the ~~((ten))~~10 essential health benefits categories;

(b) May consider whether the health plan has a benefit design that would create a risk of biased selection based on health status and whether the health plan contains meaningful scope and level of benefits in each of the ten essential health benefits categories;

(c) Notwithstanding (a) and (b) of this subsection, for benefit years beginning January 1, 2015, must establish by rule the review and approval requirements and procedures for pediatric oral services when offered in stand-alone dental plans in the nongrandfathered individual and small group markets outside of the exchange; and

(d) Must allow health carriers to also offer pediatric oral services within the health benefit plan in the nongrandfathered individual and small group markets outside of the exchange.

(4) Beginning December 15, 2012, and every year thereafter, the commissioner shall submit to the legislature a list of state-mandated health benefits, the enforcement of which will result in federally imposed costs to the state related to the plans sold through the exchange because the benefits are not included in the essential health benefits designated under federal law. The list must include the anticipated costs to the state of each state-mandated health benefit on the list and any statutory changes needed if funds are not appropriated to defray the state costs for the listed mandate. The commissioner may enforce a mandate on the list for the entire market only if funds are appropriated in an omnibus appropriations act specifically to pay the state portion of the identified costs.

(5) ~~((Upon authorization by the legislature to modify the state's essential~~

~~health benefits benchmark plan under 45 C.F.R. Sec. 156.111, the))~~The commissioner shall include coverage for donor human milk as provided in RCW 48.43.815 and hearing instruments and associated services as described in section 1, chapter . . . (House Bill No. 1222), Laws of 2023, in ~~((the updated plan))~~any update of the state's essential health benefits benchmark plan submitted to the centers for medicare and medicaid services under section 1 of this act.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard; Bronoske; Davis; Graham; Harris; Macri; Maycumber; Mosbrucker; Orwall; Simmons; Stonier; Thai and Tharinger.

Referred to Committee on Rules for second reading

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

There being no objection, the House advanced to the eighth order of business.

MOTIONS

There being no objection, the following bills listed on the second reading calendar were returned to the Rules Committee:

- HOUSE BILL NO. 1025
- HOUSE BILL NO. 1026
- HOUSE BILL NO. 1027
- HOUSE BILL NO. 1067
- HOUSE BILL NO. 1124
- HOUSE BILL NO. 1131
- HOUSE BILL NO. 1136
- HOUSE BILL NO. 1150
- HOUSE BILL NO. 1201
- HOUSE BILL NO. 1226
- HOUSE BILL NO. 1244
- HOUSE BILL NO. 1252
- HOUSE BILL NO. 1278
- HOUSE BILL NO. 1281
- HOUSE BILL NO. 1284
- HOUSE BILL NO. 1304
- HOUSE BILL NO. 1305
- HOUSE BILL NO. 1306
- HOUSE BILL NO. 1321
- HOUSE BILL NO. 1333
- HOUSE BILL NO. 1364
- HOUSE BILL NO. 1365
- HOUSE BILL NO. 1381
- HOUSE BILL NO. 1401
- HOUSE BILL NO. 1408
- HOUSE BILL NO. 1427
- HOUSE BILL NO. 1442
- HOUSE BILL NO. 1443
- HOUSE BILL NO. 1445
- HOUSE BILL NO. 1468
- HOUSE BILL NO. 1485
- HOUSE BILL NO. 1488
- HOUSE BILL NO. 1489
- HOUSE BILL NO. 1494

HOUSE BILL NO. 1518
HOUSE BILL NO. 1519
HOUSE BILL NO. 1596
HOUSE BILL NO. 1635
HOUSE BILL NO. 1660
HOUSE BILL NO. 1668
HOUSE BILL NO. 1709
HOUSE BILL NO. 1829

There being no objection, the following bills listed on the second reading suspension calendar were returned to the Rules Committee:

HOUSE BILL NO. 1202
HOUSE BILL NO. 1292
HOUSE BILL NO. 1327

There being no objection, the Committee on Housing was relieved of SUBSTITUTE SENATE BILL NO. 5491, and the bill was referred to the Committee on Local Government.

There being no objection, the House adjourned until 9:55 a.m., Tuesday, March 14, 2023, the 65th Day of the 2023 Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk

1025	Other Action.....	13	1519	Other Action.....	14
1026	Other Action.....	13	1596	Other Action.....	14
1027	Other Action.....	13	1635	Other Action.....	14
1067	Other Action.....	13	1660	Other Action.....	14
1124	Other Action.....	13	1668	Other Action.....	14
1131	Other Action.....	13	1709	Other Action.....	14
1136	Other Action.....	13	1711	Committee Report.....	1
1150	Other Action.....	13	1729	Committee Report.....	1
1201	Other Action.....	13	1756	Committee Report.....	1
1202	Other Action.....	14	1757	Committee Report.....	1
1226	Other Action.....	13	1768	Committee Report.....	1
1244	Other Action.....	13	1829	Other Action.....	14
1252	Other Action.....	13	5003	Committee Report.....	1
1278	Other Action.....	13	5004	Committee Report.....	1
1281	Other Action.....	13	5036	Committee Report.....	8
1284	Other Action.....	13	5065	Committee Report.....	8
1292	Other Action.....	14	5072-S	Committee Report.....	8
1304	Other Action.....	13	5121-S	Committee Report.....	11
1305	Other Action.....	13	5179-S	Committee Report.....	11
1306	Other Action.....	13	5257-S	Committee Report.....	11
1321	Other Action.....	13	5338-S	Committee Report.....	12
1327	Other Action.....	14	5491-S	Other Action.....	14
1333	Other Action.....	13			
1364	Other Action.....	13			
1365	Other Action.....	13			
1381	Other Action.....	13			
1401	Other Action.....	13			
1408	Other Action.....	13			
1427	Other Action.....	13			
1442	Other Action.....	13			
1443	Other Action.....	13			
1445	Other Action.....	13			
1468	Other Action.....	13			
1485	Other Action.....	13			
1488	Other Action.....	13			
1489	Other Action.....	13			
1494	Other Action.....	13			
1518	Other Action.....	14			