

SIXTY SEVENTH LEGISLATURE - REGULAR SESSION

THIRTY THIRD DAY

House Chamber, Olympia, Friday, February 11, 2022

The House was called to order at 10:00 a.m. by the Speaker (Representative Bronoske presiding). The Clerk called the roll and a quorum was present.

The Speaker (Representative Bronoske presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Chief Clerk Bernard Dean.

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 third order of business.

MESSAGES FROM THE SENATE

February 10, 2022

Mme. SPEAKER:

The Senate has passed:

SECOND SUBSTITUTE SENATE BILL NO. 5532,
 SUBSTITUTE SENATE BILL NO. 5555,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO.
 5764,
 SUBSTITUTE SENATE BILL NO. 5821,
 SUBSTITUTE SENATE BILL NO. 5886,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5942,

and the same are herewith transmitted.

Sarah Bannister, Secretary

February 11, 2022

Mme. SPEAKER:

The Senate has passed:

SUBSTITUTE SENATE BILL NO. 5575,
 SECOND SUBSTITUTE SENATE BILL NO. 5616,
 SENATE BILL NO. 5726,
 SENATE BILL NO. 5782,
 SUBSTITUTE SENATE BILL NO. 5946,

and the same are herewith transmitted.

Sarah Bannister, Secretary

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

INTRODUCTION & FIRST READING

2SSB 5332 by Senate Committee on Transportation (originally sponsored by Padden)

AN ACT Relating to off-road and wheeled all-terrain vehicles; amending RCW 46.09.442 and 46.09.457; and reenacting and amending RCW 46.09.310.

Referred to Committee on Transportation.

ESSB 5428 by Senate Committee on Housing & Local Government (originally sponsored by Nguyen, Darneille, Das, Kuderer, Lovelett, Nobles, Saldaña and Wellman)

AN ACT Relating to the application of the state environmental policy act to temporary shelters and transitional encampments; and adding a new section to chapter 43.21C RCW.

Referred to Committee on Environment & Energy.

SB 5491 by Senators Pedersen, Rivers and Mullet

AN ACT Relating to clarifying waiver of firearm rights; amending RCW 9.41.010, 9.41.040, 9.41.098, 9.41.350, and 9.41.352; adding a new section to chapter 9.41 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Civil Rights & Judiciary.

SSB 5497 by Senate Committee on Early Learning & K-12 Education (originally sponsored by Wilson, C., Nobles, Conway, Das, Hunt, Lovelett, Lovick, Nguyen, Saldaña and Wellman)

AN ACT Relating to extending voting authority to student members on the state board of education; and amending RCW 28A.305.011.

Referred to Committee on Education.

SB 5505 by Senators Rolfes, Warnick, Hasegawa, Lovelett, Lovick, Mullet, Pedersen, Van De Wege, Wagoner and Wilson, C.

AN ACT Relating to reinstating a property tax exemption for property owned by certain nonprofit organizations where a portion of the property is used for the purpose of a farmers market; amending RCW 84.36.020 and 84.36.805; and creating new sections.

Referred to Committee on Finance.

SB 5509 by Senators Honeyford, Mullet, Padden, Randall, Wagoner, Wilson, J. and Wilson, L.

AN ACT Relating to exempting fentanyl testing equipment from the definition of drug paraphernalia; and amending RCW 69.50.102.

Referred to Committee on Public Safety.

SB 5510 by Senators King, Lovelett, Dozier, Mullet, Saldaña and Wilson, J.

AN ACT Relating to renewal of the sales and use tax for transportation benefit districts; and amending RCW 82.14.0455.

Referred to Committee on Transportation.

SB 5534 by Senators Brown and Wagoner

AN ACT Relating to the use of verifiable credentials; and creating new sections.

Referred to Committee on Appropriations.

SSB 5546 by Senate Committee on Health & Long Term Care (originally sponsored by Keiser, Van De Wege, Cleveland, Conway, Frockt, Hasegawa, Hunt, Lovick, Nguyen, Pedersen, Randall, Stanford and Wilson, C.)

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

Referred to Committee on Health Care & Wellness.

SSB 5553 by Senate Committee on Early Learning & K-12 Education (originally sponsored by Wilson, C., Das, Hasegawa, Lovick, Nguyen, Nobles, Randall and Wellman)

AN ACT Relating to providing data regarding early STEM metrics in the STEM education report card; and amending RCW 28A.188.040.

Referred to Committee on Children, Youth & Families.

SSB 5558 by Senate Committee on Transportation (originally sponsored by King, Liias and Mullet)

AN ACT Relating to the bistrate governance of interstate toll bridges owned by local governments; amending RCW 47.56.860; and adding a new chapter to Title 47 RCW.

Referred to Committee on Transportation.

SSB 5564 by Senate Committee on Labor, Commerce & Tribal Affairs (originally sponsored

by Keiser, Kuderer, Conway, Hunt, Lovick, Randall, Stanford and Wilson, C.)

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

Referred to Committee on Labor & Workplace Standards.

SB 5566 by Senators Kuderer, Lovelett, Das, Dhingra, Fortunato, Nguyen, Saldaña and Wilson, C.

AN ACT Relating to expanding eligibility for the independent youth housing program; and amending RCW 43.63A.307.

Referred to Committee on Appropriations.

SB 5582 by Senators Hunt and Kuderer

AN ACT Relating to the deadline for a port commission to send new district boundaries to the county auditor when expanding from three commissioners to five; and amending RCW 53.12.010 and 53.12.130.

Referred to Committee on Local Government.

SB 5583 by Senators Trudeau, Hunt, Das, Dhingra, Hasegawa, Keiser, Kuderer, Lovelett, Mullet, Nguyen, Nobles, Randall, Rivers, Saldaña, Stanford, Wellman and Wilson, C.

AN ACT Relating to requiring the adjustment of census data for local redistricting to reflect the last known place of residence for incarcerated persons; amending RCW 29A.76.010 and 29A.76.010; providing an effective date; and providing an expiration date.

Referred to Committee on State Government & Tribal Relations.

SSB 5589 by Senate Committee on Health & Long Term Care (originally sponsored by Robinson, Cleveland, Frockt and Randall)

AN ACT Relating to statewide spending on primary care; adding a new section to chapter 70.390 RCW; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Appropriations.

SSB 5594 by Senate Committee on Early Learning & K-12 Education (originally sponsored by Short, Wellman, Hasegawa, Padden and Wagoner)

AN ACT Relating to public school instruction in awareness of bone marrow donation; adding a new section to chapter 28A.210 RCW; and creating a new section.

Referred to Committee on Education.

SB 5596 by Senators Trudeau, Frockt, Dhingra, Nobles and Wilson, C.

AN ACT Relating to conforming disclosure restrictions for mental health counselors, marriage and family therapists, and social workers to the requirements of the Uniform Health Care Information Act; and amending RCW 18.225.100 and 18.225.105.

Referred to Committee on Civil Rights & Judiciary.

SB 5607 by Senators Wilson, L., Braun, Hasegawa, Rolfes, Wellman and Wilson, J.

AN ACT Relating to including individuals in jails and hospitals who were homeless before entering such facilities in the state's annual homeless census; amending RCW 43.185C.030; and creating a new section.

Referred to Committee on Housing, Human Services & Veterans.

SB 5609 by Senators Trudeau, Wilson, C., Das, Hasegawa, Nguyen, Nobles and Stanford

AN ACT Relating to eliminating fingerprinting at juvenile dispositions; and amending RCW 10.64.110.

Referred to Committee on Children, Youth & Families.

SSB 5610 by Senate Committee on Health & Long Term Care (originally sponsored by Frockt, Cleveland, Conway, Dhingra, Hasegawa, Honeyford, Keiser, Kuderer, Liias, Lovelett, Lovick, Randall, Robinson, Saldaña, Salomon, Stanford, Van De Wege and Wilson, C.)

AN ACT Relating to requiring cost sharing for prescription drugs to be counted against an enrollee's out-of-pocket costs, deductible, cost sharing, out-of-pocket maximum, or similar enrollee obligation, regardless of the source of the payment; amending RCW 41.05.017; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Health Care & Wellness.

SSB 5613 by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Van De Wege, Rolfes, Conway, Hasegawa, Liias, Lovelett, Pedersen and Stanford)

AN ACT Relating to the use of dogs to hunt black bear, cougar, or bobcat; and amending RCW 77.15.245.

Referred to Committee on Rural Development, Agriculture & Natural Resources.

SSB 5620 by Senate Committee on Ways & Means (originally sponsored by Wilson, L., Braun, Dhingra, Gildon, Rolfes and Wilson, J.)

AN ACT Relating to medicaid expenditures; amending RCW 74.04.050; adding new sections to chapter 74.09 RCW; adding a new section to chapter 43.41 RCW; and creating a new section.

Referred to Committee on Health Care & Wellness.

SB 5629 by Senators Lovick, Dhingra, Hasegawa, Keiser, Pedersen and Wilson, C.

AN ACT Relating to control of the disposition of remains; and amending RCW 68.50.160.

Referred to Committee on Civil Rights & Judiciary.

SSB 5631 by Senate Committee on Transportation (originally sponsored by Kuderer, Brown, Dhingra, Fortunato, Lovick, Nobles, Stanford, Van De Wege, Warnick, Wilson, J. and Wilson, L.)

AN ACT Relating to making human trafficking a disqualifying offense for a commercial driver's license and coming into compliance with the requirements of the federal motor carrier safety administration; amending RCW 46.25.090; and providing an effective date.

Referred to Committee on Transportation.

SB 5657 by Senators Wellman, Hunt, Gildon, Hasegawa, Mullet, Nguyen, Nobles, Rivers and Wilson, C.

AN ACT Relating to computer science instruction in state long-term juvenile institutions; adding a new section to chapter 28A.190 RCW; and creating new sections.

Referred to Committee on Appropriations.

SB 5707 by Senators Saldaña, Pedersen and Nguyen

AN ACT Relating to extending additional uses for automated traffic safety cameras for traffic congestion reduction and increased safety; amending RCW 46.63.170; amending 2020 c 224 s 3 (uncodified); and providing expiration dates.

Referred to Committee on Transportation.

SSB 5710 by Senate Committee on Law & Justice (originally sponsored by Padden and Wilson, L.)

AN ACT Relating to reducing contamination in the state toxicology laboratory; and amending RCW 43.43.670.

Referred to Committee on Public Safety.

SSB 5728 by Senate Committee on Ways & Means (originally sponsored by Holy, Dhingra and Nobles)

AN ACT Relating to the state's portion of civil asset forfeiture collections; amending RCW 69.50.505, 46.61.5058, 10.105.010, 9.68A.120, and 9A.88.150; and reenacting and amending RCW 43.79A.040.

Referred to Committee on Appropriations.

SSB 5729 by Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Nguyen, Das, Hasegawa, Kuderer, Nobles, Robinson, Saldaña, Stanford, Trudeau and Wilson, C.)

AN ACT Relating to creating a good cause exception to administrative hearing deadlines for applicants or recipients of certain public assistance benefits; and amending RCW 74.08.080 and 74.09.741.

Referred to Committee on Housing, Human Services & Veterans.

SB 5750 by Senators Wilson, C. and Kuderer

AN ACT Relating to designating the Washington state leadership board a trustee of the state of Washington; amending RCW 43.15.030, 43.15.020, 43.15.095, and 43.15.100; reenacting and amending RCW 46.68.420; adding a new chapter to Title 43 RCW; creating a new section; recodifying RCW 43.15.030, 43.15.040, and 43.15.100; and providing an effective date.

Referred to Committee on Appropriations.

SB 5788 by Senators Pedersen, Padden, Dhingra and Lovick

AN ACT Relating to guardianship of minors; and amending RCW 11.130.225, 13.04.030, 26.12.172, 26.23.050, 11.130.010, 11.130.085, 11.130.210, and 11.130.215.

Referred to Committee on Civil Rights & Judiciary.

SB 5812 by Senators Warnick, Stanford, Brown and Schoesler

AN ACT Relating to including Benton county as a county qualifying for the farm internship program; amending RCW 49.12.471; and declaring an emergency.

Referred to Committee on Rural Development, Agriculture & Natural Resources.

SSB 5856 by Senate Committee on Law & Justice (originally sponsored by Wilson, J. and Wilson, L.)

AN ACT Relating to transfers of firearms to museums and historical societies; and amending RCW 9.41.113.

Referred to Committee on Civil Rights & Judiciary.

SSB 5862 by Senate Committee on Housing & Local Government (originally sponsored by Lovelett, Rivers, Fortunato, Gildon, Kuderer, Lovick, Nguyen, Nobles, Stanford, Wilson, C. and Wilson, J.)

AN ACT Relating to technical changes to the commercial property assessed clean energy and resiliency program; amending RCW 36.165.060; and declaring an emergency.

Referred to Committee on Local Government.

SSB 5863 by Senate Committee on Transportation (originally sponsored by Saldaña, Liias, Lovick, Nguyen and Wilson, C.)

AN ACT Relating to the removal of vehicles by a regional transit authority when obstructing the operation of high capacity transportation vehicles or jeopardizing public safety; and amending RCW 46.55.010 and 46.55.080.

Referred to Committee on Transportation.

SB 5866 by Senators Robinson, Randall, Conway, Kuderer, Lovick, Nguyen, Nobles and Wilson, C.

AN ACT Relating to medicaid long-term services and supports eligibility determinations completed by federally recognized Indian tribes; and amending RCW 74.39A.090, 74.39A.095, 74.39A.515, 74.09.520, and 74.39A.009.

Referred to Committee on Health Care & Wellness.

SB 5868 by Senators Hawkins, Kuderer, Braun, Fortunato, Lovelett, Nguyen, Nobles, Salomon, Trudeau and Warnick

AN ACT Relating to expanding the use of the rural counties public facilities sales and use tax to include affordable workforce housing; and amending RCW 82.14.370.

Referred to Committee on Finance.

ESSB 5878 by Senate Committee on Early Learning & K-12 Education (originally sponsored by Rolfes, Wellman, Hunt, Lovick, Nobles and Wilson, C.)

AN ACT Relating to visual and performing arts instruction; amending RCW 28A.230.020; adding a new section to chapter 28A.230 RCW; and creating a new section.

Referred to Committee on Education.

SSB 5880 by Senate Committee on Business, Financial Services & Trade (originally sponsored by Salomon, Conway, Keiser, Liias, Lovick, Nobles and Van De Wege)

AN ACT Relating to fire protection sprinkler system contractors; amending RCW 18.160.030, 18.160.050, 18.160.120, 18.270.050, and 18.270.070; and adding a new section to chapter 18.160 RCW.

Referred to Committee on Appropriations.

SB 5898 by Senators Liias, King and Saldaña

AN ACT Relating to the use of vehicle-related fees to fulfill certain state general obligation bonds; amending RCW 47.10.883, 47.10.884, 47.10.885, 47.10.876, 47.10.877, 47.10.878, 47.10.864, 47.10.865, 47.10.866, 47.10.846, 47.10.847, 47.10.848, 47.10.838, 47.10.839, 47.10.841, 47.26.504, 47.26.505, 47.10.822, 47.10.823, 47.10.824, 47.10.815, 47.10.816, 47.10.817, 47.02.160, 47.02.170, 47.02.190, 47.26.424, 47.26.4252, 47.26.4254, 47.26.4255, and 39.53.120; adding a new section to chapter 47.10 RCW; and creating new sections.

Referred to Committee on Transportation.

SB 5929 by Senators Wilson, C. and Nguyen

AN ACT Relating to changing the membership of the legislative-executive WorkFirst poverty reduction oversight task force; and amending RCW 74.08A.505.

Referred to Committee on Health Care & Wellness.

SB 5931 by Senators Wagoner and Dhingra

AN ACT Relating to appointment of judges pro tempore in the court of appeals; and amending RCW 2.06.150.

Referred to Committee on Civil Rights & Judiciary.

SB 5940 by Senator King

AN ACT Relating to creating a license endorsement allowing domestic licensed alcohol manufacturers to provide contract packaging services to other alcohol manufacturing licensees within this state; and adding a new section to chapter 66.24 RCW.

Referred to Committee on Commerce & Gaming.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated, with the exception of SENATE BILL NO. 5929 which was referred to the committee on Housing, Human Services & Veterans.

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

SECOND READING

HOUSE BILL NO. 1626, by Representatives Chapman, Shewmake, Ryu, Leavitt, Bronoske, Rule and Tharinger

Updating the authority for the fish and wildlife commission to adopt rules implementing electronic licensing practices.

The bill was read the second time.

There being no objection, Substitute House Bill No. 1626 was substituted for House Bill No. 1626 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1626 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Chapman and Dent spoke in favor of the passage of the bill.

MOTION

On motion of Representative Griffey, Representative Steele was excused.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1626.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1626, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Excused: Representative Steele.

SUBSTITUTE HOUSE BILL NO. 1626, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1663, by Representatives Duerr, Fitzgibbon, Ryu, Berry, Leavitt, Ramel, Thai, Walen, Valdez, Goodman, Gregerson, Macri, Peterson, Slatter, Tharinger, Kloba, Pollet, Harris-Talley and Hackney

Reducing methane emissions from landfills.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 1663 was substituted for House Bill No. 1663 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 1663 was read the second time.

Representative Duerr moved the adoption of striking amendment (896):

Strike everything after the enacting clause and insert the following:

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

(1) "Active municipal solid waste landfill" means a municipal solid waste landfill that has accepted or is accepting solid waste for disposal and has not been closed in accordance with the requirements set forth in WAC 173-351-500 as it existed on January 10, 2022.

(2) "Air pollution" is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property. For the purpose of this chapter, air pollution does not include air contaminants emitted in compliance with chapter 17.21 RCW.

(3) "Ambient air" means the surrounding outside air.

(4) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(5) "Closed municipal solid waste landfill" means a municipal solid waste landfill that is no longer accepting solid waste for disposal and has been closed in accordance with the requirements set forth in WAC 173-351-500 as it existed on January 10, 2022.

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

(7) "Emission" means a release of air contaminants into the ambient air.

(8) "Gas collection system" means any system that employs various gas collection wells and connected piping, and mechanical blowers, fans, pumps, or compressors to create a pressure gradient and actively extract landfill gas.

(9) "Gas control device" means any device used to dispose of or treat collected landfill gas including, but not limited to, enclosed flares, internal combustion engines, boilers and boiler-to-steam turbine systems, fuel cells, and gas turbines.

(10) "Gas control system" means any system that disposes of or treats collected landfill gas by one or more of the following means: Combustion; gas treatment for subsequent sale, or sale for processing offsite, including for transportation fuel and injection into a natural gas pipeline.

(11) "Municipal solid waste landfill" means a discrete area of land or an excavation that receives household waste and that is not a land application site, surface impoundment, injection well, or pile.

(12) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision of the state, municipality, or governmental agency.

NEW SECTION. Sec. 2. (1) This chapter applies to all municipal solid waste landfills that received solid waste after January 1, 1992, except as provided in subsection (2) of this section.

(2) This chapter does not apply to the following landfills:

(a) Landfills that receive only hazardous waste, or are currently regulated under the comprehensive environmental response, compensation, and liability act, 42 U.S.C. chapter 103; and

(b) Landfills that receive only inert waste or nondecomposable wastes.

(3) The department must adopt rules to implement this chapter. The rules adopted by the department must be informed by landfill methane regulations adopted by the California air resources board, the Oregon environmental quality commission, and the United States environmental protection agency.

NEW SECTION. **Sec. 3.** (1) Each owner or operator of an active municipal solid waste landfill having fewer than 450,000 tons of waste in place must submit an annual waste in place report to the department or local authority pursuant to section 7 of this act.

(a) The waste in place report must be prepared for the period of January 1st through December 31st of each year. The report must be submitted to the department or local authority during the subsequent calendar year, with the date of submission to be established by rule as adopted by the department.

(b) The waste in place report must be submitted annually until either:

(i) The active municipal solid waste landfill reaches a size greater than or equal to 450,000 tons of waste in place; or

(ii) The owner or operator submits a closure notification pursuant to section 7 of this act.

(2) Each owner or operator of either an active municipal solid waste landfill having greater than or equal to 450,000 tons of waste in place or a closed municipal solid waste landfill having greater than or equal to 750,000 tons of waste in place must calculate the landfill gas heat input capacity pursuant to section 8 of this act and the department's implementing rules and must submit a landfill gas heat input capacity report to the department or local authority.

(a) If the calculated landfill gas heat input capacity is less

than 3,000,000 British thermal units per hour recovered, the owner or operator must:

(i) Recalculate the landfill gas heat input capacity annually using the procedures specified in section 8 of this act and the department's implementing rules; and

(ii) Submit an annual landfill gas heat input capacity report to the department or local authority until either of the following conditions are met:

(A) The calculated landfill gas heat input capacity is greater than or equal to 3,000,000 British thermal units per hour recovered; or

(B) If the municipal solid waste landfill is active, the owner or operator submits a closure notification pursuant to section 7 of this act.

(b) If the landfill gas heat input capacity is greater than or equal to 3,000,000 British thermal units per hour recovered, the owner or operator must either:

(i) Comply with the requirements of this chapter and the department's implementing rules; or

(ii) Demonstrate to the satisfaction of the department or local authority that after four consecutive quarterly monitoring periods there is no measured concentration of methane of 200 parts per million by volume or greater using the instantaneous surface monitoring procedures specified in section 8 of this act and the department's implementing rules. Based on the monitoring results, the owner or operator must do one of the following:

(A) If there is any measured concentration of methane of 200 parts per million by volume or greater from the surface of an active, inactive, or closed municipal solid waste landfill, comply with this chapter and the department's implementing rules adopted pursuant to section 2 of this act;

(B) If there is no measured concentration of methane of 200 parts per million by volume or greater from the surface of an active municipal solid waste landfill, recalculate the landfill gas heat input capacity annually as required in (a) of this subsection until such time that the owner or operator submits a closure notification pursuant to section 7 of this act and the department's implementing rules adopted pursuant to section 2 of this act; or

(C) If there is no measured concentration of methane of 200 parts per million by volume or greater from the surface of a closed or inactive municipal solid waste landfill, the requirements of

this chapter and the department's implementing rules adopted pursuant to section 2 of this act no longer apply, provided that the following information is submitted to and approved by the department or local authority:

(I) A waste in place report pursuant to section 7 of this act and the department's implementing rules adopted pursuant to section 2 of this act; and

(II) All instantaneous surface monitoring records.

NEW SECTION. **Sec. 4.** (1) The owner or operator of any municipal solid waste landfill that has a calculated landfill gas heat input capacity greater than or equal to 3,000,000 British thermal units per hour recovered must install a gas collection and control system that meets the requirements of this section and the department's implementing rules adopted pursuant to section 2 of this act, unless the owner or operator demonstrates to the satisfaction of the department or local authority that after four consecutive quarterly monitoring periods there is no measured concentration of methane of 200 parts per million by volume or greater using the instantaneous surface monitoring procedures specified in section 8 of this act and the department's implementing rules adopted pursuant to section 2 of this act. The owner or operator of a municipal solid waste landfill may partner with a third party to operate all or a portion of the gas collection and control system, but the obligation to comply with the requirements of this chapter, and the liability for civil penalties issued pursuant to this chapter, remain the responsibility of the owner or operator of the municipal solid waste landfill.

(2) The gas collection and control system must handle the expected gas generation flow rate from the entire area of the municipal solid waste landfill and must collect gas at an extraction rate to comply with the surface methane emission limits set forth in section 5 of this act and the department's implementing rules.

(3) The gas collection and control system must be designed and operated so that there is no landfill gas leak that exceeds 500 parts per million by volume, measured as methane, at any component under positive pressure.

(4) The gas collection and control system, if it uses a flare, must achieve a methane destruction efficiency of at

least 99 percent by weight and must use either an enclosed flare or, if the system uses an open flare, the open flare must comply with the following requirements:

(a) The open flare must meet the requirements of 40 C.F.R. Sec. 60.18 (as last amended by 73 Fed. Reg. 78209, December 22, 2008);

(b) An open flare installed and operating prior to August 1, 2022, may operate until January 1, 2032, unless the owner or operator demonstrates to the satisfaction of the department or local authority that the landfill gas heat input capacity is less than 3,000,000 British thermal units per hour pursuant to section 8 of this act and the department's implementing rules adopted pursuant to section 2 of this act and is insufficient to support the continuous operation of an enclosed flare or other gas control device; and

(c) The owner or operator may temporarily operate an open flare during the repair or maintenance of the gas control system, or while awaiting the installation of an enclosed flare, or to address offsite gas migration issues. Any owner or operator seeking to temporarily operate an open flare must submit a written request to the department or local authority pursuant to section 10 of this act and the department's implementing rules adopted pursuant to section 2 of this act.

(5) If the gas collection and control system does not use a flare, it must either route the collected gas to an energy recovery device or devices, or must route the collected gas to a treatment system that processes the collected gas for subsequent sale or use.

(6) If a gas collection and control system routes the collected gas to an energy recovery device or devices, the device or devices must comply with the following requirements:

(a) The device or devices must achieve a methane destruction efficiency of at least 97 percent by weight; and

(b) If a boiler or a process heater is used as the gas control device, the landfill gas stream must be introduced into the flame zone, except that where the landfill gas is not the primary fuel for the boiler or process heater, introduction of the landfill gas stream into the flame zone is not required.

(7) If a gas collection and control system routes the collected gas to a treatment system that processes the collected gas for subsequent sale or use, the treatment system must achieve a methane leak rate of three percent or less by weight. Venting of processed landfill gas to the ambient air is not allowed. If the processed landfill gas cannot be routed for subsequent sale or use, then the treated landfill gas must be controlled according to subsection (4) of this section.

(8) The owner or operator of a municipal solid waste landfill must conduct an annual source test for any gas control device or devices subject to this section using the test methods identified in section 8 of this act and the department's implementing rules adopted pursuant to section 2 of this act. If a gas control device remains in compliance after three consecutive annual source tests, then the owner or operator may conduct the source test once every three years. If a subsequent source test shows the gas collection and control system is out of compliance, then the source testing frequency must return to testing on an annual basis.

NEW SECTION. Sec. 5. (1) Except as provided in section 4 of this act, beginning January 1st of the year following the year in which the department adopts rules to implement this chapter, or upon commencing operation of a newly installed gas collection and control system or modification of an existing gas collection and control system pursuant to section 4 of this act, whichever is later, no location on a municipal solid waste landfill surface may exceed the following methane concentration limits, dependent upon whether the owner or operator of the municipal solid waste landfills conducts, pursuant to section 6 of this act, instantaneous surface emissions monitoring or integrated surface emissions monitoring:

(a) Five hundred parts per million by volume, other than nonrepeatable, momentary readings, as determined by instantaneous surface emissions monitoring; or

(b) An average methane concentration limit of 25 parts per million by volume as determined by integrated surface emissions monitoring.

(2) Any reading exceeding the limits set forth in subsection (1) of this section must be recorded as an exceedance and the following actions must be taken:

(a) The owner or operator must record the date, location, and value of each exceedance, along with retest dates and results. The location of each exceedance must be clearly marked and identified on a topographic map of the municipal solid waste landfill, drawn to scale, with the location of both the monitoring grids and the gas collection system clearly identified; and

(b) The owner or operator must take corrective action, which may include, but not be limited to, maintenance or repair of the cover, or well vacuum adjustments. The location or locations of any exceedance must be remonitored within 10 calendar days of a measured exceedance.

(3) The requirements of this section do not apply to:

(a) The working face of the landfill;

(b) Areas of the landfill surface where the landfill cover material has been removed for the purpose of installing, expanding, replacing, or repairing components of the landfill cover system, the landfill gas collection and control system, the leachate collection and removal system, or a landfill gas condensate collection and removal system;

(c) Areas of the landfill surface where the landfill cover material has been removed for law enforcement activities requiring excavation; or

(d) Areas of the landfill in which the landfill owner or operator, or a designee of the owner or operator, is engaged in active mining for minerals or metals.

NEW SECTION. Sec. 6. (1) The owner or operator of a municipal solid waste landfill with a gas collection and control system must conduct instantaneous or integrated surface monitoring of the landfill surface according to the requirements specified in implementing rules adopted by the department pursuant to section 2 of this act.

(2) The owner or operator of a municipal solid waste landfill with a gas collection and control system must monitor the gas control system according to the requirements specified in implementing rules adopted by the

department pursuant to section 2 of this act.

(3) The owner or operator of a municipal solid waste landfill with a gas collection and control system must monitor each individual wellhead to determine the gauge pressure according to the requirements specified in implementing rules adopted by the department pursuant to section 2 of this act.

NEW SECTION. **Sec. 7.** (1) The owner or operator of a municipal solid waste landfill must maintain records and prepare reports as prescribed in this section and in the department's implementing rules adopted pursuant to section 2 of this act.

(2) The owner or operator of a municipal solid waste landfill must maintain records related to monitoring, testing, landfill operations, and the operation of the gas control device, gas collection system, and gas control system. The records must be provided by the owner or operator to the department or local authority within five business days of a request from the department or local authority.

(3) The owner or operator of a municipal solid waste landfill that ceases to accept waste must submit a closure notification to the department or local authority within 30 days of ceasing to accept waste.

(4) The owner or operator of a municipal solid waste landfill must submit a gas collection and control system equipment removal report to the department or local authority within 30 days of well capping or the removal or cessation of operation of the gas collection, treatment, or control system equipment.

(5) The owner or operator of either an active municipal solid waste landfill with 450,000 or more tons of waste in place or a closed municipal solid waste landfill with 750,000 or more tons of waste in place must prepare an annual report for the period of January 1st through December 31st of each year. The annual report must include a calculation of landfill gas heat input capacity. Each annual report must be submitted to the department and local authority during the subsequent calendar year, with the date of submission to be established through rules adopted by the department.

(6) The owner or operator of an active municipal solid waste landfill with fewer than 450,000 tons of waste in place must submit a waste in place report to the department or local authority.

NEW SECTION. **Sec. 8.** (1) Any instrument used for the measurement of methane must be a hydrocarbon detector or other equivalent instrument approved by the department or local authority based on standards adopted by the department that address calibration, specifications, and performance criteria.

(2) The determination of landfill gas heat input capacity must be calculated consistent with the department's implementing rules adopted pursuant to section 2 of this act.

(3) The owner or operator of a municipal solid waste landfill must measure the landfill surface concentration of methane using a hydrocarbon detector meeting the requirements of this section and the department's implementing rules adopted pursuant to section 2 of this act.

(4) The owner or operator of a municipal solid waste landfill must measure leaks using a hydrocarbon detector meeting the requirements of this section and the department's implementing rules adopted pursuant to section 2 of this act.

(5) The expected gas generation flow rate must be determined according to the department's implementing rules adopted pursuant to section 2 of this act.

(6) The control device destruction efficiency must be determined according to the department's implementing rules adopted pursuant to section 2 of this act.

(7) Gauge pressure must be determined using a hand-held manometer, magnehelic gauge, or other pressure measuring device approved by the department or local authority.

(8) Alternative test methods may be used if they are approved in writing by the department or local authority.

NEW SECTION. **Sec. 9.** (1) The department or local authority must allow the capping or removal of the gas collection and control system at a closed municipal solid waste landfill, provided the following three requirements are met:

(a) The gas collection and control system was in operation for at least 15 years, unless the owner or operator demonstrates to the satisfaction of the department or local authority that due to declining methane rates, the municipal solid waste landfill will be unable to operate the gas collection and control system for a 15 year period;

(b) Surface methane concentration measurements do not exceed the limits specified in section 5 of this act; and

(c) The owner or operator submits an equipment removal report to the department or local authority pursuant to section 7 of this act and the department's implementing rules adopted pursuant to section 2 of this act.

(2) Nothing in this section may be interpreted to modify or supersede requirements related to the capping or removal of gas collection and control systems that may exist under the state clean air act, the federal clean air act, or rules adopted pursuant to either the state clean air act or the federal clean air act.

NEW SECTION. Sec. 10. (1) The owner or operator of a municipal solid waste landfill may request alternatives to the compliance measures, monitoring requirements, and test methods and procedures set forth in sections 4, 6, and 8 of this act, and the department's implementing rules adopted pursuant to section 2 of this act. Any alternatives requested by the owner or operator must be submitted in writing to the department.

(2) The criteria that the department may use to evaluate alternative compliance option requests include, but are not limited to: Compliance history; documentation containing the landfill gas flow rate and measured methane concentrations for individual gas collection wells or components; permits; component testing and surface monitoring results; gas collection and control system operation, maintenance, and inspection records; and historical meteorological data.

(3) The department must review the requested alternatives and either approve or disapprove the alternatives within 120 days. The department may request that additional information be submitted as part of the review of the requested alternatives.

(4) If a request for an alternative compliance option is denied, the department must provide written reasons for the denial.

(5) The department must deny a request for alternative compliance measures if the request does not provide levels of enforceability or methane emissions control that are equivalent to those set forth in this chapter or in the department's implementing rules adopted pursuant to section 2 of this act.

NEW SECTION. Sec. 11. The department or local authority may request that any owner or operator of a municipal solid waste landfill demonstrate that a landfill does not meet the applicability criteria specified in section 2 of this act. Such a demonstration must be submitted to the department or local authority within 90 days of a written request received from the department or local authority.

NEW SECTION. Sec. 12. Any person who violates this chapter or any rules that implement this chapter may incur a civil penalty pursuant to RCW 70A.15.3160.

NEW SECTION. Sec. 13. The department and local authorities may assess and collect such fees as may be necessary to recover the direct and indirect costs associated with the implementation of this chapter. Fees collected under this section must be deposited into the air pollution control account created in RCW 70A.15.1010.

Sec. 14. RCW 70A.65.080 and 2021 c 316 s 10 are each amended to read as follows:

(1) A person is a covered entity as of the beginning of the first compliance period and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 for any calendar year from 2015 through 2019, or if additional data provided as required by this chapter indicates that emissions for any calendar year from 2015 through 2019 equaled or exceeded any of the following thresholds, or if the person is a first jurisdictional deliverer and imports electricity into the state during the compliance period:

(a) Where the person owns or operates a facility and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent;

(b) Where the person is a first jurisdictional deliverer and generates electricity in the state and emissions associated with this generation equals or exceeds 25,000 metric tons of carbon dioxide equivalent;

(c) Where the person is a first jurisdictional deliverer importing electricity into the state and the cumulative annual total of emissions associated with the imported electricity, whether from specified or unspecified sources, exceeds 25,000 metric tons of carbon dioxide equivalent. In consultation with any linked jurisdiction to the program created by this chapter, by October 1, 2026, the department, in consultation with the department of commerce and the utilities and transportation commission, shall adopt by rule a methodology for addressing imported electricity associated with a centralized electricity market;

(d) Where the person is a supplier of fossil fuel other than natural gas and from that fuel 25,000 metric tons or more of carbon dioxide equivalent emissions would result from the full combustion or oxidation, excluding the amounts for fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington; and

(e)(i) Where the person supplies natural gas in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts for fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington, and excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) delivered to opt-in entities;

(ii) Where the person who is not a natural gas company and has a tariff with a natural gas company to deliver to an end-use customer in the state in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) the amounts delivered to opt-in entities;

(iii) Where the person is an end-use customer in the state who directly

purchases natural gas from a person that is not a natural gas company and has the natural gas delivered through an interstate pipeline to a distribution system owned by the purchaser in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) delivered to opt-in entities.

(2) A person is a covered entity as of the beginning of the second compliance period and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for any calendar year from 2023 through 2025, where the person owns or operates a waste to energy facility utilized by a county and city solid waste management program and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(3) ~~((a))~~ A person is a covered entity beginning January 1, 2031, and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for any calendar year from 2027 through 2029, where the person owns or operates a ~~((+~~

~~(i) Landfill utilized by a county and city solid waste management program and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent; or~~

~~(ii) Railroad)) railroad company, as that term is defined in RCW 81.04.010, and the railroad company's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.~~

~~((b) Subsection (a) of this subsection does not apply to owners or operators of landfills that:~~

~~(i) Capture at least 75 percent of the landfill gas generated by the decomposition of waste using methods under 40 C.F.R. Part 98, Subpart HH - Municipal Solid Waste landfills, and subsequent updates; and~~

~~(ii) Operate a program, individually or through partnership with another entity, that results in the production of renewable natural gas or electricity from landfill gas generated by the facility.~~

~~(e) It is the intent of the legislature to adopt a greenhouse gas reduction policy specific to landfills. If such a policy is not enacted by January 1, 2030, the requirements of this subsection (3) take full effect.-)~~

(4) When a covered entity reports, during a compliance period, emissions from a facility under RCW 70A.15.2200 that are below the thresholds specified in subsection (1) or (2) of this section, the covered entity continues to have a compliance obligation through the current compliance period. When a covered entity reports emissions below the threshold for each year during an entire compliance period, or has ceased all processes at the facility requiring reporting under RCW 70A.15.2200, the entity is no longer a covered entity as of the beginning of the subsequent compliance period unless the department provides notice at least 12 months before the end of the compliance period that the facility's emissions were within 10 percent of the threshold and that the person will continue to be designated as a covered entity in order to ensure equity among all covered entities. Whenever a covered entity ceases to be a covered entity, the department shall notify the appropriate policy and fiscal committees of the legislature of the name of the entity and the reason the entity is no longer a covered entity.

(5) For types of emission sources described in subsection (1) of this section that begin or modify operation after January 1, 2023, and types of emission sources described in subsection (2) of this section that begin or modify operation after 2027, coverage under the program starts in the calendar year in which emissions from the source exceed the applicable thresholds in subsection (1) or (2) of this section, or upon formal notice from the department that the source is expected to exceed the applicable emissions threshold, whichever happens first. Sources meeting these conditions are required to transfer their first allowances on the first transfer deadline of the year following the year in which their emissions were equal to or exceeded the emissions threshold.

(6) For emission sources described in subsection (1) of this section that are in operation or otherwise active between 2015 and 2019 but were not required to report emissions for those years under

RCW 70A.15.2200 for the reporting periods between 2015 and 2019, coverage under the program starts in the calendar year following the year in which emissions from the source exceed the applicable thresholds in subsection (1) of this section as reported pursuant to RCW 70A.15.2200 or provided as required by this chapter, or upon formal notice from the department that the source is expected to exceed the applicable emissions threshold for the first year that source is required to report emissions, whichever happens first. Sources meeting these criteria are required to transfer their first allowances on the first transfer deadline of the year following the year in which their emissions, as reported under RCW 70A.15.2200 or provided as required by this chapter, were equal to or exceeded the emissions threshold.

(7) The following emissions are exempt from coverage in the program, regardless of the emissions reported under RCW 70A.15.2200 or provided as required by this chapter:

(a) Emissions from the combustion of aviation fuels;

(b) Emissions from watercraft fuels supplied in Washington that are combusted outside of Washington;

(c) Emissions from a coal-fired electric generation facility exempted from additional greenhouse gas limitations, requirements, or performance standards under RCW 80.80.110;

(d) Carbon dioxide emissions from the combustion of biomass or biofuels;

(e)(i) Motor vehicle fuel or special fuel that is used exclusively for agricultural purposes by a farm fuel user. This exemption is available only if a buyer of motor vehicle fuel or special fuel provides the seller with an exemption certificate in a form and manner prescribed by the department. For the purposes of this subsection, "agricultural purposes" and "farm fuel user" have the same meanings as provided in RCW 82.08.865.

(ii) The department must determine a method for expanding the exemption provided under (e)(i) of this subsection to include fuels used for the purpose of transporting agricultural products on public highways. The department must maintain this expanded exemption for a

period of five years, in order to provide the agricultural sector with a feasible transition period; ~~((and))~~

(f) Emissions from facilities with North American industry classification system code 92811 (national security); and

(g) Emissions from municipal solid waste landfills that are subject to, and in compliance with, chapter 70A.--- RCW (the new chapter created in section 17 of this act).

(8) The department shall not require multiple covered entities to have a compliance obligation for the same emissions. The department may by rule authorize refineries, fuel suppliers, facilities using natural gas, and natural gas utilities to provide by agreement for the assumption of the compliance obligation for fuel or natural gas supplied and combusted in the state. The department must be notified of such an agreement at least 12 months prior to the compliance obligation period for which the agreement is applicable.

(9)(a) The legislature intends to promote a growing and sustainable economy and to avoid leakage of emissions from manufacturing to other locations. The legislature further intends to see innovative new businesses locate and grow in Washington that contribute to Washington's prosperity and environmental objectives.

(b) Consistent with the intent of the legislature to avoid the leakage of emissions to other jurisdictions, in achieving the state's greenhouse gas limits in RCW 70A.45.020, the state, including lead agencies under chapter 43.21C RCW, shall pursue the limits in a manner that recognizes that the siting and placement of new or expanded best-in-class facilities with lower carbon emitting processes is in the economic and environmental interests of the state of Washington.

(c) In conducting a life-cycle analysis, if required, for new or expanded facilities that require review under chapter 43.21C RCW, a lead agency must evaluate and attribute any potential net cumulative greenhouse gas emissions resulting from the project as compared to other existing facilities or best available technology including best-in-class facilities and emerging lower carbon processes that supply the same product or end use. The department may

adopt rules to determine the appropriate threshold for applying this analysis.

(d) Covered emissions from an entity that is or will be a covered entity under this chapter may not be the basis for denial of a permit for a new or expanded facility. Covered emissions must be included in the analysis undertaken pursuant to (c) of this subsection. Nothing in this subsection requires a lead agency or a permitting agency to approve or issue a permit to a permit applicant, including to a new or expanded fossil fuel project.

(e) A lead agency under chapter 43.21C RCW or a permitting agency shall allow a new or expanded facility that is a covered entity or opt-in entity to satisfy a mitigation requirement for its covered emissions under chapter 316, Laws of 2021 and under any greenhouse gas emission mitigation requirements for covered emissions under chapter 43.21C RCW by submitting to the department the number of compliance instruments equivalent to its covered emissions during a compliance period.

Sec. 15. RCW 70A.15.3160 and 2021 c 317 s 25, 2021 c 315 s 16, and 2021 c 132 s 1 are each reenacted and amended to read as follows:

(1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, and in addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of this chapter, chapter 70A.25, 70A.60, 70A.450, ((or 70A.60)) 70A.535 ((RCW)), or 70A.--- RCW (the new chapter created in section 17 of this act), RCW 76.04.205, or any of the rules in force under such chapters or section may incur a civil penalty in an amount not to exceed ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation. Enforcement actions related to violations of RCW 76.04.205 must be consistent with the provisions of RCW 76.04.205.

(b) Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars for each day of continued noncompliance.

(2) (a) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

(b) The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

(3) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

(4) (a) Except as provided in (b) of this subsection, all penalties recovered under this section by the department or the department of natural resources shall be paid into the state treasury and credited to the air pollution control account established in RCW 70A.15.1010 or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed by the department under subsection (1) of this section shall be reduced by the amount of the payment.

(b) All penalties recovered for violations of chapter 70A.60 RCW must be paid into the state treasury and credited to the refrigerant emission management account created in RCW 70A.60.050.

(5) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

(6) Public or private entities that are recipients or potential recipients of department grants, whether for air quality related activities or not, may have such grants rescinded or withheld by the department for failure to comply with provisions of this chapter.

(7) In addition to other penalties provided by this chapter, persons knowingly underreporting emissions or

other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(8) The department shall develop rules for excusing excess emissions from enforcement action if such excess emissions are unavoidable. The rules shall specify the criteria and procedures for the department and local air authorities to determine whether a period of excess emissions is excusable in accordance with the state implementation plan.

Sec. 16. RCW 70A.15.1010 and 2021 c 315 s 13 are each amended to read as follows:

(1) The air pollution control account is established in the state treasury. All receipts collected by or on behalf of the department from RCW 70A.15.2200(2), and receipts from nonpermit program sources under RCW 70A.15.2210(1) and 70A.15.2230(7), and all receipts from RCW 70A.15.5090 ~~((and))~~, 70A.15.5120, and section 13 of this act shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to develop and implement the provisions of this chapter, chapters 70A.25 and 70A.--- ~~(the new chapter created in section 17 of this act)~~ RCW, and RCW 70A.60.060.

(2) The amounts collected and allocated in accordance with this section shall be expended upon appropriation except as otherwise provided in this section and in accordance with the following limitations:

Portions of moneys received by the department of ecology from the air pollution control account shall be distributed by the department to local authorities based on:

(a) The level and extent of air quality problems within such authority's jurisdiction;

(b) The costs associated with implementing air pollution regulatory programs by such authority; and

(c) The amount of funding available to such authority from other sources, whether state, federal, or local, that could be used to implement such programs.

(3) The air operating permit account is created in the custody of the state treasurer. All receipts collected by or on behalf of the department from permit program sources under RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270, and 70A.15.2230(7) shall be deposited into the account. Expenditures from the account may be used only for the activities described in RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270, and 70A.15.2230(7). Moneys in the account may be spent only after appropriation.

NEW SECTION. **Sec. 17.** Sections 1 through 13 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. **Sec. 18.** 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.

Representative Duerr moved the adoption of amendment (907) to striking amendment (896):

On page 6, beginning on line 19 of the striking amendment, after "(8)" strike all material through "basis" on line 28 and insert: "The owner or operator of a municipal solid waste landfill must conduct a source test for any gas control device or devices subject to this section using the test methods identified in section 8 of this act and the department's implementing rules adopted pursuant to section 2 of this act. If a gas control device is currently in compliance with source testing requirements as of the effective date of the act, the owner or operator must conduct the source test no less frequently than once every five years. If a gas control device is currently not in compliance with source testing requirements as of the effective date of the act, or if a subsequent source test shows the gas control device is out of compliance, the owner or operator must conduct the source test no less frequently than once per year until two subsequent consecutive tests both show compliance. Upon two subsequent consecutive compliant tests, the owner or operator may return to conducting the source test no less frequently than once every five years"

Representatives Duerr and Harris spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (907) to striking amendment (896) was adopted.

Representative Duerr spoke in favor of the adoption of the striking amendment, as amended.

Representatives Dye and Goehner spoke against the adoption of the striking amendment, as amended.

Striking amendment (896), as amended, was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Duerr spoke in favor of the passage of the bill.

Representatives Dye, Klippert and Boehnke spoke against the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1663.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1663, and the bill passed the House by the following vote: Yeas, 57; Nays, 40; Absent, 0; Excused, 1.

Voting yea: Representatives Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chapman, Chopp, Cody, Davis, Dolan, Donaghy, Duerr, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hackney, Hansen, Harris-Talley, J. Johnson, Kirby, Kloba, Leavitt, Lekanoff, Macri, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Rule, Ryu, Santos, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wylie and Mme. Speaker.

Voting nay: Representatives Abbarno, Barkis, Boehnke, Caldier, Chambers, Chandler, Chase, Corry, Dent, Dufault, Dye, Eslick, Gilday, Goehner, Graham, Griffey, Harris, Hoff, Jacobsen, Klicker, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, McEntire, Mosbrucker, Orcutt, Robertson, Rude, Schmick, Stokesbary, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representative Steele.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1663, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1877, by Representatives Chambers, Gilday, Jacobsen, Simmons, Corry, Graham, Dolan, Riccelli, Eslick, Lekanoff and Wicks

Addressing expired certifications for certain health professions.

The bill was read the second time.

There being no objection, Substitute House Bill No. 1877 was substituted for House Bill No. 1877 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1877 was read the second time.

With the consent of the House, amendment (889) was withdrawn.

Representative Senn moved the adoption of amendment (905):

On page 1, line 14, after "aide;" strike "and"

On page 1, line 18, after "action" insert "; and

(e) Submits to a state and federal background check as required by RCW 74.39A.056, if the certificate has been expired for more than one year"

Representatives Senn and Chambers spoke in favor of the adoption of the amendment.

Amendment (905) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Chambers and Cody spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1877.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1877, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner,

Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Excused: Representative Steele.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1877, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1975, by Representatives Wylie, Harris, Berry, Chopp, Stonier, Ryu, Peterson and Macri

Concerning property management services provided to housing authority properties.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Wylie, Harris and Gilday spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of House Bill No. 1975.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1975, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Voting nay: Representative Kraft.

Excused: Representative Steele.

HOUSE BILL NO. 1975, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1930, by Representatives Jacobsen, Sutherland, Dolan, Dent, Griffey, Chase, Riccelli, Chambers, Ryu and Graham

Concerning license renewals for cosmetologists, hair designers, barbers, manicurists, and estheticians.

The bill was read the second time.

There being no objection, Substitute House Bill No. 1930 was substituted for House Bill No. 1930 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1930 was read the second time.

Representative Ryu moved the adoption of amendment (817):

On page 1, beginning on line 7, after "manicurists," strike "and estheticians" and insert "estheticians, master estheticians, and instructors"

On page 1, line 9, after "to" insert "instruct or"

On page 2, line 13, after "expired" insert "on or"

Representatives Ryu and Jacobsen spoke in favor of the adoption of the amendment.

Amendment (817) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Jacobsen and Kirby spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1930.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1930, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Jacobsen, J. Johnson, Kirby, Klicker, Kloba, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1930, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1717, by Representatives Pollet, Goehner, Fitzgibbon, Ryu, Leavitt, Berg, Taylor, Robertson, Bateman, Valdez, Duerr, Fey, Ramel, Shewmake, Simmons, Dolan, Macri and Young

Concerning tribal participation in planning under the growth management act.

The bill was read the second time.

There being no objection, Substitute House Bill No. 1717 was substituted for House Bill No. 1717 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1717 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Pollet and Goehner spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1717.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1717, and the bill passed the House by the following vote: Yeas, 92; Nays, 6; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Jacobsen, J. Johnson, Kirby, Klicker, Kloba, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Valdez, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Voting nay: Representatives Chase, Hoff, Klippert, Kraft, McCaslin and Vick.

SUBSTITUTE HOUSE BILL NO. 1717, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on Substitute House Bill No. 1717.

Representative Dufault, 15th District

SECOND READING

HOUSE BILL NO. 1799, by Representatives Fitzgibbon, Berry, Duerr, Riccelli and Harris-Talley

Concerning organic materials management.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 1799 was substituted for House Bill No. 1799 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 1799 was read the second time.

Representative Fitzgibbon moved the adoption of striking amendment (921):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that landfills are a significant source of emissions of methane, a potent greenhouse gas. Among other economic and environmental benefits, the diversion of organic materials to productive uses will reduce methane emissions.

(2) In order to reduce methane emissions associated with organic materials, the legislature finds that it will be beneficial to improve a variety of aspects of how organic materials and organic material wastes are reduced, managed, incentivized, and regulated under state law. Therefore, it is the intent of the legislature to support the diversion of organic materials from landfills through a variety of interventions to support productive uses of organic material wastes, including by:

(a) Requiring some local governments to begin providing separated organic material collection services within

their jurisdictions in order to increase volumes of organic materials collected and delivered to composting and other organic material management facilities and reduce the volumes of organic materials collected in conjunction with other solid waste and delivered to landfills;

(b) Requiring local governments to consider state organic material management goals and requirements in the development of their local solid waste plans;

(c) Requiring some businesses to manage their organic material wastes in a manner that does not involve landfilling them, in order to address one significant source of organic materials that currently frequently end up in landfills;

(d) Reducing legal liability risk barriers to the donation of edible food in order to encourage the recovery of foods that might otherwise be landfilled;

(e) Establishing the Washington center for sustainable food management within the department of ecology in order to coordinate and improve statewide food waste reduction and diversion efforts;

(f) Establishing various new funding and financial incentives intended to increase composting and other forms of productive organic materials management, helping to make the responsible management of organic materials more cost-competitive with landfilling of organic material wastes;

(g) Facilitating the siting of organic material management facilities in order to ensure that adequate capacity exists to process organic materials at the volumes necessary to achieve state organic material diversion goals;

(h) Encouraging cities and counties to procure more of the compost and finished products created from their organic material wastes in order to support the economic viability of processes to turn organic materials into finished products, and increasing the likelihood that composting and other responsible organic material management options are economically viable; and

(i) Amending standards related to the labeling of plastic and compostable products in order to reduce contamination of the waste streams handled by compost and organic material management

facilities and improve the economic viability of those responsible organic material management options.

PART 1

State Targets and Organic Material Waste Collection Requirements

NEW SECTION. **Sec. 101.** A new section is added to chapter 70A.205 RCW to read as follows:

(1)(a) The state establishes a goal for the landfill disposal of organic materials at a level representing a 75 percent reduction by 2030 in the statewide disposal of organic material waste, relative to 2015 levels.

(b) The state establishes a goal that no less than 20 percent of the volume of edible food that was disposed of as of 2015 be recovered for human consumption by 2025.

(2) The provisions of subsection (1) of this section are in addition to the food waste reduction goals of RCW 70A.205.715(1).

NEW SECTION. **Sec. 102.** A new section is added to chapter 70A.205 RCW to read as follows:

(1) Beginning January 1, 2027, in each jurisdiction that implements a local solid waste plan under RCW 70A.205.040:

(a) Source-separated organic solid waste collection services must be provided at least every other week or at least 26 weeks annually to:

(i) All residents; and

(ii) Nonresidential customers that generate more than .25 cubic yard per week of organic materials for management; and

(b) All organic solid waste collected from residents and businesses under (a) of this subsection must be managed through organic materials management.

(2) A jurisdiction may charge and collect fees or rates for the services provided under subsection (1) of this section, consistent with the jurisdiction's authority to impose fees and rates under chapters 35.21, 35A.21, 36.58, and 36.58A RCW.

(3)(a) Except as provided in (d) of this subsection, the requirements of this section do not apply in a jurisdiction if the department determines that the following apply:

(i) The jurisdiction disposed of less than 5,000 tons of solid waste in the most recent year for which data is available; or

(ii) The jurisdiction has a total population of less than 25,000 people.

(b) The requirements of this section do not apply:

(i) In census tracts that have a population density of less than 75 people per square mile that are serviced by the jurisdiction and located in unincorporated portions of a county, as determined by the department, in counties not planning under chapter 36.70A RCW; and

(ii) Outside of urban growth areas designated pursuant to RCW 36.70A.110 in unincorporated portions of a county planning under chapter 36.70A RCW.

(c) In addition to the exemptions in (a) and (b) of this subsection, the department may issue a renewable waiver to jurisdictions or portions of a jurisdiction under this subsection for up to five years, based on consideration of factors including the distance to organic materials management facilities, the sufficiency of the capacity to manage organic materials at facilities to which organic materials could feasibly and economically be delivered from the jurisdiction, and restrictions in the transport of organic materials under chapter 17.24 RCW. The department may adopt rules to specify the type of information that a waiver applicant must submit to the department and to specify the department's process for reviewing and approving waiver applications.

(d) Beginning January 1, 2030, the department may adopt a rule to require that the provisions of this section apply in the jurisdictions identified in (b) and (c) of this subsection, but only if the department determines that the goals established in section 101(1) of this act have not or will not be achieved.

(4) Any city that newly begins implementing an independent solid waste plan under RCW 70A.205.040 after July 1, 2022, must meet the requirements of subsection (1) of this section.

Sec. 103. RCW 70A.205.040 and 2010 c 154 s 2 are each amended to read as follows:

(1) Each county within the state, in cooperation with the various cities

located within such county, shall prepare a coordinated, comprehensive solid waste management plan. Such plan may cover two or more counties. The purpose is to plan for solid waste and materials reduction, collection, and handling and management services and programs throughout the state, as designed to meet the unique needs of each county and city in the state. When updating a solid waste management plan developed under this chapter, after June 10, 2010, local comprehensive plans must consider and plan for the following handling methods or services:

(a) Source separation of recyclable materials and products, organic materials, and wastes by generators;

(b) Collection of source separated materials;

(c) Handling and proper preparation of materials for reuse or recycling;

(d) Handling and proper preparation of organic materials for ~~((composting or anaerobic digestion))~~ organic materials management; and

(e) Handling and proper disposal of nonrecyclable wastes.

(2) When updating a solid waste management plan developed under this chapter, after June 10, 2010, each local comprehensive plan must, at a minimum, consider methods that will be used to address the following:

(a) Construction and demolition waste for recycling or reuse;

(b) Organic material including yard debris, food waste, and food contaminated paper products for ~~((composting or anaerobic digestion))~~ organic materials management;

(c) Recoverable paper products for recycling;

(d) Metals, glass, and plastics for recycling; and

(e) Waste reduction strategies.

(3)(a) When newly developing, updating, or amending a solid waste management plan developed under this chapter, after July 1, 2024, each local comprehensive plan must consider the transition to the requirements of section 102 of this act, and each comprehensive plan implemented by a county must identify:

(i) The priority areas within the county for the establishment of organic materials management facilities. Priority areas must be in industrial zones, agricultural zones, or rural zones, and may not be located in overburdened communities identified by the department of ecology under RCW 70A.65.020(1). Priority areas should be designated with an attempt to minimize incompatible uses and potential impacts on residential areas; and

(ii) Organic materials management facility volumetric capacity required to manage the county's organic materials in a manner consistent with the goals of section 101 of this act.

(b) When newly developing, updating, or amending a solid waste management plan developed under this chapter, after January 1, 2027, each local comprehensive plan must be consistent with the requirements of section 102 of this act.

(4) Each city shall:

(a) Prepare and deliver to the county auditor of the county in which it is located its plan for its own solid waste management for integration into the comprehensive county plan;

(b) Enter into an agreement with the county pursuant to which the city shall participate in preparing a joint city-county plan for solid waste management; or

(c) Authorize the county to prepare a plan for the city's solid waste management for inclusion in the comprehensive county plan.

~~((4))~~ (5) Two or more cities may prepare a plan for inclusion in the county plan. With prior notification of its home county of its intent, a city in one county may enter into an agreement with a city in an adjoining county, or with an adjoining county, or both, to prepare a joint plan for solid waste management to become part of the comprehensive plan of both counties.

~~((5))~~ (6) After consultation with representatives of the cities and counties, the department shall establish a schedule for the development of the comprehensive plans for solid waste management. In preparing such a schedule, the department shall take into account the probable cost of such plans to the cities and counties.

~~((6))~~ (7) Local governments shall not be required to include a hazardous waste element in their solid waste management plans.

NEW SECTION. **Sec. 104.** (1) The department of ecology must contract with a third-party consultant to conduct a study of the adequacy of local government solid waste management funding, including options and recommendations to provide funding for solid waste programs in the future if significant statewide policy changes are enacted. The department must include the Washington association of county solid waste managers, the association of Washington cities, an association that represents the private sector solid waste industry, and other stakeholders in scoping the study and reviewing the consultant's findings and recommendations prior to submittal to the legislature.

(2) The study must include:

(a) Consideration for jurisdictional type, location, size, service level, and other relevant differences between cities and counties;

(b) A review and update of current funding types and levels available, and their rate of adoption;

(c) The funding needs to implement the solid waste core services model developed by the Washington association of county solid waste managers;

(d) Alternative funding models utilized by other publicly managed solid waste programs in other states or countries that may be relevant to Washington; and

(e) An evaluation of the impacts on solid waste funding resources available to cities and counties from statewide solid waste management policy proposals considered by the legislature or enacted in the last four years, including proposals to:

(i) Reduce the quantity of organic waste to landfills;

(ii) Manage packaging and paper products through extended producer responsibility programs;

(iii) Manage other products through product stewardship or extended producer responsibility programs;

(iv) Improve or install new or updated methane capture systems;

(v) Increase postconsumer content requirements for materials collected in solid waste programs; and

(vi) Other related proposals that may impact solid waste funding resources.

(3) The study must evaluate a range of forecasted fiscal impacts for each type of policy change on local government solid waste management programs, including:

(a) The level of service provided by local government;

(b) Costs to the local government;

(c) Existing revenue levels; and

(d) The need for additional revenue.

(4) The department must submit the report, including findings and any recommendations, to the appropriate committees of the legislature by July 1, 2023.

Sec. 105. RCW 70A.205.015 and 2020 c 20 s 1161 are each amended to read as follows:

~~((As used in this chapter, unless the context indicates otherwise.))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "City" means every incorporated city and town.

(2) "Commission" means the utilities and transportation commission.

(3) "Composted material" means organic solid waste that has been subjected to controlled aerobic degradation at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.

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

(5) "Director" means the director of the department of ecology.

(6) "Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.

(7) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.

(8) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.

(9) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.

(10) "Inert waste landfill" means a landfill that receives only inert waste, as determined under RCW 70A.205.030, and includes facilities that use inert wastes as a component of fill.

(11) "Jurisdictional health department" means city, county, city-county, or district public health department.

(12) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

(13) "Local government" means a city, town, or county.

(14) "Modify" means to substantially change the design or operational plans including, but not limited to, removal of a design element previously set forth in a permit application or the addition of a disposal or processing activity that is not approved in the permit.

(15) "Multiple-family residence" means any structure housing two or more dwelling units.

(16) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(17) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to RCW 70A.205.075(2), local governments may identify recyclable materials by ordinance from July 23, 1989.

(18) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use

other than landfill disposal or incineration.

(19) "Residence" means the regular dwelling place of an individual or individuals.

(20) "Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of chapter 70A.226 RCW.

(21) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70A.226 RCW and wastewater as regulated in chapter 90.48 RCW.

(22) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

(23) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.

(24) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

(25) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(26) "Waste-derived soil amendment" means any soil amendment as defined in

this chapter that is derived from solid waste as defined in this section, but does not include biosolids or biosolids products regulated under chapter 70A.226 RCW or wastewaters regulated under chapter 90.48 RCW.

(27) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

(28) "Yard debris" means plant material commonly created in the course of maintaining yards and gardens, and through horticulture, gardening, landscaping, or similar activities. Yard debris includes but is not limited to grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, vegetable garden debris, holiday trees, and tree prunings four inches or less in diameter.

(29) (a) (i) "Organic materials" means any solid waste that is a biological substance of plant or animal origin capable of microbial degradation.

(ii) Organic materials include, but are not limited to, manure, yard debris, food waste, food processing waste, wood waste, and garden waste.

(b) "Organic materials" does not include any materials contaminated by herbicides, pesticides, pests, or other sources of chemical or biological contamination that would render a finished product of an organic material management process unsuitable for general public or agricultural use.

(30) "Organic materials management" means management of organic materials through composting, anaerobic digestion, vermiculture, black soldier fly, or similar technologies.

PART 2

Requirements for Organics Management by Businesses

NEW SECTION. Sec. 201. A new section is added to chapter 70A.205 RCW to read as follows:

(1)(a) Beginning July 1, 2023, and each July 1st thereafter, the department must determine which counties and any cities preparing independent solid waste management plans:

(i) Provide for businesses to be serviced by providers that collect food waste and organic material waste for delivery to solid waste facilities that provide for the organic materials

management of organic material waste and food waste; and

(ii) Are serviced by solid waste facilities that provide for the organic materials management of organic material waste and food waste and have capacity to accept increased volumes of organic materials deliveries.

(b)(i) The department must determine and designate that the restrictions of this section apply to businesses in a jurisdiction unless the department determines that the businesses in some or all portions of the city or county have:

(A) No available businesses that collect and deliver organic materials to solid waste facilities that provide for the organic materials management of organic material waste and food waste; or

(B) No available capacity at the solid waste facilities to which businesses that collect and deliver organic materials could feasibly and economically deliver organic materials from the jurisdiction.

(ii)(A) In the event that a county or city provides written notification to the department indicating that the criteria of (b)(i)(A) of this subsection are met, then the restrictions of this section apply only in those portions of the jurisdiction that have available service-providing businesses.

(B) In the event that a county or city provides written notification to the department indicating that the criteria of (b)(i)(B) of this subsection are met, then the restrictions of this section do not apply to the jurisdiction.

(c) The department must make the result of the annual determinations required under this section available on its website.

(d) The requirements of this section may be enforced by jurisdictional health departments consistent with this chapter, except that:

(i) A jurisdictional health department may not charge a fee to permit holders to cover the costs of the jurisdictional health department's administration or enforcement of the requirements of this section; and

(ii) Prior to issuing a penalty under this section, a jurisdictional health department must provide at least two written notices of noncompliance with the requirements of this section to the owner

or operator of a business subject to the requirements of this section.

(2) Wastes that are not managed on-site by the generating business, wastes generated from the growth and harvest of food or fiber that are managed off-site by another business engaged in the growth and harvest of food or fiber, and wastes generated in exceptional volumes as a result of a natural disaster or other infrequent and unpreventable event, do not count for purposes of determining waste volumes in (a) through (c) of this subsection.

(a) Beginning January 1, 2024, a business that generates at least eight cubic yards of organic material waste per week must arrange for organic materials management services specifically for organic material waste;

(b) Beginning January 1, 2025, a business that generates at least four cubic yards of organic material waste per week must arrange for organic materials management services specifically for organic material waste; and

(c) Beginning January 1, 2026, a business that generates at least four cubic yards of solid waste per week shall arrange for organic materials management services specifically for organic material waste, unless the department determines, by rule, that additional reductions in the landfilling of organic materials would be more appropriately and effectively achieved, at reasonable cost to regulated businesses, through the establishment of a different volumetric threshold of solid waste or organic material waste than the threshold of four cubic yards of solid waste per week.

(3) A business may fulfill the requirements of this section by:

(a) Source separating organic material waste from other waste, subscribing to a service that includes organic material waste collection and organic materials management, and using such a service for organic material waste generated by the business;

(b) Managing its organic material waste on-site or self-hauling its own organic material waste for organic materials management;

(c) Qualifying for exclusion from the requirements of this section consistent with subsection (1)(b) of this section.

(4)(a) A business generating organic material waste shall arrange for any services required by this section in a manner that is consistent with state and local laws and requirements applicable to the collection, handling, or recycling of solid and organic material waste.

(b) Nothing in this section requires a business to dispose of materials in a manner that conflicts with federal or state public health or safety requirements. Nothing in this section requires businesses to dispose of wastes generated in exceptional volumes as a result of a natural disaster or other infrequent and unpreventable event through the options established in subsection (3) of this section.

(5) When arranging for gardening or landscaping services, the contract or work agreement between a business subject to this section and a gardening or landscaping service must require that the organic material waste generated by those services be managed in compliance with this chapter.

(6)(a) This section does not limit the authority of a local governmental agency to adopt, implement, or enforce a local organic material waste recycling requirement, or a condition imposed upon a self-hauler, that is more stringent or comprehensive than the requirements of this chapter.

(b) This section does not modify, limit, or abrogate in any manner any of the following:

(i) A franchise granted or extended by a city, county, city and county, or other local governmental agency;

(ii) A contract, license, certificate, or permit to collect solid waste previously granted or extended by a city, county, city and county, or other local governmental agency;

(iii) The right of a business to sell or donate its organic materials; and

(iv) A certificate of convenience and necessity issued to a solid waste collection company under chapter 81.77 RCW.

(c) Nothing in this section modifies, limits, or abrogates the authority of a local jurisdiction with respect to land use, zoning, or facility siting decisions by or within that local jurisdiction.

(d) Nothing in this section 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 section change or limit the authority of a city or town to provide the service itself or by contract under RCW 81.77.020.

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

(a)(i) "Business" means a commercial or public entity including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity.

(ii) "Business" does not include a multifamily residential entity.

(b) "Food waste" has the same meaning as defined in RCW 70A.205.715.

PART 3

Updates to the Washington Good Samaritan Act

Sec. 301. RCW 69.80.031 and 1994 c 299 s 36 are each amended to read as follows:

(1) This section may be cited as the "good samaritan food donation act."

(2) ~~((As used in this section.))~~ The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Apparently fit grocery product" means a grocery product that meets ~~((all quality and))~~ safety and safety-related labeling standards imposed by federal, state, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, passage of a date on a date label other than a safety or safety-related labeling of a date, or other conditions.

(b) "Apparently wholesome food" means food that meets ~~((all quality and))~~ safety and safety-related labeling standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, passage of a date on a date label other than a safety or safety-

related labeling of a date, or other conditions.

(c) "Donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value or is charged only a good samaritan reduced price.

(d) "Food" means a raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(e) "Gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(f) "Good samaritan reduced price" means the price of an apparently wholesome food or an apparently fit grocery product that is an amount not greater than the cost of handling, administering, and distributing the apparently wholesome food or apparently fit grocery product.

(g) "Grocery product" means a nonfood grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

~~((g))~~ (h) "Gross negligence" means voluntary and conscious conduct by a person with knowledge, at the time of the conduct, that the conduct is likely to be harmful to the health or well-being of another person.

~~((h))~~ (i) "Intentional misconduct" means conduct by a person with knowledge, at the time of the conduct, that the conduct is harmful to the health or well-being of another person.

~~((i))~~ (j) "Nonprofit organization" means an incorporated or unincorporated entity that:

(i) Is operating for religious, charitable, or educational purposes; and

(ii) Does not provide net earnings to, or operate in any other manner that

inures to the benefit of, any officer, employee, or shareholder of the entity.

~~((j))~~ (k) "Person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, councilmember, or other elected or appointed individual responsible for the governance of the entity.

(l) "Qualified direct donor" means any person required to obtain a food establishment permit under chapter 246-215 WAC, as it existed as of January 1, 2022, including a retail grocer, wholesaler, agricultural producer, restaurant, caterer, school food authority, or institution of higher education as defined in RCW 28B.10.016.

(m) (i) "Safety and safety-related labeling" means a marking intended to communicate information to a consumer related to a food product's safety. "Safety and safety-related labeling" includes any marking that federal or state law requires to be affixed to a food product including, but not limited to, markings placed on infant formula consistent with 21 C.F.R. Sec. 107.20, as that regulation existed as of January 1, 2021.

(ii) "Safety and safety-related labeling" does not include a pull date required to be placed on perishable packaged food under RCW 15.130.300 or a "best by," "best if used by," "use by," or "sell by" date or similarly phrased date intended to communicate information to a consumer regarding the freshness or quality of a food product.

(3) (a) A person or gleaner is not subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith or sells at a good samaritan reduced price to a nonprofit organization for ultimate sale at a good samaritan reduced price, donation, or other distribution to needy individuals, except that this subsection does not apply to an injury to or death of an ultimate user or recipient of the food or

grocery product that results from an act or omission of the donor constituting gross negligence or intentional misconduct.

(b) A qualified direct donor may donate food directly to end recipients for consumption. A qualified direct donor is not subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the qualified direct donor donates in good faith or sells at a good samaritan reduced price to a needy individual. The donation of nonperishable food that is fit for human consumption, but that has exceeded the labeled shelf-life date recommended by the manufacturer, is an activity covered by the exclusion from civil or criminal liability under this section.

(c) The donation of perishable food that is fit for human consumption, but that has exceeded the labeled shelf-life date recommended by the manufacturer, is an activity covered by the exclusion from civil or criminal liability under this section if the person that distributes the food to the end recipient makes a good faith evaluation that the food to be donated is wholesome.

(4) A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals is not subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this subsection does not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(5) If some or all of the donated food and grocery products do not meet ~~(all quality and)~~ safety and safety-related labeling standards imposed by federal, state, and local laws and regulations, the person or gleaner who donates the food and grocery products is not subject to civil or criminal liability in accordance with this section if the nonprofit organization or other end recipient that receives the donated food or grocery products:

(a) Is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(b) Agrees to recondition the donated food or grocery products to comply with all the ~~((quality and))~~ safety and safety-related labeling standards prior to distribution; and

(c) Is knowledgeable of the standards to properly recondition the donated food or grocery product.

(6) This section may not be construed to create liability.

PART 4

Washington Center for Sustainable Food Management

NEW SECTION. **Sec. 401.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Center" means the Washington center for sustainable food management.

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

(3) "Organic material" has the same definition as provided in RCW 70A.205.015.

(4) "Plan" means the use food well Washington plan developed under RCW 70A.205.715.

NEW SECTION. **Sec. 402.** (1) The Washington center for sustainable food management is established within the department, to begin operations by January 1, 2024.

(2) The purpose of the center is to help coordinate statewide food waste reduction.

(3) The center may perform the following activities:

(a) Coordinate the implementation of the plan;

(b) Draft plan updates and measure progress towards actions, strategies, and the statewide goals established in section 101 of this act and RCW 70A.205.715(1);

(c) Maintain a website with current food waste reduction information and guidance for food service establishments, consumers, food processors, hunger relief organizations, and other sources of food waste;

(d) Provide staff support to multistate food waste reduction initiatives in which the state is participating;

(e) Maintain the consistency of the plan and other food waste reduction activities with the work of the Washington state conservation commission's food policy forum;

(f) Facilitate and coordinate public-private and nonprofit partnerships focused on food waste reduction, including through voluntary working groups;

(g) Collaborate with federal, state, and local government partners on food waste reduction initiatives;

(h) Develop and maintain maps or lists of locations of the food systems of Washington that identify food flows, where waste occurs, and opportunities to prevent food waste;

(i)(i) Collect and maintain data on food waste and wasted food in a manner that is generally consistent with the methods of collecting and maintaining such data used by federal agencies or in other jurisdictions, or both, to the greatest extent practicable;

(ii) Develop measurement methodologies and tools to uniformly track food donation data, food waste prevention data, and associated climate impacts resultant from food waste reduction efforts;

(j) Research and develop emerging organic materials and food waste reduction markets;

(k)(i) Develop and maintain statewide food waste reduction and food waste contamination reduction campaigns, in consultation with other state agencies and other stakeholders, including the development of waste prevention and food waste recovery promotional materials for distribution. These promotional materials may include online information, newsletters, bulletins, or handouts that inform food service establishment operators about the protections from civil and criminal liability under federal law and under RCW 69.80.031 when donating food; and

(ii) Develop guidance to support the distribution of promotional materials, including distribution by:

(A) Local health officers, at no cost to regulated food service establishments, including as part of normal, routine inspections of food service establishments; and

(B) State agencies, including the department of health and the department of agriculture, in conjunction with their statutory roles and responsibilities in regulating, monitoring, and supporting safe food supply chains and systems;

(l) Distribute and monitor grants dedicated to food waste prevention, rescue, and recovery; and

(m) Research and provide education, outreach, and technical assistance to local governments in support of the adoption of solid waste ordinances or policies that establish a financial disincentive for the generation of organic waste and for the ultimate disposal of organic materials in landfills.

(4) The department may enter into an interagency agreement with the department of health, the department of agriculture, or other state agencies as necessary to fulfill the responsibilities of the center.

(5) The department may adopt any rules necessary to implement this chapter including, but not limited to, measures for the center's performance.

NEW SECTION. Sec. 403. A new section is added to chapter 70A.205 RCW to read as follows:

(1) In order to obtain data as necessary to support the goals of the Washington center for sustainable food management created in section 402 of this act and to achieve the goals of RCW 70A.205.715(1), the department may establish a voluntary reporting protocol for the receipt of reports by businesses that donate food under RCW 69.80.031 and recipients of the donated food, and may encourage the use of this voluntary reporting protocol by the businesses and recipients. The department may also request that a donating business or recipient of donated food provide information to the department regarding the volumes, types, and timing of food managed by the donating facility or business, and food waste and wasted food generated by the donating facility or business. To the extent practicable, the department must seek to obtain information under this section in a manner compatible with any information reported to the department of agriculture under RCW 43.23.290, and in a manner that minimizes the reporting and information-provision burdens of donating businesses and recipients.

(2) For the purposes of this subsection, "food waste" and "wasted food" have the same meaning as defined in RCW 70A.205.715.

Sec. 404. RCW 69.80.040 and 1983 c 241 s 4 are each amended to read as follows:

The department of agriculture shall maintain an information and referral service for persons and organizations that have notified the department of their desire to participate in the food donation program under this chapter. The department must coordinate with the department of ecology to ensure that the information and referral service required under this section is implemented in a manner consistent with the activities of sections 402 and 403 of this act.

NEW SECTION. Sec. 405. (1) By January 1, 2025, and in consultation with the office of the attorney general, the department must research and adopt several model ordinances for optional use by counties and cities that provide for model mechanisms for commercial solid waste collection and disposal that are designed, in part, to establish a financial disincentive or other disincentives for the generation of organic waste and for the ultimate disposal of organic materials in landfills. The model ordinances must be designed to provide options that might be preferred by jurisdictions of different sizes and consider other key criteria applicable to local solid waste management circumstances.

(2)(a) The department must review the model ordinances created in this section under the provisions of chapter 43.21C RCW.

(b) A county or city that adopts a model ordinance created by the department under this section and that has been reviewed by the department under the provisions of chapter 43.21C RCW is not required to review the ordinance under the provisions of chapter 43.21C RCW.

(3) No city, town, or county is required to adopt the model ordinances created in this section.

NEW SECTION. Sec. 406. A new section is added to chapter 43.21C RCW to read as follows:

Amendments to regulations and other nonproject actions taken by a city or

county to adopt or implement the model ordinance created by the department under section 405 of this act is not subject to the requirements of this chapter.

PART 5

Funding and Incentives for Methane Emissions Reduction Activities Associated with Organic Materials Management

Sec. 501. RCW 89.08.615 and 2020 c 351 s 3 are each amended to read as follows:

(1) The commission shall develop a sustainable farms and fields grant program in consultation with the department of agriculture, Washington State University, and the United States department of agriculture natural resources conservation service.

(2) As funding allows, the commission shall distribute funds, as appropriate, to conservation districts and other public entities to help implement the projects approved by the commission.

(3) No more than (~~fifteen~~) 15 percent of the funds may be used by the commission to develop, or to consult or contract with private or public entities, such as universities or conservation districts, to develop:

(a) An educational public awareness campaign and outreach about the sustainable farm and field program; or

(b) The grant program, including the production of analytical tools, measurement estimation and verification methods, cost-benefit measurements, and public reporting methods.

(4) No more than five percent of the funds may be used by the commission to cover the administrative costs of the program.

(5) No more than (~~twenty~~) 20 percent of the funds may be awarded to any single grant applicant.

(6) Allowable uses of grant funds include:

(a) Annual payments to enrolled participants for successfully delivered carbon storage or reduction;

(b) Up-front payments for contracted carbon storage;

(c) Down payments on equipment;

(d) Purchases of equipment;

(e) Purchase of seed, seedlings, spores, animal feed, and amendments;

(f) Services to landowners, such as the development of site-specific conservation plans to increase soil organic levels or to increase usage of precision agricultural practices, or design and implementation of best management practices to reduce livestock emissions; (~~and~~)

(g) The purchase of compost spreading equipment, or financial assistance to farmers to purchase compost spreading equipment, for the annual use for at least three years of volumes of compost determined by the commission to be significant from materials composted at a site that is not owned or operated by the farmer;

(h) Scientific studies to evaluate and quantify the greenhouse gas emissions avoided as a result of using crop residues as a biofuel feedstock or to identify management practices that increase the greenhouse gas emissions avoided as a result of using crop residues as a biofuel feedstock;

(i) Efforts to support the farm use of anaerobic digester digestate, including scientific studies, education and outreach to farmers, and the purchase or lease of digestate spreading equipment; and

(j) Other equipment purchases or financial assistance deemed appropriate by the commission to fulfill the intent of RCW 89.08.610 through 89.08.635.

(7) Grant applications are eligible for costs associated with technical assistance.

(8) Conservation districts and other public entities may apply for a single grant from the commission that serves multiple farmers.

(9) Grant applicants may apply to share equipment purchased with grant funds. Applicants for equipment purchase grants issued under this grant program may be farm, ranch, or aquaculture operations coordinating as individual businesses or as formal cooperative ventures serving farm, ranch, or aquaculture operations. Conservation districts, separately or jointly, may also apply for grant funds to operate an equipment sharing program.

(10) No contract for carbon storage or changes to management practices may

exceed (~~twenty-five~~) 25 years. Grant contracts that include up-front payments for future benefits must be conditioned to include penalties for default due to negligence on the part of the recipient.

(11) The commission shall attempt to achieve a geographically fair distribution of funds across a broad group of crop types, soil management practices, and farm sizes.

(12) Any applications involving state lands leased from the department of natural resources must include the department's approval.

NEW SECTION. Sec. 502. A new section is added to chapter 15.04 RCW to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, the department must establish and implement a compost reimbursement program to reimburse farming operations in the state for purchasing and using compost products that were not generated by the farming operation, including transportation, spreading equipment, labor, fuel, and maintenance costs associated with spreading equipment. The grant reimbursements under the program begin July 1, 2023.

(b) For the purposes of this program, "farming operation" means: A commercial agricultural, silvicultural, or aquacultural facility or pursuit, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment.

(2) To be eligible to participate in the reimbursement program, a farming operation must complete an eligibility review with the department prior to transporting or applying any compost products for which reimbursement is sought under this section. The purpose of the review is for the department to ensure that the proposed transport and application of compost products is consistent with the department's agricultural pest control rules established under chapter 17.24 RCW. A farming operation must also verify that it will allow soil sampling to be conducted by the department upon request

before compost application and until at least 10 years after the last grant funding is used by the farming operation, as necessary to establish a baseline of soil quality and carbon storage and for subsequent department evaluations to assist the department's reporting requirements under subsection (8) of this section.

(3) The department must create a form for eligible farming operations to apply for cost reimbursement for costs from purchasing and using compost from facilities with solid waste handling permits, including transportation, equipment, spreading, and labor costs. All applications for cost reimbursement must be submitted on the form along with invoices, receipts, or other documentation acceptable to the department of the costs of purchasing and using compost products for which the applicant is requesting reimbursement, as well as a brief description of what each purchased item will be used for. The department may request that an applicant provide information to verify the source, size, sale weight, or amount of compost products purchased and the cost of transportation, equipment, spreading, and labor. The applicant must also declare that it is not seeking reimbursement for purchase or labor costs for:

(a) Its own compost products; or

(b) Compost products that it has transferred, or intends to transfer, to another individual or entity, whether or not for compensation.

(4) A farming operation may submit only one application per fiscal year in which the program is in effect for purchases made and usage costs incurred during the fiscal year that begins on July 1st and ends on June 30th. Applications for reimbursement must be filed before the end of the fiscal year in which purchases were made and usage costs incurred.

(5) The department must distribute reimbursement funds, subject to the following limitations:

(a) A farming operation is not eligible to receive reimbursement if the farming operation's application was not found eligible for reimbursement by the department under subsection (2) of this section prior to the transport or use of compost;

(b) A farming operation is not eligible to receive reimbursement for more than 50 percent of the costs it incurs each fiscal year for the purchase and use of compost products, including transportation, equipment, spreading, and labor costs;

(c) A farming operation is not eligible to receive more than \$10,000 per fiscal year;

(d) A farming operation is not eligible to receive reimbursement for its own compost products or compost products that it has transferred, or intends to transfer, to another individual or entity, whether or not for compensation; and

(e) A farming operation is not eligible to receive reimbursement for compost products that were not purchased from a facility with a solid waste handling permit.

(6) The applicant shall indemnify and hold harmless the state and its officers, agents, and employees from all claims arising out of or resulting from the compost products purchased that are subject to the compost reimbursement program under this section.

(7) There is established within the department a compost reimbursement program manager position. The compost reimbursement program manager must possess knowledge and expertise in the area of program management necessary to carry out the duties of the position, which are to:

(a) Facilitate the division and distribution of available costs for reimbursement; and

(b) Manage the day-to-day coordination of the compost reimbursement program.

(8) In compliance with RCW 43.01.036, the department must submit an annual report to the appropriate committees of the legislature by January 15th of each year of the program in which grants have been issued or completed. The report must include:

(a) The amount of compost for which reimbursement was sought under the program;

(b) The qualitative or quantitative effects of the program on soil quality and carbon storage; and

(c) A periodically updated evaluation of the benefits and costs to the state of

expanding or furthering the strategies promoted in the program.

Sec. 503. RCW 43.155.020 and 2017 3rd sp.s. c 10 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Capital facility plan" means a capital facility plan required by the growth management act under chapter 36.70A RCW or, for local governments not fully planning under the growth management act, a plan required by the public works board.

(3) "Department" means the department of commerce.

(4) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(5) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(6) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems, lead remediation of drinking water systems, and solid waste facilities, including recycling facilities and composting and other organic materials management facilities. A planning project may include the compilation of biological, hydrological, or other data on a county, drainage basin, or region necessary to develop a base of information for a capital facility plan.

(7) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste

transfer, recycling facilities, and landfill projects limited to the opening of landfill cells that are in existing and permitted landfills.

(8) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans, grants, and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

(9) "Value planning" means a uniform approach to assist in decision making through systematic evaluation of potential alternatives to solving an identified problem.

PART 6

Organic Materials Management Facility Siting

Sec. 601. RCW 36.70.330 and 1985 c 126 s 3 are each amended to read as follows:

The comprehensive plan shall consist of a map or maps, and descriptive text covering objectives, principles and standards used to develop it, and shall include each of the following elements:

(1) A land use element which designates the proposed general distribution and general location and extent of the uses of land for agriculture, housing, commerce, industry, recreation, education, public buildings and lands, and other categories of public and private use of land, including a statement of the standards of population density and building intensity recommended for the various areas in the jurisdiction and estimates of future population growth in the area covered by the comprehensive plan, all correlated with the land use element of the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of groundwater used for public water supplies and shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound. Development regulations to implement comprehensive plans that are newly developed, updated, or amended after January 1, 2025, must allow for the

siting of organic materials management facilities in the areas identified in RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii);

(2) A circulation element consisting of the general location, alignment and extent of major thoroughfares, major transportation routes, trunk utility lines, and major terminal facilities, all of which shall be correlated with the land use element of the comprehensive plan;

(3) Any supporting maps, diagrams, charts, descriptive material and reports necessary to explain and supplement the above elements.

NEW SECTION. Sec. 602. A new section is added to chapter 36.70A RCW to read as follows:

Development regulations to implement comprehensive plans that are newly developed, updated, or amended after January 1, 2025, must allow for the siting of organic materials management facilities in the areas identified in RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii).

NEW SECTION. Sec. 603. A new section is added to chapter 35.63 RCW to read as follows:

Development regulations to implement comprehensive plans under RCW 35.63.100 that are newly developed, updated, or amended after January 1, 2025, must allow for the siting of organic materials management facilities in the areas identified by the county in which the city is located under RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii).

NEW SECTION. Sec. 604. A new section is added to chapter 35A.63 RCW to read as follows:

Development regulations to implement comprehensive plans required under RCW 35A.63.060 that are newly developed,

updated, or amended after January 1, 2025, must allow for the siting of organic materials management facilities in the areas identified by the county in which the city is located under RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii).

PART 7

Organic Materials Procurement

NEW SECTION. **Sec. 701.** A new section is added to chapter 43.19A RCW to read as follows:

(1) By January 1, 2023, the following cities or counties shall adopt a compost procurement ordinance to implement RCW 43.19A.120:

(a) Each city or county with a population greater than 25,000 residents as measured by the office of financial management using the most recent population data available; and

(b) Each city or county in which organic material collection services are provided under chapter 70A.205 RCW.

(2) A city or county that newly exceeds a population of 25,000 residents after January 1, 2023, as measured by the office of financial management, must adopt an ordinance under this subsection no later than 12 months after the office of financial management's determination that the local government's population has exceeded 25,000.

(3) In developing a compost procurement ordinance, each city and county shall plan for the use of compost in the following categories:

(a) Landscaping projects;

(b) Construction and postconstruction soil amendments;

(c) Applications to prevent erosion, filter stormwater runoff, promote vegetation growth, or improve the stability and longevity of roadways; and

(d) Low-impact development and green infrastructure to filter pollutants or keep water on-site, or both.

(4) Each city or county that adopts an ordinance under subsection (1) or (2) of this section must develop strategies to inform residents about the value of

compost and how the jurisdiction uses compost in its operations in the jurisdiction's comprehensive solid waste management plan pursuant to RCW 70A.205.045.

(5) By December 31, 2024, and each December 31st of even-numbered years thereafter, each city or county that adopts an ordinance under subsection (1) or (2) of this section must submit a report covering the previous year's compost procurement activities to the department of ecology that contains the following information:

(a) The total tons of organic material diverted throughout the year;

(b) The volume and cost of compost purchased throughout the year; and

(c) The source or sources of the compost.

(6) Cities and counties that are required to adopt an ordinance under subsection (1) or (2) of this section shall give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards comparable to standards adopted by the department of transportation or adopted by rule by the department of ecology.

(7) Cities and counties may enter into collective purchasing agreements if doing so is more cost-effective or efficient.

(8) Nothing in this section requires a compost processor to:

(a) Enter into a purchasing agreement with a city or county;

(b) Sell finished compost to meet this requirement; or

(c) Accept or process food waste or compostable products.

Sec. 702. RCW 39.30.040 and 2013 c 24 s 1 are each amended to read as follows:

(1) Whenever a unit of local government is required to make purchases from the lowest bidder or from the supplier offering the lowest price for the items desired to be purchased, the unit of local government may, at its option when awarding a purchase contract, take into consideration tax revenue it

would receive from purchasing the supplies, materials, or equipment from a supplier located within its boundaries. The unit of local government must award the purchase contract to the lowest bidder after such tax revenue has been considered. However, any local government may allow for preferential purchase of products made from recycled materials or products that may be recycled or reused. Any local government may allow for preferential purchase of compost to meet the requirements of RCW 43.19A.120. Any unit of local government which considers tax revenue it would receive from the imposition of taxes upon a supplier located within its boundaries must also consider tax revenue it would receive from taxes it imposes upon a supplier located outside its boundaries.

(2) A unit of local government may award a contract to a bidder submitting the lowest bid before taxes are applied. The unit of local government must provide notice of its intent to award a contract based on this method prior to bids being submitted. For the purposes of this subsection (2), "taxes" means only those taxes that are included in "tax revenue" as defined in this section.

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

(a) "Tax revenue" means sales taxes that units of local government impose upon the sale of supplies, materials, or equipment from the supplier to units of local government, and business and occupation taxes that units of local government impose upon the supplier that are measured by the gross receipts of the supplier from the sale.

(b) "Unit of local government" means any county, city, town, metropolitan municipal corporation, public transit benefit area, county transportation authority, or other municipal or quasi-municipal corporation authorized to impose sales and use taxes or business and occupation taxes.

NEW SECTION. **Sec. 703.** A new section is added to chapter 43.19A RCW to read as follows:

A contract by a local government or state agency must require the use of compost products to the maximum extent economically feasible to meet the requirements established in RCW 43.19A.120.

PART 8

Product Degradability Labeling

Sec. 801. RCW 70A.455.010 and 2019 c 265 s 1 are each amended to read as follows:

(1) The legislature finds and declares that it is the public policy of the state that:

(a) Environmental marketing claims for plastic products, whether implicit or implied, should adhere to uniform and recognized standards for "compostability" and "biodegradability," since misleading, confusing, and deceptive labeling can negatively impact local composting programs and compost processors. Plastic products marketed as being "compostable" should be readily and easily identifiable as meeting these standards;

(b) Legitimate and responsible packaging and plastic product manufacturers are already properly labeling their compostable products, but many manufacturers are not. Not all compost facilities and their associated processing technologies accept or are required to accept compostable packaging as feedstocks. However, implementing a standardized system and test methods may create the ability for them to take these products in the future.

(2) Therefore, it is the intent of the legislature to authorize the (~~state's attorney general and local governments~~) department of ecology, cities, and counties to pursue false or misleading environmental claims and "greenwashing" for plastic products claiming to be "compostable" or "biodegradable" when in fact they are not.

Sec. 802. RCW 70A.455.020 and 2019 c 265 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "ASTM" means the American society for testing and materials.

(2) "Biodegradable mulch film" means film plastic used as a technical tool in commercial farming applications that biodegrades in soil after being used, and:

(a) The film product fulfills plant growth and regulated metals requirements of ASTM D6400; and

(b) (i) Meets the requirements of Vincotte's "OK Biodegradable Soil" certification scheme, as that certification existed as of January 1, 2019;

(ii) At ambient temperatures and in soil, shows at least ~~((ninety))~~ 90 percent biodegradation absolute or relative to microcrystalline cellulose in less than two years' time, tested according to ISO 17556 or ASTM 5988 standard test methods, as those test methods existed as of January 1, 2019; or

(iii) Meets the requirements of EN 17033 "plastics-biodegradable mulch films for use in agriculture and horticulture" as it existed on January 1, 2019.

(3) "Federal trade commission guides" means the United States federal trade commission's guides for the use of environmental marketing claims (Part 260, commencing at section 260.1), compostability claims, including section 260.8, and degradation claims (subchapter B of chapter I of Title 16 of the Code of Federal Regulations), as those guides existed as of January 1, 2019.

(4) "Film product" means a bag, sack, wrap, or other sheet film product.

(5) "Food service product" ~~((means a product including, but not limited to, containers, plates, bowls, cups, lids, meat trays, straws, deli rounds, cocktail picks, splash sticks, condiment packaging, clam shells and other hinged or lidded containers, sandwich wrap, utensils, sachets, portion cups, and other food service products that are intended for one-time use and used for food or drink offered for sale or use))~~ has the same meaning as defined in RCW 70A.245.010.

(6) ~~((("Manufacturer" means a person, firm, association, partnership, or corporation that produces a product.~~

~~(7))~~ "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

~~((+8))~~ (7) "Plastic food packaging and food service products" means food packaging and food service products that is composed of:

(a) Plastic; or

(b) Fiber or paper with a plastic coating, window, component, or additive.

~~((+9))~~ (8) "Plastic product" means a product made of plastic, whether alone or in combination with another material including, but not limited to, paperboard. A plastic product includes, but is not limited to, any of the following:

(a) A product or part of a product that is used, bought, or leased for use by a person for any purpose;

(b) A package or a packaging component including, but not limited to, packaging peanuts;

(c) A film product; or

(d) Plastic food packaging and food service products.

~~((+10))~~ (9) "Standard specification" means either:

(a) ASTM D6400 - standard specification labeling of plastics designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019; or

(b) ASTM D6868 - standard specification for labeling of end items that incorporate plastics and polymers as coatings or additives with paper and other substrates designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019.

~~((+11) (a) "Supplier" means a person, firm, association, partnership, company, or corporation that sells, offers for sale, offers for promotional purposes, or takes title to a product.~~

~~(b) "Supplier" does not include a person, firm, association, partnership, company, or corporation that sells products to end users as a retailer.~~

~~(+12))~~ (10) "Utensil" means a product designed to be used by a consumer to facilitate the consumption of food or beverages, including knives, forks, spoons, cocktail picks, chopsticks, splash sticks, and stirrers.

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

(12) "Producer" means the following person responsible for compliance under this chapter for a product sold, offered for sale, or distributed in or into this state:

(a) If the product is sold under the manufacturer's own brand or lacks identification of a brand, the producer is the person who manufactures the product;

(b) If the product is manufactured by a person other than the brand owner, the producer is the person that is the licensee of a brand or trademark under which a 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, unless the manufacturer or brand owner of the product has agreed to accept responsibility under this chapter; or

(c) If there is no person described in (a) and (b) of this subsection over whom the state can constitutionally exercise jurisdiction, the producer is the person who imports or distributes the product in or into the state.

Sec. 803. RCW 70A.455.040 and 2019 c 265 s 4 are each amended to read as follows:

~~(1) ((a))~~ A product labeled as "compostable" that is sold, offered for sale, or distributed for use in Washington by a ~~((supplier or manufacturer))~~ producer must:

~~((i))~~ (a) Meet ASTM standard specification D6400;

~~((ii))~~ (b) Meet ASTM standard specification D6868; or

~~((iii))~~ (c) Be comprised of wood, which includes renewable wood, or fiber-based substrate only;

~~((b))~~ (2) A product described in ~~((a)(i) or (ii) of this)~~ subsection (1) (a) or (b) of this section must:

~~((i))~~ (a) Meet labeling requirements established under the United States federal trade commission's guides; and

~~((ii))~~ (b) Feature labeling that:

~~((A))~~ (i) Meets industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities;

~~((B))~~ (ii) Uses a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the ASTM standard specification; ~~((and~~

~~((c))~~ (iii) Displays the word "compostable," where possible, indicating the product has been tested by a recognized third-party independent body and meets the ASTM standard specification; and

(iv) Uses green, beige, or brown labeling, color striping, or other green, beige, or brown symbols, colors, tinting, marks, or design patterns that help differentiate compostable items from noncompostable items.

~~((2) A compostable product described in subsection (1)(a)(i) or (ii) of this section must be considered compliant with the requirements of this section if it:~~

~~(a) Has green or brown labeling;~~

~~(b) Is labeled as compostable; and~~

~~(c) Uses distinctive color schemes, green or brown color striping, or other adopted symbols, colors, marks, or design patterns that help differentiate compostable items from noncompostable materials.)~~

Sec. 804. RCW 70A.455.050 and 2019 c 265 s 5 are each amended to read as follows:

(1) A ~~((manufacturer or supplier))~~ producer of a film bag that meets ASTM standard specification D6400 and is distributed or sold by retailers must ensure that the film bag is readily and easily identifiable from other film bags in a manner that is consistent with the federal trade commission guides.

(2) For purposes of this section, "readily and easily identifiable" products must meet the following requirements:

(a) Be labeled with a certification logo indicating the bag meets the ASTM D6400 standard specification if the bag has been certified as meeting that standard by a recognized third-party independent verification body;

(b) Be labeled in accordance with one of the following:

(i) The bag is tinted or made of a uniform color of green, beige, or brown and labeled with the word "compostable" on one side of the bag and the label must be at least one inch in height; or

(ii) Be labeled with the word "compostable" on both sides of the bag and the label must be one of the following:

(A) Green, beige, or brown color lettering at least one inch in height; or

(B) Within a contrasting green, beige, or brown color band of at least one inch in height on both sides of the bag with color contrasting lettering of at least one-half inch in height; and

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities.

(3) If a bag is smaller than ((fourteen)) 14 inches by ((fourteen)) 14 inches, the lettering and stripe required under subsection (2)(b)(ii) of this section must be in proportion to the size of the bag.

(4) A film bag that meets ASTM standard specification D6400 that is sold or distributed in this state may not display a chasing arrow resin identification code or recycling type of symbol in any form.

(5) A ((manufacturer or supplier)) producer is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides.

Sec. 805. RCW 70A.455.060 and 2020 c 20 s 1446 are each amended to read as follows:

(1)(a) A ((manufacturer or supplier)) producer of plastic food service products or film products that meet ASTM standard specification D6400 or ASTM standard specification D6868 must ensure that the items are readily and easily identifiable from other plastic food service products or plastic film products in a manner that is consistent with the federal trade commission guides.

(b) Film bags are exempt from the requirements of this section, and are instead subject to the requirements of RCW 70A.455.050.

(2) For the purposes of this section, "readily and easily identifiable" products must:

(a) Be labeled with a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the ASTM standard specification;

(b) Be labeled with the word "compostable," where possible, indicating the food packaging or film product has been tested by a recognized

third-party independent body and meets the ASTM standard specification; ((and))

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities; and

(d) Be at least partially colored or partially tinted green, beige, or brown.

~~(3) ((A compostable product described in subsection (1) of this section must be considered compliant with the requirements of this section if it:~~

~~(a) Has green or brown labeling;~~

~~(b) Is labeled as compostable; and~~

~~(c) Uses distinctive color schemes, green or brown color striping, or other adopted symbols, colors, marks, or design patterns that help differentiate compostable items from noncompostable materials.~~

~~(4))~~ It is encouraged that each product described in subsection (1) of this section((+

~~(a) Display))~~ display labeling language via printing, embossing, or compostable adhesive stickers using, when possible, either the colors green, beige, or brown that contrast with background product color for easy identification((+or

~~(b) Be tinted green or brown)).~~

~~((+5))~~ (4) Graphic elements are encouraged to increase legibility of the word "compostable" and overall product distinction that may include text boxes, stripes, bands, or a green, beige, or brown tint of the product.

~~((+6))~~ (5) A ((manufacturer or supplier)) producer is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides.

Sec. 806. RCW 70A.455.070 and 2020 c 20 s 1447 are each amended to read as follows:

(1) A ((manufacturer or supplier of film products or food service products)) producer of plastic film bags sold, offered for sale, or distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in RCW 70A.455.050 ((and 70A.455.060)) is:

~~((+1))~~ (a) Prohibited from using tinting, color schemes, labeling,

~~((and))~~ or terms that are required of products that meet the applicable ASTM standard specifications under RCW 70A.455.050 ~~((and 70A.455.060))~~;

~~((2))~~ (b) Discouraged from using ~~((coloration,))~~ labeling, images, and terms that may reasonably be anticipated to confuse consumers into believing that noncompostable ~~((bags and food service packaging))~~ products are compostable; and

~~((3))~~ (c) Encouraged to use ~~((coloration,))~~ labeling, images, and terms to help consumers identify noncompostable bags ~~((and food service packaging))~~ as either: ~~((a))~~ (i) Suitable for recycling; or ~~((b))~~ (ii) necessary to dispose as waste.

(2) A producer of food service products, or plastic film products other than plastic film bags subject to subsection (1) of this section, sold, offered for sale, or distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in RCW 70A.455.060 is:

(a) Prohibited from using labeling, or terms that are required of products that meet the applicable ASTM standard specifications under RCW 70A.455.060;

(b) Discouraged from using labeling, images, and terms that may reasonably be anticipated to confuse consumers into believing that noncompostable products are compostable; and

(c) Encouraged to use tinting, coloration, labeling, images, and terms to help consumers identify film products and food service packaging as either: (i) Suitable for recycling; or (ii) necessary to dispose as waste.

Sec. 807. RCW 70A.455.080 and 2019 c 265 s 8 are each amended to read as follows:

(1) Upon the request by a person, including the department, a ~~((manufacturer or supplier))~~ producer shall submit to that person or the department, within ~~((ninety))~~ 90 days of the request, nonconfidential business information and documentation demonstrating compliance with this chapter, in a format that is easy to understand and scientifically accurate.

(2) Upon request by a commercial compost processing facility, ~~((manufacturers))~~ producers of compostable products are encouraged to

provide the facility with information regarding the technical aspects of a commercial composting environment, such as heat or moisture, in which the ~~((manufacturer's))~~ producer's product has been field tested and found to degrade.

Sec. 808. RCW 70A.455.090 and 2020 c 20 s 1448 are each amended to read as follows:

(1) ~~((a))~~ (a) The ~~((state, acting through the attorney general,))~~ department and cities and counties have concurrent authority to enforce this chapter and to issue and collect civil penalties for a violation of this chapter, subject to the conditions in this section and RCW 70A.455.100. An enforcing government entity may impose a civil penalty in the amount of up to ~~((two thousand dollars))~~ \$2,000 for the first violation of this chapter, up to ~~((five thousand dollars))~~ \$5,000 for the second violation of this chapter, and up to ~~((ten thousand dollars))~~ \$10,000 for the third and any subsequent violation of this chapter. If a ~~((manufacturer or supplier))~~ producer has paid a prior penalty for the same violation to a different government entity with enforcement authority under this subsection, the penalty imposed by a government entity is reduced by the amount of the payment.

(b) The enforcement of this chapter must be based primarily on complaints filed with the department and cities and counties. The department must establish a forum for the filing of complaints. Cities, counties, or any person may file complaints with the department using the forum, and cities and counties may review complaints filed with the department via the forum. The forum established by the department may include a complaint form on the department's website, a telephone hotline, or a public outreach strategy relying upon electronic social media to receive complaints that allege violations. The department, in collaboration with the cities and counties, must provide education and outreach activities to inform retail establishments, consumers, and producers about the requirements of this chapter.

(2) ~~((Any civil penalties collected pursuant to this section must be paid to the office of the city attorney, city prosecutor, district attorney, or attorney general, whichever office brought the action. Penalties collected by the attorney general on behalf of the~~

~~state must be deposited in the compostable products revolving account created in RCW 70A.455.110) Penalties issued by the department are appealable to the pollution control hearings board established in chapter 43.21B RCW.~~

(3) The remedies provided by this section are not exclusive and are in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other consumer protection laws, if applicable.

(4) In addition to penalties recovered under this section, the enforcing ~~((government entity))~~ city or county may recover reasonable enforcement costs and attorneys' fees from the liable ~~((manufacturer or supplier))~~ producer.

Sec. 809. RCW 70A.455.100 and 2020 c 20 s 1449 are each amended to read as follows:

~~((Manufacturers and suppliers))~~ (1) Producers who violate the requirements of this chapter are subject to civil penalties described in RCW 70A.455.090. A specific violation is deemed to have occurred upon the sale of noncompliant product by stock-keeping unit number or unique item number. The repeated sale of the same noncompliant product by stock-keeping unit number or unique item number is considered a single violation. ~~((A city, county, or the state))~~

(2)(a) A city or county enforcing a requirement of this chapter must send a written notice and a copy of the requirements to a noncompliant ~~((manufacturer or supplier))~~ producer of an alleged violation, who will have ~~((ninety))~~ 90 days to become compliant. ~~((A city, county, or the state may assess a first penalty if the manufacturer or supplier has not met the requirements ninety days following the date the notification was sent. A city, county, or the state))~~

(b) A city or county enforcing a requirement of this chapter may assess a first penalty if the producer has not met the requirements 90 days following the date the notification was sent. A city or county may impose second, third, and subsequent penalties on a ~~((manufacturer or supplier))~~ producer that remains noncompliant with the requirements of this chapter for every month of noncompliance.

(3) The department may only impose penalties under this chapter consistent

with the standards established in RCW 43.21B.300.

NEW SECTION. Sec. 810. A new section is added to chapter 70A.455 RCW to read as follows:

(1) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(2) Producers of a product subject to RCW 70A.455.040, 70A.455.050, or 70A.455.060 must submit, under penalty of perjury, a declaration that the product meets the standards established under those sections of this chapter for the product. This declaration must be submitted to the department:

(a) By January 1, 2024, for a product that is or will be sold or distributed into Washington beginning January 1, 2024;

(b) Prior to the sale or distribution of a product newly sold or distributed into Washington after January 1, 2024; and

(c) Prior to the sale or distribution of a product whose method of compliance with the standards established in RCW 70A.455.040, 70A.455.050, or 70A.455.060 is materially changed from the method of compliance used at the last declaration submission under this section.

(3) The department must begin enforcing the requirements of this chapter by July 1, 2024.

Sec. 811. RCW 70A.455.030 and 2019 c 265 s 3 are each amended to read as follows:

(1) Except as provided in this chapter, no ~~((manufacturer or supplier))~~ producer may sell, offer for sale, or distribute for use in this state a plastic product that is labeled with the term "biodegradable," "degradable," "decomposable," "oxo-degradable," or any similar form of those terms, or in any way imply that the plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment.

(2) This section does not apply to biodegradable mulch film that meets the required testing and has the appropriate third-party certifications.

Sec. 812. RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a

dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

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

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010,

70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

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

Sec. 813. RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17 are each reenacted and 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, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within ~~((thirty))~~ 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 ~~((thirty))~~ 30 days after the date of receipt by the person penalized of the notice imposing the penalty or ~~((thirty))~~ 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 days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within ~~((thirty))~~ 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 ~~((thirty))~~ 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, 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.

PART 9

Miscellaneous

NEW SECTION. **Sec. 901.** Sections 401, 402, and 405 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. **Sec. 902.** Nothing in this act changes or limits the authority of the Washington utilities and transportation commission to regulate the collection of solid waste, including curbside collection of residential recyclable materials, nor does this section change or limit the authority of a city or town to provide the service itself or by contract under RCW 81.77.020.

NEW SECTION. **Sec. 903.** The following acts or parts of acts are each repealed:

(1)RCW 70A.455.110 (Compostable products revolving account) and 2020 c 20 s 1450 & 2019 c 265 s 11; and

(2)RCW 70A.455.900 (Effective date— 2019 c 265) and 2019 c 265 s 13.

NEW SECTION. **Sec. 904.** 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. 905.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Representative Fitzgibbon spoke in favor of the adoption of the striking amendment.

Representative Dye spoke against the adoption of the striking amendment.

Striking amendment (921) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Fitzgibbon spoke in favor of the passage of the bill.

Representatives Dye and Wilcox spoke against the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1799.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1799, and the bill passed the House by the following vote: Yeas, 56; Nays, 42; Absent, 0; Excused, 0.

Voting yea: Representatives Bateman, Berg, Bergquist, Berry, Bronoske, Chapman, Chopp, Cody, Corry, Davis, Dolan, Donaghy, Duerr, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hackney, Hansen, Harris-Talley, J. Johnson, Kirby, Kloba, Leavitt, Lekanoff, Macri, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Riccelli, Rule, Ryu, Santos, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wylie and Mme. Speaker.

Voting nay: Representatives Abbarno, Barkis, Boehnke, Caldier, Callan, Chambers, Chandler, Chase, Dent, Dufault, Dye, Eslick, Gilday, Goehner, Graham, Griffey, Harris, Hoff, Jacobsen, Klicker, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, McEntire, Mosbrucker, Orcutt, Ramos, Robertson, Rude, Schmick, Steele, Stokesbary, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1799, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Second Substitute House Bill No. 1799.

Representative Corry, 14th District

The Speaker (Representative Bronoske presiding) called upon Representative Orwall to preside.

SECOND READING

HOUSE BILL NO. 1691, by Representatives Gregerson, Lekanoff, Fitzgibbon, Ramel, Sells, Bateman, Duerr, Valdez, Davis, Fey, Macri, Peterson, Senn, Simmons, Pollet and Kloba

Concerning financial responsibility requirements related to oil spills.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 1691 was substituted for House Bill No. 1691 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 1691 was read the second time.

Representative Fitzgibbon moved the adoption of amendment (892):

On page 9, line 13, after "director" strike "must" and insert "may"

On page 9, line 14, after "chapter." insert "The director must reevaluate the validity of a certificate of financial responsibility under this chapter upon notification of a spill for which the certificate holder may be liable and which may incur damages that exceed 15 percent of the financial resources reflected by the certificate."

Representatives Fitzgibbon and Dye spoke in favor of the adoption of the amendment.

Amendment (892) was adopted.

Representative Fitzgibbon moved the adoption of amendment (915):

On page 10, at the beginning of line 16, insert "(1)"

On page 10, after line 18, insert the following:

"(2) A determination by the department to issue, modify, suspend, revoke, or terminate a certificate issued under this chapter is appealable to the pollution control hearings board, as provided in RCW 43.21B.110(1)(c)."

Representatives Fitzgibbon and Dye spoke in favor of the adoption of the amendment.

Amendment (915) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Gregerson and Dye spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1691.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1691, and the bill passed the House by the following vote: Yeas, 83; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chapman, Chase, Chopp, Cody, Cory, Davis, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick,

Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Gregerson, Griffey, Hackney, Hansen, Harris-Talley, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, Morgan, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wilcox, Wylie, Young and Mme. Speaker.

Voting nay: Representatives Chandler, Dent, Graham, Harris, Hoff, Kraft, McCaslin, McEntire, Orcutt, Robertson, Sutherland, Vick, Volz, Walsh and Ybarra.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1691, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on Engrossed Second Substitute House Bill No. 1691.

Representative Graham, 6th District

SECOND READING

HOUSE BILL NO. 2001, by Representatives McCaslin, Graham, Jacobsen, Chase and Sutherland

Expanding the ability to build tiny houses.

The bill was read the second time.

There being no objection, Substitute House Bill No. 2001 was substituted for House Bill No. 2001 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2001 was read the second time.

With the consent of the House, amendment (914) was withdrawn.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McCaslin, Barkis and Duerr spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2001.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2001, and the bill passed the House by the following vote: Yeas, 97; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan,

Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Voting nay: Representative Kraft.

SUBSTITUTE HOUSE BILL NO. 2001, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1688, by Representatives Cody, Schmick, Leavitt, Ryu, Graham, Taylor, Berry, Paul, Wicks, Springer, Sells, Bateman, Valdez, Davis, Eslick, Goodman, Klicker, Macri, Ramos, Simmons, Wylie, Callan, Sullivan, Chopp, Slatter, Tharinger, Thai, Pollet, Riccelli, Ormsby, Caldier, Kloba and Frame

Protecting consumers from charges for out-of-network health care services, by aligning state law and the federal no surprises act and addressing coverage of treatment for emergency conditions.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 1688 was substituted for House Bill No. 1688 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 1688 was read the second time.

Representative Schmick moved the adoption of amendment (882):

On page 20, line 17, after "Until" strike "January" and insert "July"

On page 23, line 32, after "Until" strike "January" and insert "July"

On page 25, line 35, after "Effective" strike "January" and insert "July"

On page 26, line 2, after "on" strike "January" and insert "July"

On page 26, line 3, after "Until" strike "January" and insert "July"

On page 26, line 7, after "Effective" strike "January" and insert "July"

On page 26, beginning on line 8, after "48.49.020(3)" strike all material through "act" on line 10

On page 26, line 13, after "on" strike "January" and insert "July"

On page 26, line 14, after "Until" strike "January" and insert "July"

On page 30, beginning on line 4, after "(13)" insert "Services for which dispute resolution is approved under RCW 48.49.150(2) (as recodified by this act) are subject to the arbitration process described in this section, and not to the independent dispute resolution process established in sections 2799A-1 and 2799A-2 of the public health service act (42 U.S.C. Secs. 300gg-111 and 300gg-112) and implementing federal regulations in effect on the effective date of this section."

(14) "

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

Representatives Schmick and Cody spoke in favor of the adoption of the amendment.

Amendment (882) was adopted.

Representative Caldier moved the adoption of amendment (963):

On page 20, line 22, after "(b)" strike "A" and insert "Except as provided in subsection (2)(c) of this section, a"

On page 20, line 30, after "(c)" insert "A nonparticipating provider furnishing nonemergency services may request that a patient waive the balance billing prohibitions provided in RCW 48.49.020 and 48.49.030 and sections 2799A-1 et seq. of the public health service act (P.L. 116-260) through notice and consent as provided in 2799B-2 of the Public Health Service Act (42 U.S.C. Sec. 300gg-132(d)) and 45 C.F.R. Sec. 149.420 as in effect on the effective date of this section."

(d) "

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

On page 25, line 18, after "(2)" strike "A" and insert "Except as provided in subsection (3) of this section, a"

On page 25, line 27, after "(3)" insert "A nonparticipating provider furnishing nonemergency services may request that a patient waive the balance billing prohibitions provided in RCW 48.49.020 and 48.49.030 and sections 2799A-1 et seq. of the public health service act (P.L. 116-260) through notice and consent as provided in 2799B-2 of the Public Health Service Act (42 U.S.C. Sec. 300gg-132(d)) and 45 C.F.R. Sec. 149.420 as in effect on the effective date of this section.

(4)"

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

With the consent of the House, Representative Caldier withdrew amendment (963).

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Cody and Schmick spoke in favor of the passage of the bill.

Representative Caldier spoke against the passage of the bill.

MOTION

On motion of Representative Riccelli, Representative J. Johnson was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1688.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1688, and the bill passed the House by the following vote: Yeas, 67; Nays, 30; Absent, 0; Excused, 1.

Voting yea: Representatives Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chapman, Chopp, Cody, Corry, Davis, Dolan, Donaghy, Duerr, Entenman, Fey, Fitzgibbon, Frame, Gilday, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Kirby, Kloba, Leavitt, Lekanoff, Macri, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stokesbary, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wylie, Young and Mme. Speaker.

Voting nay: Representatives Abbarno, Barkis, Boehnke, Caldier, Chambers, Chandler, Chase, Dent, Dufault, Dye,

Eslick, Goehner, Hoff, Jacobsen, Klicker, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, McEntire, Rude, Steele, Sutherland, Vick, Volz, Walsh, Wilcox and Ybarra.

Excused: Representative J. Johnson.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1688, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2008, by Representatives Taylor, Fitzgibbon, Peterson, Ramel, Santos, Sells, Shewmake, Valdez, Ryu, Macri, Berg, Bateman, Ormsby, Frame, Davis, Lekanoff and Pollet

Eliminating the use of intelligence quotient scores in determining eligibility for programs and services for individuals with developmental disabilities.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 2008 was substituted for House Bill No. 2008 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 2008 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Taylor and Gilday spoke in favor of the passage of the bill.

Representatives Schmick and Dye spoke against the passage of the bill.

MOTION

On motion of Representative Riccelli, Representative Sells was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2008.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2008, and the bill passed the House by the following vote: Yeas, 68; Nays, 28; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Davis, Dolan, Donaghy, Duerr, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goodman, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Kirby, Kloba, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, Morgan, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rule, Ryu, Santos, Senn, Shewmake, Simmons,

Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wylie and Mme. Speaker.

Voting nay: Representatives Abbarno, Boehnke, Chandler, Chase, Corry, Dent, Dufault, Dye, Goehner, Graham, Hoff, Jacobsen, Klicker, Klippert, Kraft, Kretz, McCaslin, McEntire, Orcutt, Rude, Schmick, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives J. Johnson and Sells.

SECOND SUBSTITUTE HOUSE BILL NO. 2008, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1964, by Representative Corry

Concerning the decommissioning of alternative energy facilities.

The bill was read the second time.

Representative Fitzgibbon moved the adoption of striking amendment (913):

Strike everything after the enacting clause and insert the following:

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

(1) "Alternative energy facility" means the development or construction of a facility that utilizes solar energy or wind energy to produce or distribute alternative energy.

(2) "Alternative energy facility agreement" means a lease agreement between a grantee and a surface property owner that authorizes the grantee to operate an alternative energy facility on leased property.

(3) "Commencement of construction" means the moment when a grantee issues a full notice to proceed order to the construction contractor.

(4) "Decommissioning plan" means a document detailing the steps that will be taken to decommission an alternative energy facility and the amount, form, and timing of financial assurance that will be provided by a grantee.

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

(6) "Grantee" means the owner of an alternative energy facility on leased property.

(7) "Nameplate capacity" means the maximum rated output of a generator,

prime mover, or other electric power production equipment under the specific conditions designated by the manufacturer.

(8) "Professional engineer" means a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as defined in RCW 18.43.020, as attested by his or her legal registration as a professional engineer.

(9) "Salvage value" means the fair market value, as determined by an independent third-party professional engineer, of equipment owned by a grantee and permanently installed at an alternative energy facility. Salvage value does not apply to vehicles or other equipment that has not been permanently installed at an alternative energy facility, nor does it apply to equipment that is rented or leased by a grantee.

NEW SECTION. Sec. 2. (1) Except as provided under subsection (2) of this section, an alternative energy facility agreement executed on or after the effective date of this section must provide that a grantee is responsible for decommissioning the grantee's alternative energy facility on the surface property owner's property in accordance with this chapter no later than 18 months after the facility has ceased producing electricity.

(2) Subsection (1) of this section does not apply to a grantee who is actively working to recommence production of electricity, including an instance following the occurrence of a force majeure or similar event.

NEW SECTION. Sec. 3. (1) (a) A grantee who executes an alternative energy facility agreement on or after the effective date of this section must provide a decommissioning plan and submit proof to the applicable county auditor and applicable county planning department of financial assurance from either:

(i) A financial institution, as defined in RCW 31.12.005;

(ii) A trust institution, as authorized in RCW 30B.04.030; or

(iii) A surety company listed as an acceptable surety in circular 570, published by the United States department of the treasury, as of the date of the surety document.

(b) The financial assurance must conform to the requirements under this chapter to secure the performance of the grantee's obligation to decommission the grantee's alternative energy facility.

(2) The amount of financial assurance guaranteed must be at least equal to the cost of decommissioning the alternative energy facility in accordance with section 4 of this act and must be calculated and updated every five years by an independent third-party professional engineer retained by the grantee from a list of professional engineers compiled by the department and published on the department's publicly accessible internet website. The cost of decommissioning must be based on the costs to the grantee of hiring a third party to close the alternative energy facility. The amount of financial assurance may not be calculated to be less than \$10,000 per megawatt as measured in nominal alternating current nameplate capacity for an alternative energy facility. The amount of financial assurance must include a contingency factor of not less than 20 percent of the cost of decommissioning the alternative energy facility.

(3) A grantee must deliver a decommissioning plan and proof of financial assurance to the county auditor and county planning department in accordance with the following:

(a) No later than 30 days before the commencement of construction of the alternative energy facility, the grantee must provide the decommissioning plan and proof of financial assurance to the county auditor and county planning department in an amount equal to 20 percent of the cost of decommissioning as determined by a third-party professional engineer, less an offset equal to 80 percent of the applicable salvage value.

(b) On or before the fifth anniversary of the commencement of construction of the alternative energy facility, the grantee must provide an updated decommissioning plan and proof of financial assurance to the county auditor and county planning department in an amount equal to 40 percent of the cost of decommissioning as determined by an

independent third-party professional engineer, less an offset equal to 60 percent of the applicable salvage value.

(c) On or before the 10th anniversary of the commencement of construction of the alternative energy facility, the grantee must provide an updated decommissioning plan and proof of financial assurance to the county auditor and county planning department in an amount equal to 60 percent of the cost of decommissioning as determined by an independent third-party professional engineer, less an offset equal to 40 percent of the applicable salvage value.

(d) On or before the 15th anniversary of the commencement of construction of the alternative energy facility, the grantee must provide an updated decommissioning plan and proof of financial assurance to the county auditor and county planning department in an amount equal to 80 percent of the cost of decommissioning as determined by an independent third-party professional engineer, less an offset equal to 20 percent of the applicable salvage value.

(e) On or before the 20th anniversary of the commencement of construction of the alternative energy facility, the grantee must provide an updated decommissioning plan and proof of financial assurance to the county auditor and county planning department in an amount equal to 100 percent of the cost of decommissioning as determined by an independent third-party professional engineer.

(4) Acceptable methods of financial assurance include a bond or a trust account, a letter of credit, and any other form of financial assurance as developed in the course of rule making pursuant to section 4 of this act.

NEW SECTION. **Sec. 4.** (1)(a) Within 180 days of the effective date of this section, the department must, in consultation with the alternative energy facility industry, develop guidance that contains provisions for:

(i) A provisional standard form for a decommissioning plan, which must include each of the elements set forth in subsection (2) of this section; and

(ii) Acceptable forms of financial assurance documents to be filed with the county auditor and county planning department in accordance with this chapter.

(b) After the development of the guidance under (a) of this subsection, the department must, by rule and in consultation with the alternative energy facility industry, develop a final standard form for a decommissioning plan and financial assurance to be filed with the county auditor and county planning department in accordance with this chapter.

(2) The provisional standard form and final standard form under subsection (1) of this section must include all of the following provisions:

(a) Unless the surface property owner and grantee mutually agree in writing on an alternative condition for restoring the property, the grantee's decommissioning plan must provide for all of the following:

(i) The removal of nonutility-owned equipment, conduits, structures, fencing, and foundations to a depth of no less than three feet below grade. The grantee is not required to remove equipment and materials that the public utility requires to remain on-site;

(ii) The removal of graveled areas and access roads unless the surface property owner requests in writing for graveled areas and access roads to stay in place;

(iii) The restoration of the property to a condition reasonably similar to the property's condition before the commencement of construction, including the replacement of topsoil removed or eroded on previously productive agricultural land;

(iv) The reseeded of a cleared area, unless requested in writing by the surface property owner to not reseed due to plans for agricultural planting;

(v) Requirements for the use of native vegetation in property restoration; and

(vi) Testing of soil and water sources on the property for contamination relating to or resulting from a grantee's activities. The plan must also include a description of how contamination will be addressed if it is discovered;

(b) In accordance with section 5 of this act, on or before the 20th anniversary of the commencement of construction of the alternative energy facility, the updated decommissioning plan must include an estimate of the materials to be removed that will be salvaged, recycled, refurbished, or

disposed of in a landfill. No more than 20 percent of the total combined mass of an alternative energy facility may enter into a landfill as part of the grantee's decommissioning plan. For the purpose of determining the total combined mass under this subsection, the total combined mass includes wind turbines, solar photovoltaic modules, wind turbine blades, meteorological towers, guy wires, auxiliary equipment, and steel support structures. Cement support structures may not be considered when determining the total combined mass under this subsection; and

(c) The financial assurance specified under section 3 of this act.

NEW SECTION. **Sec. 5.** The regulation of the decommissioning of alternative energy facilities is a matter of general statewide interest that requires uniform statewide regulation. This chapter and the rules adopted under this chapter constitute a comprehensive plan with respect to all aspects of alternative energy facility agreements, financial assurance, and decommissioning plans associated with alternative energy facilities within this state. Any county, municipal, or other local government ordinance or regulation that materially impedes the purposes of this chapter, including any ordinance or regulation that requires a grantee to provide proof of financial assurance in an amount greater than the amounts set forth in section 3 of this act, is preempted and is without force and effect.

NEW SECTION. **Sec. 6.** This chapter does not apply to any of the following:

(1) A nonutility owner or operator of a net metered distributed generation system with a nameplate capacity of not greater than 3,000 kilowatts; and

(2) An owner or operator of a farm who owns and operates an alternative energy facility on the farm premises, regardless of the location or consumption of the energy generated.

NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 64 RCW."

Correct the title.

Representatives Fitzgibbon and Corry spoke in favor of the adoption of the striking amendment.

Striking amendment (913) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Corry, Fitzgibbon and Dye spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1964.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1964, and the bill passed the House by the following vote: Yeas, 87; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Boehnke, Bronoske, Caldier, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hoff, Jacobsen, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Riccelli, Robertson, Rude, Rule, Santos, Schmick, Sells, Senn, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Voting nay: Representatives Berry, Callan, Goodman, Harris-Talley, Kraft, McCaslin, Ramel, Ramos, Ryu and Shewmake.

Excused: Representative J. Johnson.

ENGROSSED HOUSE BILL NO. 1964, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1835, by Representatives Hansen, Leavitt, Santos, Simmons, Chopp, Slatter, Bergquist, Valdez, Pollet and Ormsby

Creating outreach and completion initiatives to increase postsecondary enrollment.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 1835 was substituted for House Bill No. 1835 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 1835 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Hansen and Chambers spoke in favor of the passage of the bill.

MOTION

On motion of Representative Griffey, Representative Vick was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1835.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1835, and the bill passed the House by the following vote: Yeas, 88; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Volz, Walen, Wicks, Wilcox, Wylie, Ybarra and Mme. Speaker.

Voting nay: Representatives Chase, Dufault, Kraft, McCaslin, McEntire, Sutherland, Walsh and Young.

Excused: Representatives J. Johnson and Vick.

SECOND SUBSTITUTE HOUSE BILL NO. 1835, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2044, by Representatives Boehnke, Hackney, Fitzgibbon, Kloba, Ormsby, Sutherland, Ramel and Young

Concerning the protection of critical constituent and state operational data against the financial and personal harm caused by ransomware and other malicious cyber activities.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 2044 was substituted for House Bill No. 2044 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 2044 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Boehnke and Hackney spoke in favor of the passage of the bill.

MOTION

On motion of Representative Riccelli, Representative Chopp was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2044.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2044, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Excused: Representatives Chopp, J. Johnson and Vick.

SECOND SUBSTITUTE HOUSE BILL NO. 2044, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1590, by Representatives Dolan, Callan, Pollet, Bateman, Ramel, Wicks, Johnson, J., Senn, Ryu, Duerr, Walen, Goehner, Valdez, Davis, Fey, Ramos, Santos, Simmons, Wylie, Slatter, Kloba, Stonier, Riccelli, Hackney and Frame

Concerning enrollment stabilization funding to address enrollment declines due to the COVID-19 pandemic.

The bill was read the second time.

There being no objection, Substitute House Bill No. 1590 was substituted for House Bill No. 1590 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1590 was read the second time.

With the consent of the House, amendment (900) was withdrawn.

Representative Corry moved the adoption of amendment (897):

On page 3, line 10, after "enrollment" insert ", the school district does not impose a mask mandate for students on or after March 1, 2022,"

On page 3, line 16, after "enrollment" insert ", the school district does not impose a mask mandate for students on or after March 1, 2022,"

On page 5, line 36, after "enrollment" insert "and the school district does not impose a mask mandate for students on or after March 1, 2022"

On page 5, line 40, after "enrollment" insert "and the school district does not impose a mask mandate for students on or after March 1, 2022"

POINT OF ORDER

Representative Stonier requested a scope and object ruling on amendment (897).

SPEAKER'S RULING

"The title of the bill is an act relating to enrollment stabilization funding to address enrollment declines due to the COVID-19 pandemic.

The bill addresses school funding formulas and more specifically, the allocation of local effort assistance stabilization and enrichment levy stabilization funds based upon student enrollment.

Amendment (897) conditions school district eligibility to receive such funding on a district's decision to prohibit students from wearing masks on or after March 1, 2022.

Local school district adoption of public health measures is a separate and distinct topic from the issue presented in the bill before us – the funding of public schools.

The Speaker therefore finds and rules that the amendment is outside the scope and object of the bill.

The point of order is well taken."

Representative Stokesbary moved the adoption of amendment (904):

On page 3, line 12, after "means the" strike "2019-20 school year" and insert "average of the 2019-20 and 2021-22 school years"

On page 3, line 18, after "means the" strike "2019-20 school year" and insert "average of the 2019-20 and 2022-23 school years"

On page 5, line 36, after "means the" strike "2019-20 school year" and insert "average of the 2019-20 and 2020-21 school years"

On page 5, line 40, after "means the" strike "2019-20 school year" and insert "average of the 2019-20 and 2021-22 school years"

Representatives Stokesbary and Walsh spoke in favor of the adoption of the amendment.

Representative Sullivan spoke against the adoption of the amendment.

Amendment (904) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Dolan, Chambers, Stonier and Rude spoke in favor of the passage of the bill.

Representative Stokesbary spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1590.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1590, and the bill passed the House by the following vote: Yeas, 77; Nays, 18; Absent, 0; Excused, 3.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chambers, Chapman, Cody, Davis, Dolan, Donaghy, Duerr, Dufault, Entenman, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, Kirby, Klicker, Kloba, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Volz, Walen, Wicks, Wilcox, Wylie and Mme. Speaker.

Voting nay: Representatives Boehnke, Caldier, Chandler, Chase, Corry, Dent, Dye, Eslick, Graham, Klippert, Kraft, Orcutt, Schmick, Stokesbary, Sutherland, Walsh, Ybarra and Young.

Excused: Representatives Chopp, J. Johnson and Vick.

SUBSTITUTE HOUSE BILL NO. 1590, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1773, by Representatives Taylor, Davis, Leavitt, Callan, Cody, Macri, Ormsby and Harris-Talley

Concerning assisted outpatient treatment for persons with behavioral health disorders.

The bill was read the second time.

There being no objection, Substitute House Bill No. 1773 was substituted for House Bill No. 1773 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1773 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Taylor spoke in favor of the passage of the bill.

Representative Walsh spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1773.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1773, and the bill passed the House by the following vote: Yeas, 87; Nays, 8; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McEntire, Morgan, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Volz, Walen, Wicks, Wilcox, Wylie, Ybarra and Mme. Speaker.

Voting nay: Representatives Abbarno, Goodman, Kraft, McCaslin, Orcutt, Simmons, Walsh and Young.

Excused: Representatives Chopp, J. Johnson and Vick.

SUBSTITUTE HOUSE BILL NO. 1773, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2097, by Representatives Donaghy, Ryu, Macri, Ramel, Walen, Paul, Frame and Taylor

Changing the definition of first-time home buyer.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Donaghy and Abbarno spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 2097.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2097, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Excused: Representatives Chopp, J. Johnson and Vick.

HOUSE BILL NO. 2097, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1851, by Representatives Thai, Macri, Fitzgibbon, Bateman, Berry, Cody, Duerr, Peterson, Ramel, Santos, Senn, Simmons, Chopp, Slatter, Bergquist, Valdez, Pollet, Taylor, Ormsby and Harris-Talley

Preserving a pregnant individual's ability to access abortion care.

The bill was read the second time.

With the consent of the House, amendments (937) and (938) were withdrawn.

Representative Caldier moved the adoption of amendment (962):

On page 2, line 17, after "each" insert "woman's and"

On page 2, line 29, after "Every" strike "~~(woman)~~" and insert "woman and"

On page 2, line 35, after "a" strike "~~(woman's)~~" and insert "woman's and"

On page 3, line 3, after "a" strike "~~(woman's)~~" and insert "woman's and"

On page 3, line 5, after "protect" strike "~~(her)~~" and insert "her and"

On page 3, line 19, after "a" strike "~~(woman)~~" and insert "woman and"

On page 3, line 28, after "the" strike "~~(woman)~~" and insert "woman and"

On page 3, line 33, after "the" strike "~~(woman's)~~" and insert "woman's and"

On page 4, line 2, after "information" strike "~~(to women)~~" and insert "to women and other individuals"

On page 4, line 4, after "provide" strike "~~(women)~~" and insert "women and"

On page 5, line 8, after "against" strike "an" and insert "a woman and another"

On page 5, line 9, after "on" insert "her and"

On page 5, at the beginning of line 12, strike "individual in exercising" and insert "woman and individual in exercising her and"

On page 5, at the beginning of line 13, insert "her and"

Representatives Caldier and Thai spoke in favor of the adoption of the amendment.

Amendment (962) was adopted.

Representative Caldier moved the adoption of amendment (935):

On page 3, after line 13, insert the following:

"A physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice may not terminate a pregnancy or assist in terminating a pregnancy unless they furnish proof in a form satisfactory to their disciplining authority that they meet the qualifications established in section 9 of this act."

On page 5, after line 13, insert the following:

"NEW SECTION. Sec. 9. A new section is added to chapter 9.02 RCW to read as follows:

(1) The Washington medical commission and the nursing care quality assurance committee shall jointly adopt rules establishing the minimum academic and experiential qualifications necessary for a physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice to terminate a pregnancy or assist in terminating a pregnancy. The qualifications established in the rules must, to the extent possible, be identical to the training and experience in abortions necessary for a physician to be board certified in obstetrics-gynecology.

(2) The Washington medical commission and the nursing care quality assurance commission shall adopt the rules required by subsection (1) of this section no later than January 1, 2023."

Correct the title.

Representative Caldier spoke in favor of the adoption of the amendment.

Representative Thai spoke against the adoption of the amendment.

Amendment (935) was not adopted.

Representative Caldier moved the adoption of amendment (936):

On page 3, after line 13, insert the following:

"A physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice may only terminate a pregnancy by way of prescribing or administering medication. A physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice may not perform any procedures to terminate a pregnancy, including, but not limited to, pregnancy terminations by way of vacuum aspiration, dilation and evacuation, and dilation and extraction."

Representative Caldier spoke in favor of the adoption of the amendment.

Representative Thai spoke against the adoption of the amendment.

Amendment (936) was not adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Thai and Macri spoke in favor of the passage of the bill.

Representatives Caldier, Kraft, Klippert, Eslick and Chambers spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1851.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1851, and the bill passed the House by the following vote: Yeas, 55; Nays, 40; Absent, 0; Excused, 3.

Voting yea: Representatives Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chapman, Cody, Davis, Dolan, Donaghy, Duerr, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hackney, Hansen, Harris-Talley, Kirby, Kloba, Leavitt, Lekanoff, Macri, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Rule, Ryu, Santos, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wylie and Mme. Speaker.

Voting nay: Representatives Abbarno, Barkis, Boehnke, Caldier, Chambers, Chandler, Chase, Corry, Dent, Dufault, Dye, Eslick, Gilday, Goehner, Graham, Griffey, Harris, Hoff, Jacobsen, Klicker, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, McEntire, Mosbrucker, Orcutt, Robertson, Rude, Schmick, Steele, Stokesbary, Sutherland, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Chopp, J. Johnson and Vick.

ENGROSSED HOUSE BILL NO. 1851, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1813, by Representatives Schmick, Macri, Graham and Chambers

Concerning freedom of pharmacy choice.

The bill was read the second time.

There being no objection, Substitute House Bill No. 1813 was substituted for House Bill No. 1813 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1813 was read the second time.

Representative Schmick moved the adoption of striking amendment (956):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 48.200 RCW to read as follows:

(1) A pharmacy benefit manager that administers a prescription drug benefit may not:

(a) Require a covered person to use a mail order pharmacy;

(b) Require a covered person to obtain prescriptions from a mail order pharmacy unless the prescription drug is a specialty or limited distribution prescription drug; or

(c) Reimburse a covered person's chosen participating pharmacy an amount less than the amount the pharmacy benefit manager reimburses participating affiliated pharmacies.

(2) A pharmacy benefit manager shall:

(a) Include a provision in contracts with participating pharmacies and pharmacy services administrative organizations that authorizes the pharmacy to decline to fill a prescription if the pharmacy benefit manager refuses to reimburse the pharmacy at a rate that is at least equal to the pharmacy's acquisition cost of the drug;

(b) Maintain an adequate and accessible pharmacy network for the provision of prescription drugs for a health benefit plan. The pharmacy network must provide for convenient access for covered persons to pharmacies and critical access pharmacies;

(c) Regardless of the participating pharmacy, including mail order pharmacies, where the covered person obtains the prescription drug, apply the same copays, fees, days allowance, and other conditions upon the enrollee; and

(d) Permit the covered person to receive delivery or mail order of a medication through any participating pharmacy.

(3) If a covered person is using a mail order pharmacy, the pharmacy benefit manager must:

(a) Allow for dispensing at local participating pharmacies under the following circumstances to ensure patient access to prescription drugs:

(i) If there are delays in mail order;

(ii) If the prescription drug arrives in an unusable condition; or

(iii) If the prescription drug does not arrive; and

(b) Ensure patients have easy and timely access to prescription counseling by a pharmacist.

(4) Subsection (1)(a) of this section does not apply to a health maintenance organization that is an integrated delivery system in which covered persons primarily use pharmacies that are owned and operated by the health maintenance organization.

(5) For purposes of this section:

(a) "Affiliated pharmacy" means a pharmacy that directly or indirectly through one or more intermediaries is owned by, controlled by, or is under common ownership or control of a pharmacy benefit manager, or where the pharmacy benefit manager has financial interest in the pharmacy.

(b) "Covered person" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(c) "Health benefit plan" means any entity or program that provides reimbursement for pharmaceutical services.

(d) "Participating pharmacy" means a pharmacy that has entered into an agreement to provide prescription drugs to the pharmacy benefit manager's covered persons.

(e) "Pharmacy network" means the pharmacies located in and licensed by the state and contracted by the pharmacy benefit manager to sell prescription drugs to covered persons.

(f) "Specialty or limited distribution prescription drug" means a drug that's distribution is limited by a federal food and drug administration's element to assure safe use.

(6) This section applies to health benefit plans issued or renewed on or after January 1, 2023.

Sec. 2. RCW 48.200.020 and 2020 c 240 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" or "affiliated employer" means a person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another specified person.

(2) "Certification" has the same meaning as in RCW 48.43.005.

(3) "Employee benefits programs" means programs under both the public employees' benefits board established in RCW 41.05.055 and the school employees' benefits board established in RCW 41.05.740.

(4)(a) "Health care benefit manager" means a person or entity providing services to, or acting on behalf of, a health carrier or employee benefits programs, that directly or indirectly impacts the determination or utilization of benefits for, or patient access to, health care services, drugs, and supplies including, but not limited to:

(i) Prior authorization or preauthorization of benefits or care;

(ii) Certification of benefits or care;

(iii) Medical necessity determinations;

(iv) Utilization review;

(v) Benefit determinations;

(vi) Claims processing and repricing for services and procedures;

(vii) Outcome management;

(viii) Provider credentialing and recredentialing;

(ix) Payment or authorization of payment to providers and facilities for services or procedures;

(x) Dispute resolution, grievances, or appeals relating to determinations or utilization of benefits;

(xi) Provider network management; or

(xii) Disease management.

(b) "Health care benefit manager" includes, but is not limited to, health care benefit managers that specialize in specific types of health care benefit management such as pharmacy benefit managers, radiology benefit managers,

laboratory benefit managers, and mental health benefit managers.

(c) "Health care benefit manager" does not include:

(i) Health care service contractors as defined in RCW 48.44.010;

(ii) Health maintenance organizations as defined in RCW 48.46.020;

(iii) Issuers as defined in RCW 48.01.053;

(iv) The public employees' benefits board established in RCW 41.05.055;

(v) The school employees' benefits board established in RCW 41.05.740;

(vi) Discount plans as defined in RCW 48.155.010;

(vii) Direct patient-provider primary care practices as defined in RCW 48.150.010;

(viii) An employer administering its employee benefit plan or the employee benefit plan of an affiliated employer under common management and control;

(ix) A union administering a benefit plan on behalf of its members;

(x) An insurance producer selling insurance or engaged in related activities within the scope of the producer's license;

(xi) A creditor acting on behalf of its debtors with respect to insurance, covering a debt between the creditor and its debtors;

(xii) A behavioral health administrative services organization or other county-managed entity that has been approved by the state health care authority to perform delegated functions on behalf of a carrier;

(xiii) A hospital licensed under chapter 70.41 RCW or ambulatory surgical facility licensed under chapter 70.230 RCW;

(xiv) The Robert Bree collaborative under chapter 70.250 RCW;

(xv) The health technology clinical committee established under RCW 70.14.090; or

(xvi) The prescription drug purchasing consortium established under RCW 70.14.060.

(5) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005.

(6) "Health care service" has the same meaning as in RCW 48.43.005.

(7) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005.

(8) "Laboratory benefit manager" means a person or entity providing service to, or acting on behalf of, a health carrier, employee benefits programs, or another entity under contract with a carrier, that directly or indirectly impacts the determination or utilization of benefits for, or patient access to, health care services, drugs, and supplies relating to the use of clinical laboratory services and includes any requirement for a health care provider to submit a notification of an order for such services.

(9) "Mental health benefit manager" means a person or entity providing service to, or acting on behalf of, a health carrier, employee benefits programs, or another entity under contract with a carrier, that directly or indirectly impacts the determination of utilization of benefits for, or patient access to, health care services, drugs, and supplies relating to the use of mental health services and includes any requirement for a health care provider to submit a notification of an order for such services.

(10) "Network" means the group of participating providers, pharmacies, and suppliers providing health care services, drugs, or supplies to beneficiaries of a particular carrier or plan.

(11) "Person" includes, as applicable, natural persons, licensed health care providers, carriers, corporations, companies, trusts, unincorporated associations, and partnerships.

(12) (a) "Pharmacy benefit manager" means a person that contracts with pharmacies on behalf of an insurer, a third-party payor, or the prescription drug purchasing consortium established under RCW 70.14.060 to:

(i) Process claims for prescription drugs or medical supplies or provide retail network management for pharmacies or pharmacists;

(ii) Pay pharmacies or pharmacists for prescription drugs or medical supplies;

(iii) Negotiate rebates with manufacturers for drugs paid for or procured as described in this subsection;

(iv) Manage pharmacy networks; or

(v) Make credentialing determinations.

(b) "Pharmacy benefit manager" does not include a health care service contractor as defined in RCW 48.44.010.

(13) (a) "Radiology benefit manager" means any person or entity providing service to, or acting on behalf of, a health carrier, employee benefits programs, or another entity under contract with a carrier, that directly or indirectly impacts the determination or utilization of benefits for, or patient access to, the services of a licensed radiologist or to advanced diagnostic imaging services including, but not limited to:

(i) Processing claims for services and procedures performed by a licensed radiologist or advanced diagnostic imaging service provider; or

(ii) Providing payment or payment authorization to radiology clinics, radiologists, or advanced diagnostic imaging service providers for services or procedures.

(b) "Radiology benefit manager" does not include a health care service contractor as defined in RCW 48.44.010, a health maintenance organization as defined in RCW 48.46.020, or an issuer as defined in RCW 48.01.053.

(14) "Utilization review" has the same meaning as in RCW 48.43.005.

(15) "Critical access pharmacy" means a pharmacy in Washington that is further than a 15-mile radius from any other pharmacy, is the only pharmacy on an island, or provides critical services to vulnerable populations. If one critical access pharmacy's 15-mile radius intersects with that of another critical access pharmacy, both shall be considered a critical access pharmacy if either critical access pharmacy's closure could result in impaired access for rural areas or for vulnerable populations. The health care authority's chief pharmacy officer may also further identify pharmacies as critical access based on their unique ability to care for a population.

NEW SECTION. Sec. 3. A new section is added to chapter 48.200 RCW to read as follows:

If a pharmacy benefit manager or a managed health care system as defined in RCW 74.09.522 offers a distinct reimbursement to rural pharmacies, it shall provide a similar reimbursement to critical access pharmacies if the critical access pharmacy agrees to the terms and conditions set for affiliated pharmacies and the network as established by the health plan.

Sec. 4. RCW 48.200.280 and 2020 c 240 s 15 are each amended to read as follows:

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

(a) "List" means the list of drugs for which predetermined reimbursement costs have been established, such as a maximum allowable cost or maximum allowable cost list or any other benchmark prices utilized by the pharmacy benefit manager and must include the basis of the methodology and sources utilized to determine multisource generic drug reimbursement amounts.

(b) "Multiple source drug" means a therapeutically equivalent drug that is available from at least two manufacturers.

(c) "Multisource generic drug" means any covered outpatient prescription drug for which there is at least one other drug product that is rated as therapeutically equivalent under the food and drug administration's most recent publication of "Approved Drug Products with Therapeutic Equivalence Evaluations;" is pharmaceutically equivalent or bioequivalent, as determined by the food and drug administration; and is sold or marketed in the state during the period.

(d) "Network pharmacy" means a retail drug outlet licensed as a pharmacy under RCW 18.64.043 that contracts with a pharmacy benefit manager.

(e) "Therapeutically equivalent" has the same meaning as in RCW 69.41.110.

(2) A pharmacy benefit manager:

(a) May not place a drug on a list unless there are at least two therapeutically equivalent multiple source drugs, or at least one generic drug available from only one manufacturer, generally available for purchase by network pharmacies from national or regional wholesalers;

(b) Shall ensure that all drugs on a list are readily available for purchase by pharmacies in this state from national or regional wholesalers that serve pharmacies in Washington;

(c) Shall ensure that all drugs on a list are not obsolete;

(d) Shall make available to each network pharmacy at the beginning of the term of a contract, and upon renewal of a contract, the sources utilized to determine the predetermined reimbursement costs for multisource generic drugs of the pharmacy benefit manager;

(e) Shall make a list available to a network pharmacy upon request in a format that is readily accessible to and usable by the network pharmacy;

(f) Shall update each list maintained by the pharmacy benefit manager every seven business days and make the updated lists, including all changes in the price of drugs, available to network pharmacies in a readily accessible and usable format;

(g) Shall ensure that dispensing fees are not included in the calculation of the predetermined reimbursement costs for multisource generic drugs;

(h) May not cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading;

(i) May not charge a pharmacy a fee related to the adjudication of a claim, credentialing, participation, certification, accreditation, or enrollment in a network including, but not limited to, a fee for the receipt and processing of a pharmacy claim, for the development or management of claims processing services in a pharmacy benefit manager network, or for participating in a pharmacy benefit manager network;

(j) May not require accreditation standards inconsistent with or more stringent than accreditation standards established by a national accreditation organization;

(k) May not reimburse a pharmacy in the state an amount less than the amount the pharmacy benefit manager reimburses an affiliate for providing the same pharmacy services; and

(1) May not directly or indirectly retroactively deny or reduce a claim or aggregate of claims after the claim or aggregate of claims has been adjudicated, unless:

(i) The original claim was submitted fraudulently; or

(ii) The denial or reduction is the result of a pharmacy audit conducted in accordance with RCW 48.200.220.

(3) A pharmacy benefit manager must establish a process by which a network pharmacy may appeal its reimbursement for a drug subject to predetermined reimbursement costs for multisource generic drugs. A network pharmacy may appeal a predetermined reimbursement cost for a multisource generic drug if the reimbursement for the drug is less than the net amount that the network pharmacy paid to the supplier of the drug. An appeal requested under this section must be completed within thirty calendar days of the pharmacy submitting the appeal. If after thirty days the network pharmacy has not received the decision on the appeal from the pharmacy benefit manager, then the appeal is considered denied.

The pharmacy benefit manager shall uphold the appeal of a pharmacy with fewer than fifteen retail outlets, within the state of Washington, under its corporate umbrella if the pharmacy or pharmacist can demonstrate that it is unable to purchase a therapeutically equivalent interchangeable product from a supplier doing business in Washington at the pharmacy benefit manager's list price.

(4) A pharmacy benefit manager must provide as part of the appeals process established under subsection (3) of this section:

(a) A telephone number at which a network pharmacy may contact the pharmacy benefit manager and speak with an individual who is responsible for processing appeals; and

(b) If the appeal is denied, the reason for the denial and the national drug code of a drug that has been purchased by other network pharmacies located in Washington at a price that is equal to or less than the predetermined reimbursement cost for the multisource generic drug. A pharmacy with fifteen or more retail outlets, within the state of Washington, under its corporate umbrella

may submit information to the commissioner about an appeal under subsection (3) of this section for purposes of information collection and analysis.

(5)(a) If an appeal is upheld under this section, the pharmacy benefit manager shall make a reasonable adjustment on a date no later than one day after the date of determination.

(b) If the request for an adjustment has come from a critical access pharmacy, (~~as defined by the state health care authority by rule for purposes related to the prescription drug purchasing consortium established under RCW 70.14.060,~~) the adjustment approved under (a) of this subsection shall apply only to critical access pharmacies.

(6) Beginning July 1, 2017, if a network pharmacy appeal to the pharmacy benefit manager is denied, or if the network pharmacy is unsatisfied with the outcome of the appeal, the pharmacy or pharmacist may dispute the decision and request review by the commissioner within thirty calendar days of receiving the decision.

(a) All relevant information from the parties may be presented to the commissioner, and the commissioner may enter an order directing the pharmacy benefit manager to make an adjustment to the disputed claim, deny the pharmacy appeal, or take other actions deemed fair and equitable. An appeal requested under this section must be completed within thirty calendar days of the request.

(b) Upon resolution of the dispute, the commissioner shall provide a copy of the decision to both parties within seven calendar days.

(c) The commissioner may authorize the office of administrative hearings, as provided in chapter 34.12 RCW, to conduct appeals under this subsection (6).

(d) A pharmacy benefit manager may not retaliate against a pharmacy for pursuing an appeal under this subsection (6).

(e) This subsection (6) applies only to a pharmacy with fewer than fifteen retail outlets, within the state of Washington, under its corporate umbrella.

(7) This section does not apply to the state medical assistance program."

Correct the title.

Representatives Schmick and Cody spoke in favor of the adoption of the striking amendment.

Striking amendment (956) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Schmick and Cody spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1813.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1813, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Excused: Representatives Chopp, J. Johnson and Vick.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1813, having received the necessary constitutional majority, was declared passed.

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

MOTION

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

HOUSE BILL NO. 1181
HOUSE BILL NO. 1592
HOUSE BILL NO. 1837
HOUSE BILL NO. 1769
HOUSE BILL NO. 1659
HOUSE BILL NO. 1767
HOUSE BILL NO. 1841

HOUSE BILL NO. 2050
HOUSE BILL NO. 1694
HOUSE BILL NO. 2064
HOUSE BILL NO. 1629
HOUSE BILL NO. 1668
HOUSE BILL NO. 1643
HOUSE BILL NO. 1660
HOUSE BILL NO. 1738
HOUSE BILL NO. 2068
HOUSE BILL NO. 1924
HOUSE BILL NO. 1919
HOUSE BILL NO. 1736
HOUSE BILL NO. 1746
HOUSE BILL NO. 2075
HOUSE BILL NO. 1530
HOUSE BILL NO. 1595
HOUSE BILL NO. 1605
HOUSE BILL NO. 1685

There being no objection, the House adjourned until 8:30 a.m., February 12, 2022, the 34th Legislative Day of the Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk

1181	Other Action	60	Other Action.....	60
1530	Other Action	60	1746	Other Action.....
1590	Second Reading	51	1767	Other Action.....
1590-S	Second Reading	51	1769	Other Action.....
	Amendment Offered	51	1773	Second Reading.....
	Third Reading Final Passage	52	1773-S	Second Reading.....
1592	Other Action	60		Third Reading Final Passage.....
1595	Other Action	60	1799	Second Reading.....
1605	Other Action	60	1799-S2	Second Reading.....
1626	Second Reading	5		Amendment Offered.....
1626-S	Second Reading	5		Third Reading Final Passage.....
	Third Reading Final Passage	6	1813	Second Reading.....
1629	Other Action	60	1813-S	Second Reading.....
1643	Other Action	60		Amendment Offered.....
1659	Other Action	60		Third Reading Final Passage.....
1660	Other Action	60	1835	Second Reading.....
1663	Second Reading	6	1835-S2	Second Reading.....
1663-S2	Second Reading	6		Third Reading Final Passage.....
	Amendment Offered	6, 16	1837	Other Action.....
	Third Reading Final Passage	16	1841	Other Action.....
1668	Other Action	60	1851	Second Reading.....
1685	Other Action	60		Amendment Offered.....
1688	Second Reading	45		Third Reading Final Passage.....
1688-S2	Second Reading	45	1877	Second Reading.....
	Amendment Offered	45	1877-S	Second Reading.....
	Third Reading Final Passage	46		Amendment Offered.....
1691	Second Reading	43		Third Reading Final Passage.....
1691-S2	Second Reading	43	1919	Other Action.....
	Amendment Offered	43, 44	1924	Other Action.....
	Third Reading Final Passage	44	1930	Second Reading.....
1694	Other Action	60	1930-S	Second Reading.....
1717	Second Reading	18		Amendment Offered.....
1717-S	Second Reading	18		Third Reading Final Passage.....
	Third Reading Final Passage	19	1964	Second Reading.....
1736	Other Action	60		Amendment Offered.....
1738				Third Reading Final Passage.....
			1975	Second Reading.....
				Third Reading Final Passage.....
			2001	

Second Reading	44	Introduction & 1st Reading	2
2001-S		5594-S	
Second Reading	44	Introduction & 1st Reading	2
Third Reading Final Passage	45	5596	
2008		Introduction & 1st Reading	3
Second Reading	46	5607	
2008-S2		Introduction & 1st Reading	3
Second Reading	46	5609	
Third Reading Final Passage	47	Introduction & 1st Reading	3
2044		5610-S	
Second Reading	50	Introduction & 1st Reading	3
2044-S2		5613-S	
Second Reading	50	Introduction & 1st Reading	3
Third Reading Final Passage	51	5616-S2	
2050		Messages	1
Other Action	60	5620-S	
2064		Introduction & 1st Reading	3
Other Action	60	5629	
2068		Introduction & 1st Reading	3
Other Action	60	5631-S	
2075		Introduction & 1st Reading	3
Other Action	60	5657	
2097		Introduction & 1st Reading	3
Second Reading	52	5707	
Third Reading Final Passage	53	Introduction & 1st Reading	3
5332-S2		5710-S	
Introduction & 1st Reading	1	Introduction & 1st Reading	3
5428-S		5726	
Introduction & 1st Reading	1	Messages	1
5491		5728-S	
Introduction & 1st Reading	1	Introduction & 1st Reading	4
5497-S		5729-S	
Introduction & 1st Reading	1	Introduction & 1st Reading	4
5505		5750	
Introduction & 1st Reading	1	Introduction & 1st Reading	4
5509		5764-S2	
Introduction & 1st Reading	2	Messages	1
5510		5782	
Introduction & 1st Reading	2	Messages	1
5532-S2		5788	
Messages	1	Introduction & 1st Reading	4
5534		5812	
Introduction & 1st Reading	2	Introduction & 1st Reading	4
5546-S		5821-S	
Introduction & 1st Reading	2	Messages	1
5553-S		5856-S	
Introduction & 1st Reading	2	Introduction & 1st Reading	4
5555-S		5862-S	
Messages	1	Introduction & 1st Reading	4
5558-S		5863-S	
Introduction & 1st Reading	2	Introduction & 1st Reading	4
5564-S		5866	
Introduction & 1st Reading	2	Introduction & 1st Reading	4
5566		5868	
Introduction & 1st Reading	2	Introduction & 1st Reading	4
5575-S		5878-S	
Messages	1	Introduction & 1st Reading	4
5582		5880-S	
Introduction & 1st Reading	2	Introduction & 1st Reading	5
5583		5886-S	
Introduction & 1st Reading	2	Messages	1
5589-S		5898	

Introduction & 1st Reading.....5
 5929
 Introduction & 1st Reading.....5
 Other Action5
 5931
 Introduction & 1st Reading.....5
 5940
 Introduction & 1st Reading.....5
 5942-S
 Messages.....1
 5946-S
 Messages.....1

HOUSE OF REPRESENTATIVES (Representative
 Bronoske presiding)
 Statement for the Journal Representative Corry 43
 Statement for the Journal Representative Dufault 19
 HOUSE OF REPRESENTATIVES (Representative Orwall
 presiding)
 Point of Order
 Representative Stonier - Scope Amendment (897)... 51
 Statement for the Journal Representative Graham..... 44
 SPEAKER OF THE HOUSE (Representative Orwall
 presiding)
 Speaker's Ruling
 Scope - Amendment (897)..... 51