ONE HUNDRED FIRST DAY

MORNING SESSION

Senate Chamber, Olympia
Wednesday, April 23, 2025

The Senate was called to order at 10 o'clock a.m. by the President of the Senate, Lt. Governor Heck presiding. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Miss Anna Wright and Miss Heather Hennessey, presented the Colors.

Page Mr. Atticus Love led the Senate in the Pledge of Allegiance.

The prayer was offered by Pastor Mike Kinney of Temple Baptist Church, Lacey. Pastor Kinney was a guest of Senator McCune.

MOTIONS

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

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

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

On motion of Senator Riccelli, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR

April 22, 2025

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 22, 2025, Governor Ferguson approved the following Senate Bills entitled:

Senate Bill No. 5021
Relating to retention of court exhibits.

Substitute Senate Bill No. 5030
Relating to improving access to educational services by reducing barriers to obtaining vital records and allowing alternative forms of documentation.

Senate Bill No. 5037
Relating to the uniform custodial trust act.

Substitute Senate Bill No. 5040
Relating to expanding the definition of uniformed personnel to all law enforcement officers employed by a city, town, county, or governing body of a municipal airport operating under the provisions of chapter 14.08 RCW.

Substitute Senate Bill No. 5049
Relating to the public records exemptions accountability committee.

Engrossed Senate Bill No. 5065
Relating to prohibiting the use of certain animals in traveling animal acts.

Substitute Senate Bill No. 5074
Relating to payment of seed contracts.

Substitute Senate Bill No. 5076
Relating to establishing a Puget Sound nonspot shrimp pot fishery license.

Engrossed Substitute Senate Bill No. 5129
Relating to common interest communities.

Substitute Senate Bill No. 5149
Relating to expanding the early childhood court program.

Substitute Senate Bill No. 5157
Relating to the direct sale of valuable materials for habitat restoration projects.

Substitute Senate Bill No. 5163
Relating to modernizing the child fatality statute.

Engrossed Second Substitute Senate Bill No. 5175
Relating to the photovoltaic module stewardship and takeback program.

Substitute Senate Bill No. 5182
Relating to programs and services for incarcerated parents at the department of corrections.

Engrossed Substitute Senate Bill No. 5200
Relating to veterans' medical foster homes.

Engrossed Substitute Senate Bill No. 5202
Relating to ensuring the efficacy of judicial orders as harm reduction tools that increase the safety of survivors of abuse and support law enforcement in their efforts to enforce the law.

Substitute Senate Bill No. 5214
Relating to mobile market programs.

Substitute Senate Bill No. 5221
Relating to simplifying processes and timelines related to personal property distraint.

Substitute Senate Bill No. 5239
Relating to the retention of hospital medical records.

Substitute Senate Bill No. 5265
Relating to expanding minimum requirements for electrical inspectors to include certain out- of-state experience.

Senate Bill No. 5288
Relating to vacancies on boards of county commissioners.

Senate Bill No. 5306
Relating to the purchase of pension service credit for authorized leaves of absence.

Engrossed Second Substitute Senate Bill No. 5355
Relating to improving safety at institutions of higher education while supporting survivors of sexual assault.

Second Substitute Senate Bill No. 5356
Relating to training provided by the criminal justice training commission on a victim- centered, trauma-informed approach to interacting with victims and responding to calls involving gender-based violence or sexual violence.

Second Substitute Senate Bill No. 5358
Relating to career and technical education in sixth grade.

Senate Bill No. 5391
Relating to the sustainable farms and fields grant program.

Senate Bill No. 5414
Relating to requiring social equity impact analysis in performance audits and legislative public hearings thereon.

Engrossed Substitute Senate Bill No. 5459
Relating to call center retention.

Substitute Senate Bill No. 5501
Relating to employer requirements for driving.

Sincerely,
/s/
Sahar Fathi, Executive Director of Legislative Affairs

MOTION

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

MESSAGES FROM THE HOUSE

April 22, 2025

MR. PRESIDENT:
The House has passed:
SUBSTITUTE SENATE BILL NO. 5394,
and the same are herewith transmitted.
MELISSA PALMER, Deputy Chief Clerk

April 22, 2025

MR. PRESIDENT:
The Speaker has signed:
ENGROSSED SUBSTITUTE SENATE BILL NO. 5004,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5009,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5029,
SENATE BILL NO. 5032,
SUBSTITUTE SENATE BILL NO. 5033,
SENATE BILL NO. 5036,
SENATE BILL NO. 5077,
SENATE BILL NO. 5079,
SUBSTITUTE SENATE BILL NO. 5093,
SENATE BILL NO. 5138,
SUBSTITUTE SENATE BILL NO. 5139,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5142,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5148,
SUBSTITUTE SENATE BILL NO. 5168,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5184,
SENATE BILL NO. 5189,
ENGROSSED SENATE BILL NO. 5206,
SUBSTITUTE SENATE BILL NO. 5212,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5217,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5219,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5232,
SUBSTITUTE SENATE BILL NO. 5253,
SUBSTITUTE SENATE BILL NO. 5262,
SUBSTITUTE SENATE BILL NO. 5298,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5303,
ENGROSSED SENATE BILL NO. 5313,
SUBSTITUTE SENATE BILL NO. 5314,
SENATE BILL NO. 5315,
SENATE BILL NO. 5317,
SENATE BILL NO. 5343,
SUBSTITUTE SENATE BILL NO. 5365,
SUBSTITUTE SENATE BILL NO. 5388,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5403,
SUBSTITUTE SENATE BILL NO. 5412,
SUBSTITUTE SENATE BILL NO. 5431,
SUBSTITUTE SENATE BILL NO. 5516,
SUBSTITUTE SENATE BILL NO. 5528,
SUBSTITUTE SENATE BILL NO. 5587,
ENGROSSED SENATE BILL NO. 5595,
SENATE BILL NO. 5682,
and the same are herewith transmitted.
MELISSA PALMER, Deputy Chief Clerk

April 22, 2025

MR. PRESIDENT:
The Speaker has signed:
HOUSE BILL NO. 1009,
HOUSE BILL NO. 1018,
SUBSTITUTE HOUSE BILL NO. 1023,
HOUSE BILL NO. 1039,
SUBSTITUTE HOUSE BILL NO. 1079,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1102,
ENGROSSED HOUSE BILL NO. 1106,
HOUSE BILL NO. 1109,
HOUSE BILL NO. 1130,
SECOND SUBSTITUTE HOUSE BILL NO. 1154,
HOUSE BILL NO. 1167,
SUBSTITUTE HOUSE BILL NO. 1186,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1213,
ENGROSSED HOUSE BILL NO. 1219,
SUBSTITUTE HOUSE BILL NO. 1253,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1258,
SUBSTITUTE HOUSE BILL NO. 1264,
SUBSTITUTE HOUSE BILL NO. 1271,
ENGROSSED HOUSE BILL NO. 1382,
SUBSTITUTE HOUSE BILL NO. 1392,
SECOND SUBSTITUTE HOUSE BILL NO. 1409,
SUBSTITUTE HOUSE BILL NO. 1418,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1562,
HOUSE BILL NO. 1573,
SUBSTITUTE HOUSE BILL NO. 1576,
SECOND SUBSTITUTE HOUSE BILL NO. 1587,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1596,
SUBSTITUTE HOUSE BILL NO. 1621,
ENGROSSED HOUSE BILL NO. 1628,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1651,
HOUSE BILL NO. 1757,
SUBSTITUTE HOUSE BILL NO. 1811,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1813,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1829,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1837,
ENGROSSED HOUSE BILL NO. 1874,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1878,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1946,
HOUSE BILL NO. 1970,
SECOND SUBSTITUTE HOUSE BILL NO. 1990,
and the same are herewith transmitted.
MELISSA PALMER, Deputy Chief Clerk

MOTIONS

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

Senator Cleveland moved adoption of the following resolution:

SENATE RESOLUTION
8657

By Senators Cleveland, Bateman, Braun, Cortes, Dhingra, Krishnadasan, Lovelett, Nobles, Orwall, Robinson, Shewmake, Trudeau, and Warnick

WHEREAS, Menopause is experienced when menstruation stops permanently, either naturally or medically-induced; and

WHEREAS, All people who have menstrual periods will experience menopause at some point in their lives, as such

millions of Americans, particularly older women, experience menopause each year; and

WHEREAS, Many women in the United States enter the menopausal transition with little guidance on what to expect before, during, and after their reproductive years; and

WHEREAS, Transgender and nonbinary people who enter menopause face particular challenges due to the lack of relevant research and medical resources tailored to their needs; and

WHEREAS, Menopausal symptoms have the potential to be intense, disrupting daily routines and overall well-being, and can last for several years; and

WHEREAS, The vast potential impacts of menopause encompass a wide range of side effects that may include osteoporosis, oral and dental problems, metabolic disorders, cardiovascular diseases, hypertension, lung diseases, infectious diseases, musculoskeletal problems, urinary problems, breast cancer, defecation problems, genital disorders, special diseases such as eye diseases and hypothyroidism, conditions requiring hormone therapy, mental disorders, diminished cognitive function, sleep disorders, sexual disorders, diminished physical activity, the need for supplement consumption, public health issues, needed additional health education, heightened fall risk, and diminished nutrition; and

WHEREAS, Menopausal symptoms are unique for each individual in duration and severity, and cannot be addressed easily or simply with one size fits all recommendations or solutions; and

WHEREAS, Researchers around the world have found that women's health decreases after menopause, and that more and better education on preventive actions and behaviors could reduce menopausal complications and improve women's health; and

WHEREAS, While the duration of menopause can vary, many postmenopausal women will spend up to 40 percent of their lives dealing with menopausal symptoms; and

WHEREAS, Women of color are more likely to experience menopause early, leading to a 40 percent higher risk of developing coronary heart disease over their lifetime; and

WHEREAS, AARP research has found 56 percent of women 35 and older in the workforce say menopause is taboo, stigmatized, uncomfortable, not discussed in the workplace, and can possibly lead to discrimination; and

WHEREAS, Nearly 11 percent of women aged 45 to 60 miss work due to symptoms of menopause; and

WHEREAS, The annual cost for those missed work days is $1.8 billion, yet does not account for reduced work hours, employment loss, or early retirement;

NOW, THEREFORE, BE IT RESOLVED, That the Senate support efforts to provide tools and treatment to improve quality of life and health outcomes for those affected by menopause; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington state Department of Health and the Governor of the State of Washington.

Senators Cleveland, Warnick, Wilson, C., Saldaña and Slatter spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8657.

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

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Warnick announced a meeting of the Republican Caucus.

MOTION

At 10:24 a.m., on motion of Senator Riccelli, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:19 a.m. by President Heck.

MOTION

On motion of Senator Riccelli, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 16, 2025

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5192 with the following amendment(s): 5192-S.E AMH GREG H2243.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.150.260 and 2024 c 262 s 2 and 2024 c 191 s 2 are each reenacted and amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2)(a) The distribution formula under this section shall be for allocation purposes only. Except as may be required under subsections (4)(b) and (c), (5)(b) and (c), (8), and (9) of this section, chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(b) To promote transparency in state funding allocations, the superintendent of public instruction must report state per-pupil allocations for each school district for the general apportionment, special education, learning assistance, transitional bilingual, highly capable, and career and technical education programs. The superintendent must report this information in a user-friendly format on the main page of the office's website. School districts must include a link to the superintendent's per-pupil allocations report on the main page of the school district's website. In addition, the budget documents published by the legislature for the enacted omnibus operating appropriations act must report statewide average per-pupil allocations for general apportionment and the categorical programs listed in this subsection.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems

necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has 600 average annual full-time equivalent students in grades nine through 12;

(ii) A prototypical middle school has 432 average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has 400 average annual full-time equivalent students in grades kindergarten through six.

(4)(a)(i) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

General education average class size	
Grades K-3	17.00
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(ii) The minimum class size allocation for each prototypical high school shall also provide for enhanced funding for class size reduction for two laboratory science classes within grades nine through 12 per full-time equivalent high school student multiplied by a laboratory science course factor of 0.0833, based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours in RCW 28A.150.220, and providing at least one teacher planning period per school day:

Laboratory science average class size	
Grades 9-12	19.98

(b)(i) Beginning September 1, 2019, funding for average K-3 class sizes in this subsection (4) may be provided only to the extent of, and proportionate to, the school district's demonstrated actual class size in grades K-3, up to the funded class sizes.

(ii) The office of the superintendent of public instruction shall develop rules to implement this subsection (4)(b).

(c)(i) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size	
Approved career and technical education offered at the middle school and high school level	23.00
Skill center programs meeting the standards established by the office of the superintendent of public instruction	19.00

(ii) Funding allocated under this subsection (4)(c) is subject to RCW 28A.150.265.

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than 50 percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for advanced placement and international baccalaureate courses.

(5)(a) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators	1.253	1.353	1.880
Teacher-librarians, a function that includes information literacy, technology, and media to support school library media programs	0.663	0.519	0.523
Paraeducators, including any aspect of educational instructional services provided by classified employees	1.012	0.776	0.728
Office support and other noninstructional aides	2.088	2.401	3.345
Custodians	1.657	1.942	2.965
Nurses	0.585	0.888	0.824
Social workers	0.311	0.088	0.127
Psychologists	0.104	0.024	0.049
Counselors	0.993	1.716	3.039
Classified staff providing student and staff safety	0.079	0.092	0.141
Parent involvement coordinators	0.0825	0.00	0.00

(b)(i) The superintendent may only allocate funding, up to the combined minimum allocations, for nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, and parent involvement coordinators under (a) of this subsection to the extent of and proportionate to a school district's

demonstrated actual ratios of: Full-time equivalent physical, social, and emotional support staff to full-time equivalent students.

(ii) The superintendent must adopt rules to implement this subsection (5)(b) and the rules must require school districts to prioritize funding allocated as required by (b)(i) of this subsection for physical, social, and emotional support staff who hold a valid educational staff associate certificate appropriate for the staff's role.

(iii) For the purposes of this subsection (5)(b), "physical, social, and emotional support staff" include nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, parent involvement coordinators, and other school district employees and contractors who provide physical, social, and emotional support to students as defined by the superintendent.

(c) The superintendent shall develop rules that require school districts to use the additional funding provided under (a) of this subsection to support increased staffing, prevent layoffs, or increase salaries for the following staff types in the 2024-25 school year: Paraeducators, office support, and noninstructional aides. The superintendent shall collect data from school districts on how the increased allocations are used.

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000 K-12 students	
Technology	0.628
Facilities, maintenance, and grounds	1.813
Warehouse, laborers, and mechanics	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall ((~~include allocations per annual average full-time equivalent student for the following~~)) be $1,614.28 per full-time equivalent student for materials, supplies, and operating costs ((~~as provided in the 2023-24 school year, after which the allocations shall~~)) to be adjusted annually for inflation ((~~as specified in the omnibus appropriations act:~~

~~Per annual average full-time equivalent student in grades K-12~~	
~~Technology~~	~~$178.98~~
~~Utilities and insurance~~	~~$430.26~~
~~Curriculum and textbooks~~	~~$164.48~~
~~Other supplies~~	~~$326.54~~
~~Library materials~~	~~$22.65~~
~~Instructional professional development for certificated and classified staff~~	~~$28.94~~
~~Facilities maintenance~~	~~$206.22~~
~~Security and central office administration~~	~~$146.37~~))

beginning in the 2026-27 school year. For purposes of this subsection, "inflation" means the implicit price deflator for the previous calendar year as of the beginning of the school year, using the official current base, compiled by the bureau of economic analysis, United States department of commerce.

(b) In addition to the amount((~~s~~)) provided in (a) of this subsection, ((~~beginning in the 2023-24 school year, the omnibus appropriations act shall provide the following minimum allocation for each annual average~~)) each school district shall receive a minimum allocation of $214.84 for each full-time equivalent student in grades nine through 12 for ((~~the following~~)) materials, supplies, and operating costs, to be adjusted annually for inflation((~~:~~

~~Per annual average full-time equivalent student in grades 9-12~~	
~~Technology~~	~~$44.05~~
~~Curriculum and textbooks~~	~~$48.06~~
~~Other supplies~~	~~$94.07~~
~~Library materials~~	~~$6.05~~
~~Instructional professional development for certificated and classified staff~~	~~$8.01~~))

beginning in the 2026-27 school year. For purposes of this subsection, "inflation" means the implicit price deflator for the previous calendar year as of the beginning of the school year, using the official current base, compiled by the bureau of economic analysis, United States department of commerce.

(c) The increased allocation amounts of ((~~$21 per annual average~~)) $35.27 per full-time equivalent student ((~~for materials, supplies, and operating costs~~)) provided under (a) of this subsection ((~~is~~)) and $4.69 per full-time equivalent student in grades nine through 12 provided under (b) of this subsection are intended to address growing ((~~costs in the enumerated categories~~)) materials, supplies, and operating costs and may not be expended for any other purpose.

(d)(i) Beginning in the 2026-27 school year, each school district shall annually report all expenditures for materials, supplies, and operating costs including, but not limited to, expenditures in the following disaggregated categories, to the office of the superintendent of public instruction:

(A) Technology, including further disaggregation within this category for technology devices, technology support staff, software licensing, and technology or software maintenance and repair;

(B) Election fees associated with school district board of directors elections;

(C) Utilities;

(D) Insurance;

(E) Curriculum and textbooks not included under the technology category;

(F) Library materials not included under the technology category;

(G) Other supplies not included under other categories;

(H) Nontechnology-related contracted instructional professional development for certificated and classified staff;

(I) Facilities maintenance materials, supplies, and operating costs not funded by transfers from other funds;

(J) Security and central office administration;

(K) Dues and fees; and

(L) Property and equipment not funded by transfers from other funds.

(ii) The office of the superintendent of public instruction shall report additional categories as determined necessary to meet other state and federal reporting requirements.

(9) In addition to the amounts provided in subsection (8) of this section and subject to RCW 28A.150.265, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for

students in grades seven through 12;

(b) Preparatory career and technical education courses for students in grades nine through 12 offered in a high school; and

(c) Preparatory career and technical education courses for students in grades 11 and 12 offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a)(i) To provide supplemental instruction and services for students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the greater of either: The district percentage of students in kindergarten through grade 12 who were eligible for free or reduced-price meals for the school year immediately preceding the district's participation, in whole or part, in the United States department of agriculture's community eligibility provision, or the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall, except as provided in (a)(iii) of this subsection, provide for each level of prototypical school resources to provide, on a statewide average, 2.3975 hours per week in extra instruction with a class size of 15 learning assistance program students per teacher.

(ii) In addition to funding allocated under (a)(i) of this subsection, to provide supplemental instruction and services for students who are not meeting academic standards in qualifying schools. A qualifying school, except as provided in (a)(iv) of this subsection, means a school in which the three-year rolling average of the prior year total annual average enrollment that qualifies for free or reduced-price meals equals or exceeds 50 percent or more of its total annual average enrollment. A school continues to meet the definition of a qualifying school if the school: Participates in the United States department of agriculture's community eligibility provision; and met the definition of a qualifying school in the year immediately preceding their participation. The minimum allocation for this additional high poverty-based allocation must provide for each level of prototypical school resources to provide, on a statewide average, 1.1 hours per week in extra instruction with a class size of 15 learning assistance program students per teacher, under RCW 28A.165.055, school districts must distribute the high poverty-based allocation to the schools that generated the funding allocation.

(iii) For the 2024-25 and 2025-26 school years, allocations under (a)(i) of this subsection for school districts providing meals at no charge to students under RCW 28A.235.135 that are not participating, in whole or in part, in the United States department of agriculture's community eligibility provision shall be based on the school district percentage of students in grades K-12 who were eligible for free or reduced-price meals in school years 2019-20 through 2022-23 or the prior school year, whichever is greatest.

(iv) For the 2024-25 and 2025-26 school years, a school providing meals at no charge to students under RCW 28A.235.135 that is not participating in the department of agriculture's community eligibility provision continues to meet the definition of a qualifying school under (a)(ii) of this subsection if the school met the definition during one year of the 2019-20 through 2022-23 school years, or in the prior school year.

(b)(i) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction for students in grades kindergarten through six and 6.7780 hours per week in extra instruction for students in grades seven through 12, with 15 transitional bilingual instruction program students per teacher. Notwithstanding other provisions of this subsection (10), the actual per-student allocation may be scaled to provide a larger allocation for students needing more intensive intervention and a commensurate reduced allocation for students needing less intensive intervention, as detailed in the omnibus appropriations act.

(ii) To provide supplemental instruction and services for students who have exited the transitional bilingual program, allocations shall be based on the head count number of students in each school who have exited the transitional bilingual program within the previous two years based on their performance on the English proficiency assessment and are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.040(1)(g). The minimum allocation for each prototypical school shall provide resources to provide, on a statewide average, 3.0 hours per week in extra instruction with 15 exited students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on 5.0 percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall

not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

NEW SECTION. **Sec. 2.** Section 1 of this act takes effect September 1, 2025."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Nobles moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5192.

Senators Nobles and Harris spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Nobles that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5192.

The motion by Senator Nobles carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5192 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5192, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5192, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Boehnke, Braun, Chapman, Christian, Cleveland, Conway, Cortes, Dhingra, Dozier, Fortunato, Frame, Gildon, Goehner, Hansen, Harris, Hasegawa, Holy, Kauffman, King, Krishnadasan, Liias, Lovelett, Lovick, MacEwen, McCune, Muzzall, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Slatter, Stanford, Torres, Trudeau, Valdez, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5192, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 14, 2025

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5284 with the following amendment(s): 5284-S2.E AMH ENGR H2192.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 101.** FINDINGS—INTENT. (1) The legislature finds that, as of 2025:

(a) Washington's statewide waste recovery rate has been generally static since 2011 and Washington is not meeting the statewide goal of 50 percent recycling established in 1989; and

(b) Many residents, particularly those who live in rural areas and in multifamily residences, do not have access to convenient or affordable curbside recycling, and must rely on taking recyclables to drop box locations, and that extended producer responsibility programs could make curbside recycling available and affordable for most people in the state.

(2)(a) It is the intent of the legislature to require extended producer responsibility programs for consumer packaging and paper products to be implemented in a manner that involves producers in material management from design concept to end of life.

(b) It is intended that these programs be responsibly planned and funded in a manner that minimizes negative impacts to the environment and minimizes risks to public health and worker health and safety. It is also intended that these programs build and expand on the existing waste and recycling system's infrastructure and reliance on the authority of local governments and the utilities and transportation commission in solid waste management.

(c) It is the intent of the legislature that Washington should maintain the successful public-private partnership between state, local government, and solid waste and recycling service providers. The legislature does not intend to diminish or displace the primary role of the utilities and transportation commission and local governments in regulating or contracting directly with service providers for the curbside collection of residential recyclables. Local governments maintain their existing authority to collect, contract for collection with solid waste and recycling service providers, or defer to solid waste collection services regulated by the utilities and transportation commission.

(3) It is the intent of the legislature for the 2029 legislature to consider the draft plans submitted by producer responsibility organizations to the department of ecology in October 2028, prior to the approval of such plans by the department of ecology taking effect. It is the intent of the legislature for the 2029 legislature to consider the draft plans submitted in October 2028 and the independent analysis carried out by January 2029, of those submitted draft plans, in order for the 2029 legislature to determine whether to amend the requirements of this chapter, to make other recycling policy changes including the potential establishment of a bottle deposit return program, or to allow that the proposed plan and program under this chapter be implemented in full.

NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory council" means the council established in section 105 of this act.

(2) "Alternative recycling process" means a recycling process that occurs other than through purely physical means.

(3)(a) "Beverage" means a drinkable liquid intended for human oral consumption.

(b) "Beverage" does not include: (i) A drug regulated under the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq.; (ii) 100 percent fluid milk; (iii) infant formula; or (iv) a meal replacement liquid.

(4) "Beverage container" means any container in which a producer originally prepackaged and sealed a beverage.

(5) "Brand" means a name, symbol, word, logo, or mark that identifies an item and attributes the item and its components, including packaging, to the brand owner of the item.

(6) "Collection rate" means the amount of a covered material by covered materials type collected by service providers and transported for recycling or composting divided by the total amount of the type of a covered material by covered materials type introduced by the relevant unit of measurement established

in the plan.

(7) "Compostable" means a product that is capable of composting in a composting system and is in compliance with the requirements for a product labeled as compostable under chapter 70A.455 RCW.

(8) "Composting" means the controlled microbial degradation of source separated compostable materials to yield a humus-like product.

(9) "Composting rate" means the amount of compostable covered material that is managed through composting, divided by the total amount of compostable covered material introduced by the relevant unit of measurement.

(10) "Composting system" means a system meeting the requirements of chapter 70A.205 RCW applicable to facilities that treat solid waste for composting.

(11) "Contamination" means:

(a) The presence of materials that are not on the list of materials collected in that material stream; or

(b) The presence of materials that are not specified or accepted as a component of the feedstock or commodity.

(12) "Covered entity" means a person or location that receives covered services for covered materials in accordance with the requirements of this chapter, including:

(a) A single-family residence;

(b) A multifamily residence; and

(c) A public place where a government entity managed recycling collection receptacles as of August 1, 2025, and any additional public place identified in an approved plan.

(13)(a) "Covered material" means packaging and paper products introduced into the state.

(b) "Covered material" does not include exempt materials.

(14) "Covered materials type" means a singular and specific type of material, such as paper, plastic, metal, or glass, that is a covered material and that:

(a) May be categorized based on distinguishing chemical or physical properties, including properties that allow a covered materials type to be aggregated into a discrete commodity category for purposes of reuse, recycling, or composting; and

(b) Is based on similar uses in the form of a product or packaging.

(15)(a) "Covered services" means collecting, transferring, transporting, sorting, processing, recovering, preparing, or otherwise managing for purposes of waste reduction, refill, reuse, recycling, composting, or disposal of contamination or residuals.

(b) Except with regard to contamination, "covered services" do not include:

(i) Resource recovery through mixed municipal solid waste composting or incineration; or

(ii) Land disposal.

(16) "De minimis producer" means a producer that:

(a) In their most recent fiscal year introduced less than one ton of covered materials;

(b) Has a global gross revenue, not including on-premises alcohol sales, for the prior fiscal year of:

(i) Until January 1, 2031, less than $5,000,000; or

(ii) Beginning January 1, 2031, less than $5,000,000, as adjusted for inflation. The department must use the consumer price index for urban wage earners to calculate the annual rate of inflation adjustment effective January 1st of each year, beginning January 1, 2031; or

(c) Is an agricultural employer, as defined in RCW 19.30.010, regardless of where the agricultural employer is located, with less than $5,000,000, as adjusted for inflation as described in (b) of this subsection, in gross revenue in Washington from consumer sales of agricultural commodities sold under the brand name of the agricultural employer.

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

(18) "Drop-off collection site" means a physical location where covered materials are accepted from the public and that is open a minimum of 12 hours weekly throughout the year.

(19) "Exempt materials" means materials, or any portion of materials, that are:

(a) Packaging for infant formula, as defined in 21 U.S.C. Sec. 321(z);

(b) Packaging for medical food, as defined in 21 U.S.C Sec. 360ee(b)(3);

(c) Packaging for a fortified oral nutritional supplement used by persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms are defined by the *International Classification of Diseases*, tenth revision;

(d) Packaging for a product regulated as a drug, medical device, or dietary supplement by the United States food and drug administration, including associated components and consumable medical equipment, under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 321 et seq.), or a product regulated as a biologic or vaccine by the United States food and drug administration under the public health service act (42 U.S.C. Sec. 201 et seq.);

(e) Packaging for a medical equipment or product used in medical settings that is regulated by the United States food and drug administration, including associated components and consumable medical equipment;

(f) Packaging for drugs, biological products, parasiticides, medical devices, or in vitro diagnostics that are used to treat, or that are administered to, animals and are regulated by the United States food and drug administration under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) and by the United States department of agriculture under the federal virus-serum-toxin act (21 U.S.C. Sec. 151 et seq.);

(g) Noncompostable film plastic packaging used in direct contact with raw meat;

(h) Packaging for products regulated by the United States environmental protection agency under the federal insecticide, fungicide, and rodenticide act (7 U.S.C. Sec. 136 et seq.);

(i) Packaging used to contain liquefied petroleum gas and are designed to be refilled;

(j) Packaging used to contain hazardous or flammable products classified by the 2012 federal occupational safety and health administration hazard communication standard, 29 C.F.R. Sec. 1910.1200 (2024), that prevent the packaging from being reduced or made reusable, recyclable, or compostable, as determined by the department;

(k) Packaging that is associated with products managed through a paint stewardship plan approved under chapter 70A.515 RCW;

(l) Excluded materials, as determined by the department under section 126 of this act;

(m) Used to protect or store a durable product for a period of at least five years;

(n) Packaging used for bulk construction materials;

(o) Covered materials that:

(i) A producer distributes to another producer;

(ii) Are subsequently used to contain a product and the product is distributed to a commercial or business entity for the production of another product; and

(iii) Are not introduced to a person other than the commercial or business entity that first received the product used for the production of another product; and

(p) Covered materials for which the producer demonstrates to the department that the covered material meets all of the following criteria:

(i) The material is not collected through a residential recycling collection service;

(ii) The material is recycled at a responsible market;

(iii) The material is intended to be used and collected within a commercial setting;

(iv)(A) The producer annually demonstrates to the department that the material has had a state recycling rate of 65 percent for three consecutive years, until December 31, 2029. Beginning January 1, 2030, the producer must demonstrate to the department every two years that the material has had a state recycling rate of at least 70 percent annually; or

(B) The producer annually demonstrates to the department that the material is directly managed by the producer and has had a reuse or recycling rate of 65 percent for three consecutive years, until December 31, 2029. Beginning January 1, 2030, the producer must demonstrate to the department every two years that the material controlled by the producer has had a reuse or recycling rate of at least 70 percent annually; and

(v) If only a portion of the material sold in or into the state by a producer meets the criteria of (p)(i) of this subsection, only the portion of the material that meets that criteria is an exempt material and any portion that does not meet the criteria is a covered material for purposes of this chapter.

(20) "Government entity" means any:

(a) County, city, town, or other local government, including any municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency;

(b) State office, department, division, bureau, board, commission, or other state agency;

(c) Federally recognized Indian tribe whose traditional lands and territories include parts of Washington; or

(d) Federal office, department, division, bureau, board, commission, or other federal agency.

(21) "Individual plan" means a plan submitted by a producer that registers with the department as a producer responsibility organization to address the covered materials of the producer.

(22) "Introduce" means to sell, offer for sale, distribute, or ship a product within or into this state.

(23) "Material recovery facility" means any facility that receives, compacts, repackages, or sorts source separated solid waste for the purpose of recycling.

(24) "Overburdened communities" means the overburdened communities identified and prioritized by the department under RCW 70A.02.050(1)(a).

(25)(a) "Packaging" means a material, substance, or object that is used to protect, contain, transport, serve, or facilitate delivery of a product and is sold or supplied with the product to the consumer for personal, noncommercial use.

(b) "Packaging" does not include exempt materials.

(26) "Paper product" means paper sold or supplied to a consumer for personal, noncommercial use, including flyers, brochures, booklets, catalogs, magazines, printed paper, and all other paper materials except for: (a) Bound books; (b) conservation-grade and archival-grade paper; (c) newspapers, including supplements or enclosures; (d) magazines that have a circulation of fewer than 95,000 and that includes content derived from primary sources related to news and current events; (e) copy paper; (f) paper for use in building construction; and (g) paper that could reasonably be anticipated to become unsafe or unsanitary to handle.

(27)(a) "Plastic source reduction" means the reduction in the amount of covered plastic material introduced by a producer relative to a baseline year of 2023, or relative to an alternative baseline year of no earlier than 2013 where a producer submits data documenting the plastic source reduction to a producer responsibility organization. Methods of source reduction include, but are not limited to, shifting covered material to reusable or refillable packaging or a reusable product, eliminating unnecessary packaging, or reducing the packaging to product ratio. "Plastic source reduction" must include elimination, which means the removal of plastic covered materials.

(b) "Plastic source reduction" does not include either of the following:

(i) Replacing a recyclable or compostable covered material with a nonrecyclable or noncompostable covered material or a covered material that is less likely to be recycled or composted; or

(ii) Switching from virgin covered material to postconsumer recycled content, except as allowed under an alternative compliance formula in section 115(6) of this act.

(28) "Postconsumer recycled content" has the same meaning as defined in RCW 70A.245.010.

(29)(a) "Producer" means the following person responsible for compliance with requirements under this chapter for a covered material introduced into the state:

(i) For items sold in or with packaging at a physical retail location in this state:

(A) If the item is sold in or with packaging under the brand of the item manufacturer or is sold in packaging that lacks identification of a brand, the producer is the person that manufactures the item;

(B) If there is no person to which (a)(i)(A) of this subsection applies, the producer is the person that is licensed to manufacture and sell or offer for sale to consumers in this state an item with packaging under the brand or trademark of another manufacturer or person;

(C) If there is no person to which (a)(i)(A) or (B) of this subsection applies, the producer is the brand owner of the item;

(D) If there is no person described in (a)(i)(A), (B), or (C) of this subsection within the United States, the producer is the person who is the importer of record for the item into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the item in this state; or

(E) If there is no person described in (a)(i)(A) through (D) of this subsection, the producer is the person that first distributes the item in or into this state;

(ii) For items sold or distributed in packaging in or into this state via e-commerce, remote sale, or distribution:

(A) For packaging used to directly protect or contain the item, the producer of the packaging is the same as the producer identified under (a)(i) of this subsection; and

(B) For packaging used to ship the item to a consumer, the producer of the packaging is the person that packages the item to be shipped to the consumer;

(iii) For packaging that is a covered material and is not included in (a)(i) and (ii) of this subsection, the producer of the packaging is the person that first distributes the item in or into this state;

(iv) For paper products that are magazines, catalogs, telephone directories, or similar publications, the producer is the publisher;

(v) For paper products not described in (a)(iv) of this subsection:

(A) If the paper product is sold under the manufacturer's own brand, the producer is the person that manufactures the paper product;

(B) If there is no person to which (a)(v)(A) of this subsection applies, the producer is the person that is the owner or licensee of a brand or trademark under which the paper 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;

(C) If there is no person to which (a)(v)(A) or (B) of this subsection applies, the producer is the brand owner of the paper product;

(D) If there is no person described in (a)(v)(A), (B), or (C) of this subsection within the United States, the producer is the person that imports the paper product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the paper product in this state; or

(E) If there is no person described in (a)(v)(A) through (D) of this subsection, the producer is the person that first distributes the paper product in or into this state;

(vi) A person is the "producer" of a covered material sold, offered for sale, or distributed in or into this state, as defined in (a)(i) through (v) of this subsection, except:

(A) Where another person has mutually signed an agreement with a producer as defined in (a)(i) through (v) of this subsection that contractually assigns responsibility to the person as the producer, and the person has joined a registered producer responsibility organization as the responsible producer for that covered material under this chapter. If another person is assigned responsibility as the producer under this subsection, the producer under (a)(i) through (v) of this subsection must provide written certification of that contractual agreement to the producer responsibility organization. The following persons are not eligible to be the assigned recipient of responsibility as a producer under this subsection: (I) A person who produces an agricultural commodity introduced under the brand or trademark of another manufacturer or person; or (II) a distributor of a beverage sold in a beverage container; and

(B) If the producer described in (a)(i) through (v) of this subsection is a business operated wholly or in part as a franchise, the producer is the franchisor, if that franchisor has franchisees that have a commercial presence within the state.

(b) "Producer" does not include:

(i) Government entities;

(ii) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare organizations; or

(iii) De minimis producers.

(30) "Producer responsibility organization" means:

(a) A nonprofit organization that qualifies for a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code and is designated by a producer or group of producers to fulfill the requirements of this chapter;

(b) A producer that registers with the department as a producer responsibility organization and implements an individual plan addressing the covered materials of the producer; or

(c) An organization as defined by the department by rule.

(31) "Program" means the activities conducted to implement an approved plan.

(32)(a) "Public place" means an indoor or outdoor location open to and generally used by the public and to which the public is permitted to have access including, but not limited to, streets, sidewalks, plazas, town squares, public parks, beaches, forests, or other public land open for recreation or other uses, and transportation facilities such as bus and train stations, airports, and ferry terminals.

(b) "Public place" does not include a retail establishment or industrial, commercial, or privately owned property that is not required to be accessible to the public.

(33) "Recycling" means transforming or remanufacturing covered materials into usable or marketable materials for use other than landfill disposal or incineration and does not include reuse or composting.

(34) "Recycling rate" means the amount of covered materials, in aggregate or by individual covered materials type, delivered to responsible markets for recycling in a calendar year divided by the total amount of covered materials introduced by the relevant unit of measurement and excluding covered materials that are reusable or compostable.

(35) "Refill" means the continued use of a covered material by a consumer through a system that is:

(a) Intentionally designed and marketed for repeated filling of a covered material to reduce demand for new production of the covered material;

(b) Supported by adequate logistics and infrastructure to provide convenient access to consumers; and

(c) Compliant with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing health and safety.

(36) "Responsible market" means an entity that:

(a) First produces and sells, transfers, or uses recycled organic product or recycled content feedstock that meets the quality standards necessary to be used in the creation of new or reconstituted products;

(b) Complies with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing environmental, health, safety, and financial responsibility;

(c) If the market operates in the state, manages waste according to the state's solid waste management hierarchy established in RCW 70A.205.005; and

(d) Meets the minimum operational standards adopted under a producer responsibility organization plan to protect the environment, public health, worker health and safety, and minimize adverse impacts to socially vulnerable populations.

(37) "Responsible producer" means a producer that is not a de minimis producer.

(38) "Retail establishment" includes any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides merchandise, goods, or materials directly to a customer.

(39) "Return rate" means the amount of reusable covered material in aggregate or by individual covered materials type, collected for reuse by a producer or service provider in a calendar year, divided by the total amount of reusable covered materials introduced by the relevant unit of measurement.

(40) "Reusable" means capable of reuse.

(41) "Reuse" means the return of a covered material to the marketplace and the continued use of the covered material by a producer or service provider when the covered material is:

(a) Intentionally designed and marketed to be used multiple times for its original intended purpose without a change in form;

(b) Designed for durability and maintenance to extend its useful life and reduce demand for new production of the covered material;

(c) Supported by adequate logistics and infrastructure at a retail location, by a service provider, or on behalf of or by a producer, that provides convenient access for consumers; and

(d) Compliant with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing health and safety.

(42) "Reuse rate" means the share of units of a reusable covered material introduced into the state in a calendar year that are demonstrated and deemed reusable in accordance with an approved plan.

(43) "Service provider" means an entity that provides covered services for covered materials. A government entity that provides, contracts for, or otherwise arranges for another party to provide covered services for covered materials within its jurisdiction may be a service provider regardless of whether it provided, contracted for, or otherwise arranged for similar services before the approval

of the applicable plan.

(44) "Socially vulnerable population" means:

(a) Any person residing in:

(i) A census tract that contains a high overall social vulnerability index as measured using the United States centers for disease control and the agency for toxic substances and disease registry's social vulnerability index, as it existed as of January 1, 2025, for the most recent year such data are available; or

(ii) As applicable, an alternative population specified in section 127 of this act; or

(b) Any person that has an income below the minimum necessary for a household based on family composition in a given geography to adequately meet their basic needs without public or private assistance, as measured by the University of Washington's center for women's welfare, for the most recent year such data are available.

(45) "Third-party certification" means certification by an accredited independent organization that a standard or process required by this chapter, or by a plan approved under this chapter, has been achieved.

(46) "Toxic substance" means chemicals that are regulated under chapter 70A.222, 70A.350, 70A.430, or 70A.560 RCW.

(47) "Vulnerable populations" has the same meaning as defined in RCW 70A.02.010.

NEW SECTION. **Sec. 103.** PRODUCER AND PRODUCER RESPONSIBILITY ORGANIZATION REGISTRATION. (1) By January 1, 2026, each producer must appoint a producer responsibility organization or producer responsibility organizations to address its covered materials.

(2) By March 1, 2026, and annually thereafter, a producer responsibility organization must register with the department on behalf of its producers. A registration submission by a producer responsibility organization must include the following:

(a) Contact information for a person responsible for implementing an approved plan;

(b) A list of all member producers that have entered into written agreements to operate under an approved plan by the producer responsibility organization, copies of the written agreements for each member producer and, except in the first year of registration, a list of all brands of each producer's covered materials introduced;

(c) A plan for recruiting additional member producers and executing written agreements confirming producers will operate under an approved plan administered by the producer responsibility organization;

(d) A list of current board members and the executive director if different than the person responsible for implementing approved plans; and

(e) Documentation demonstrating adequate financial responsibility and financial controls to ensure proper management of funds and payment of the annual registration fee to the department.

(3) Notwithstanding subsections (1), (2), and (4) of this section, for purposes of the first plan implementation period, the department may not allow registration of more than one producer responsibility organization, other than an individual producer registered as a producer responsibility organization.

(4) By September 1, 2026, a producer responsibility organization must submit a one-time payment to the department, and each May 1st thereafter, a producer responsibility organization must submit an annual registration fee to fund all costs of the department to implement, administer, and enforce this chapter, including the costs of the department of labor and industries to implement and enforce section 304 of this act.

(5) The following persons are ineligible to serve on the board of the producer responsibility organization or to be hired as an officer or employee of the producer responsibility organization:

(a) Any state or local elected official;

(b) Any former employee of the department's solid waste program or that worked on solid waste policies for the department, if such an employee has served in that role within the most recent two calendar years; and

(c) Any former state or local elected official that has served in such a role within the most recent two calendar years.

NEW SECTION. **Sec. 104.** PRODUCER AND PRODUCER RESPONSIBILITY ORGANIZATION RESPONSIBILITIES. (1) A producer must:

(a) After July 1, 2026, be a member of a producer responsibility organization registered in this state or register as a producer responsibility organization that will implement an individual plan;

(b) Through a producer responsibility organization, implement and finance a statewide program for packaging and paper products in accordance with this chapter that encourages redesign to reduce environmental impacts and human health impacts and that reduces generation of covered material waste through waste reduction, refill, reuse, recycling, and composting and by providing for the collection, transportation, and processing of used covered materials for reuse, recycling, and composting;

(c) Maintain membership with and pay fees to the producer responsibility organization under which they are registered; and

(d) Comply with all other applicable requirements under this chapter.

(2) Beginning March 1, 2029, a producer that is not a member in good standing with a registered producer responsibility organization or has not submitted an individual plan may not introduce covered materials into the state.

(3) A producer responsibility organization must:

(a)(i) Beginning March 1, 2026, register with the department;

(ii)(A) Except as provided in (a)(ii)(B) of this subsection, by September 1, 2026, submit a one-time payment to the department, to cover the costs of the department under this chapter from the effective date of this section through June 30, 2027, including the costs determined by the department of labor and industries to implement and enforce section 304 of this act;

(B) By September 1, 2026, an individual producer registered as a producer responsibility organization must make a one-time payment in an amount determined by the department to cover any incremental costs to the department under this chapter from the effective date of this section through June 30, 2027, associated with the registration of the individual producer as a producer responsibility organization;

(iii) Beginning May 1, 2027, pay an annual registration fee to the department as required under section 103 of this act;

(b) Establish an initial producer fee structure to fund the initial implementation of the program, to be used until the producer responsibility program has an approved plan, and collect fees annually from registered producers;

(c) By October 1, 2028, and every five years thereafter, submit a plan that meets the requirements of this chapter to the department for approval;

(d) By January 1, 2030, or within six months of plan approval, whichever is later, implement the plan approved by the department;

(e) By July 1, 2031, and each July 1st thereafter, submit an annual report to the department for the prior calendar year;

(f) Ensure that each producer operating under a plan administered by the producer responsibility organization complies with the requirements of the plan and this chapter;

(g) Expel a producer from the producer responsibility organization if efforts to return the producer to compliance with the plan or the requirements of this chapter are unsuccessful and notify the department of the producer's expulsion;

(h) Consider and respond in writing to comments received from the advisory council, including justifications for not incorporating advisory council recommendations;

(i) Provide producers with information regarding state and federal laws that restrict toxic substances in covered materials or require postconsumer recycled content in covered materials;

(j) Notify the department within 30 days of a change made to board membership, to the executive director, or to the contact information for a person responsible for implementing the plan;

(k) Assist service providers to identify and use responsible markets;

(l) Reimburse service providers in a timely manner, at intervals no longer than monthly unless agreed to by a service provider and a producer responsibility organization;

(m) Maintain a website and implement education and outreach activities as required under section 119 of this act; and

(n) Comply with all other applicable requirements of this chapter.

(4) If more than one producer responsibility organization is established under this chapter, the producers and producer responsibility organizations must establish a coordinating body and process to prevent redundancy. The coordinating body must integrate:

(a) Plans of all producer responsibility organizations into a single plan that implements all requirements of this chapter and encompasses all producers when submitted to the department for approval;

(b) Annual reports of all producer responsibility organizations into a single annual report that covers all requirements of this chapter and encompasses all producers when submitted to the department; and

(c) Payments between all registered producer responsibility organizations to achieve equitable apportionment of funding for the reuse financial assistance program and coordination of that program's administration.

(5)(a) Each producer responsibility organization must annually fund and implement a reuse financial assistance program to reduce the negative environmental impacts of covered materials through reuse. The reuse financial assistance program must collectively be funded by registered producer responsibility organizations. The funded amount must be:

(i) At least $5,000,000 beginning in 2029 and adjusted annually thereafter for inflation. The producer responsibility organization must use the consumer price index for urban wage earners to calculate the annual rate of inflation adjustment effective January 1st of each year; and

(ii) Sufficient to achieve the reuse and return rate targets and requirements established in section 115 of this act. If at any point the department determines that reuse and return rate targets or statewide requirements are not met, each producer responsibility organization must increase annual contributions to and expenditures from the reuse financial assistance program.

(b) Entities eligible for reuse financial assistance include, but are not limited to:

(i) Government entities;

(ii) Tribal governments;

(iii) Nonprofit organizations; and

(iv) Private organizations.

(c) In administering the reuse financial assistance program, the producer responsibility organization must solicit applications using an open and competitive process and must select applications through an evaluation that considers criteria including, but not limited to:

(i) The environmental benefits of the activity;

(ii) The human health benefits of the activity;

(iii) The social and economic benefits of the activity;

(iv) The cost-effectiveness of the activity; and

(v) The needs of economically distressed or overburdened communities.

(d) The producer responsibility organization must consult with the advisory council in determining the criteria in (c) of this subsection, evaluating and selecting applications, and in administering the reuse financial assistance program under this subsection.

(6) A producer responsibility organization may not include on its board of directors, or otherwise be governed by, representatives or affiliates of any public or private entities that submit bids to perform work for the producer responsibility organization or that contract with the producer responsibility organization.

(7) The activities authorized by this chapter require collaboration among producers. These activities will enable the waste reduction, collection, recycling, composting, and disposal of covered materials in Washington and are therefore in the best interest of the public. The benefits of collaboration, together with active state supervision, outweigh potential adverse impacts. Therefore, the legislature exempts from state antitrust laws, and provides immunity through the state action doctrine from federal antitrust laws, activities that are undertaken in compliance with and pursuant to this chapter, including activities that are reviewed or approved by the department, that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities not provided for by this chapter, and the legislature neither exempts nor provides immunity for such activities.

NEW SECTION. **Sec. 105.** ADVISORY COUNCIL. (1) The advisory council is established to review all activities conducted by producer responsibility organizations under this chapter and to advise the department and producer responsibility organizations regarding the implementation of this chapter.

(2) By January 1, 2026, the department must establish and appoint the initial membership of the advisory council. The membership of the advisory council must consist of the following:

(a) Two members representing manufacturers of covered materials or a statewide or national trade association representing those manufacturers;

(b) Two members representing recycling facilities that manage covered materials;

(c) One member representing a solid waste collection company or a statewide association representing solid waste collection companies;

(d) One member representing retailers of covered materials or a statewide trade association representing those retailers;

(e) One member representing a statewide nonprofit environmental organization;

(f) One member representing a community-based nonprofit environmental justice organization;

(g) One member representing entities that own or operate a material recovery facility;

(h) One member representing entities that own or operate a waste facility that accepts and processes compostable materials for composting or a statewide trade association that represents those facilities;

(i) One member representing an entity that develops or offers for sale covered materials that are designed for reuse or refill and maintained through a reuse or refill system or infrastructure or a statewide or national trade association that represents those

entities;

(j) Three members representing government entities, with at least one member representing counties;

(k) One member representing tribal or indigenous solid waste services organizations;

(l) Two members representing other interested parties or additional members of interests represented under (a) through (k) of this subsection, as determined by the department, prioritizing representation of diverse communities, including marginalized groups, to ensure the activities carried out under this chapter reflect their perspectives;

(m) One nonvoting member representing each registered producer responsibility organization; and

(n) One nonvoting member representing the department.

(3) The department must appoint an equity subcommittee to the advisory council comprised of six representatives from overburdened communities or socially vulnerable populations, including representatives from three geographic locations in eastern Washington representing a small, medium, and large community. The equity subcommittee is responsible for informing and making recommendations to the advisory council, the department, and producer responsibility organizations regarding the impacts of activities under this chapter on socially vulnerable populations and overburdened communities, including the accessibility of covered services for covered materials to socially vulnerable populations and overburdened communities. At a minimum, the equity subcommittee must review and, as appropriate, provide information or make recommendations regarding needs assessments, submitted plans, and submitted annual reports. The department must appoint the members of the equity subcommittee based on solicited input received from the commission on African American affairs, the commission on Hispanic affairs, the commission on Asian Pacific American affairs, the LGBTQ commission, and the women's commission.

(4) In appointing members, the department:

(a) Is prohibited from appointing members who are state legislators or registered lobbyists;

(b) Is prohibited from appointing members who are employees of producers required to be members of a producer responsibility organization under this chapter; and

(c) Must endeavor to appoint members from all regions of the state.

(5)(a) The member appointed to represent the department serves at the pleasure of the department. All other members serve for a term of four years, except that the initial term for nine of the initial appointees must be two years so that membership terms are staggered. Members may be reappointed but may not serve more than eight consecutive years.

(b) A member may be removed by the department at any time. The chair of the advisory council must inform the department of a member missing three consecutive meetings. After the second consecutive missed meeting, the chair of the advisory council must notify the member in writing that the member may be removed for missing the next meeting. If there is a vacancy on the advisory council for any reason, the department shall make an appointment to become effective immediately for the unexpired term.

(6) Advisory councilmembers that are representatives of tribes, tribal or indigenous services organizations, community-based organizations, or environmental nonprofit organizations must, if requested, be compensated and reimbursed in accordance with RCW 43.03.050, 43.03.060, and 43.03.220.

(7)(a) A majority of the voting members of the advisory council constitutes a quorum. If there is a vacancy in the membership of the advisory council, a majority of the remaining voting members of the council constitutes a quorum.

(b) Action by the advisory council requires a quorum and a majority of those present and voting. All members of the advisory council, except the member appointed to represent the department and the member appointed to represent the producer responsibility organization, are voting members of the council.

(8)(a) The advisory council must meet at least two times per year and may meet more frequently upon 10 days' written notice at the request of the chair or a majority of its members.

(b) Meetings of the advisory council must comply with chapter 42.30 RCW, the open public meetings act.

(9) At its initial meeting, and every two years thereafter, the advisory council must elect a chair and vice chair from among its members.

(10) The department shall provide administrative and operating support to the advisory council, including compensation in accordance with subsection (6) of this section, and may contract with a third-party facilitator to assist in administering the activities of the advisory council, including establishing a website or landing page on the department website.

(11) The department must assist the advisory council in developing policies and procedures governing the disclosure of actual or perceived conflicts of interest that advisory councilmembers may have as a result of their employment or financial holdings with respect to themselves or family members. Each advisory councilmember is responsible for reviewing the conflict-of-interest policies and procedures. An advisory councilmember must disclose any instance of actual or perceived conflicts of interest at each meeting of the advisory council at which recommendations regarding plans, programs, operations, or activities are made by the advisory council.

NEW SECTION. **Sec. 106.** DEPARTMENT'S DUTIES. (1) The department must implement, administer, and enforce this chapter and may adopt rules as necessary for those purposes.

(2) The department must:

(a) By January 1, 2026, appoint the initial membership of the advisory council, as required under section 105 of this act;

(b) Provide administrative and operating support to the advisory council, as required under section 105 of this act;

(c) Consider and respond in writing to all written comments received from the advisory council;

(d) By January 31, 2026, and annually thereafter, facilitate registration by service providers, as required under section 107 of this act;

(e) Beginning March 1, 2026, accept the registration of producer responsibility organizations and, if necessary, select the producer responsibility organization required by subsection (3) of this section;

(f) By October 1, 2026, develop the initial statewide collection lists required by section 109 of this act;

(g) By December 31, 2026, complete the preliminary needs assessment required by section 111 of this act;

(h)(i) By July 1, 2026, determine the one-time registration fee in subsection (4)(c) of this section; and

(ii) By March 31, 2026, determine the one-time payment and every March 31st thereafter determine the annual registration fee in subsection (4)(a) of this section;

(i) By December 31, 2027, and every five years thereafter, complete the statewide needs assessment required by section 111 of this act;

(j) By 2028, adopt rules to administer and implement this chapter. The department shall seek to adopt rules that are harmonized with other states;

(k) Beginning October 1, 2028, and periodically thereafter, review and approve plans, as described in subsection (5) of this

section;

(l) By January 31, 2029, create a model comprehensive solid waste plan amendment for use by cities and counties in lieu of updating, amending, or revising a plan consistent with RCW 70A.205.045(7)(b)(i);

(m) Beginning March 1, 2029, initiate enforcement activities with respect to noncompliant producers that are not members of the producer responsibility organization, consistent with section 104(2) and 123 of this act;

(n) Beginning July 1, 2031, and annually thereafter, review and approve annual reports, as described in subsection (6) of this section;

(o) By January 31, 2032, submit the equity study to the legislature required in section 112 of this act;

(p) By September 1, 2038, submit the independent review of the program report to the legislature as required in section 121 of this act;

(q) Establish statewide requirements as required under section 115(10) of this act;

(r) Review and make determinations on proposals related to alternative recycling processes, as described in section 115(5) of this act;

(s) Review confidentiality requests submitted under section 122 of this act;

(t) Enforce the requirements of this chapter, as required by section 123 of this act;

(u) Review petitions to exempt materials, as required by sections 109(5) and 126 of this act; and

(v) Establish a public website that includes:

(i) The most recent registration materials submitted by producer responsibility organizations;

(ii) A list of registered service providers;

(iii) The most recent needs assessment;

(iv) Any plan or amendment submitted by a producer responsibility organization that is in draft form during the public comment period;

(v) The most recent lists under section 109 of this act;

(vi) The list of exempt materials;

(vii) Links to producer responsibility organization websites;

(viii) Comments of the public, advisory council, and producer responsibility organizations on the items listed in (v)(iii) through (vi) of this subsection and, if any, the responses of the department to those comments;

(ix) The names of producers and brands that the department or a producer responsibility organization has identified as not being in compliance with the requirements of this chapter; and

(x) Links to adopted rules implementing this chapter.

(3) By March 1, 2026, if registrations for more than one producer responsibility organization, other than producers registering as producer responsibility organizations, are submitted to the department, the department must determine which proposed producer responsibility organization can most effectively implement this chapter until the first approved plan period ends. Until the conclusion of the initial plan implementation period, producers of covered materials that do not register as producer responsibility organizations must join the producer responsibility organization whose registration is approved by the department. This limitation only applies for the purposes of program development and the initial plan implementation period. For purposes of plan implementation after the first plan approved by the department expires, the department may allow registration of more than one producer responsibility organization.

(4)(a) By March 31, 2027, and every March 31st thereafter, the department must determine a total annual registration fee to be paid by each producer responsibility organization that is adequate to cover, but not exceed, the costs to implement, administer, and enforce this chapter, including the costs determined by the department of labor and industries to implement and enforce section 304 of this act, in the next fiscal year;

(b) By 2028, the department must adopt rules to equitably determine annual registration fees by producer responsibility organizations if the department has approved the registration of more than one producer responsibility organization;

(i) Until rules are adopted under (b) of this subsection, issue a general order to all registered producer responsibility organizations; and

(ii) Send notice to each producer responsibility organization of fee amounts due, consistent with either the general order issued under (b)(i) of this subsection or rules adopted under (b) of this subsection.

(c) The department must:

(i) In the March 31, 2027, producer responsibility organization annual registration fee determination under (a) of this subsection, adjust the fee to account for funds received that were due by September 1, 2026, under section 104 of this act;

(ii) Apply any remaining annual fee payment funds from the most recently closed fiscal year to the annual fee for the coming fiscal year, if the collected annual fee exceeds the costs identified under (b) of this subsection for the most recently closed fiscal year; and

(iii) Increase annual fees for the coming fiscal year to cover the costs identified under (b) of this subsection, if the collected annual fee was less than the amount required to cover those costs for a given year.

(c) By March 1, 2026, the department must determine the one-time payment to be paid by each producer responsibility organization that is adequate to cover, but not exceed, the costs to implement, administer, and enforce this chapter from the effective date of this section until June 30, 2027.

(5) Within 120 days of receipt, the department must review and approve, approve with conditions, deny, or request additional information for a draft plan or draft amendment, including a contingency plan as required in section 114 of this act, submitted by a producer responsibility organization or coordinating body.

(a) The department must post the draft plan or plan amendment on the department's website, notify the appropriate committees of the legislature that a draft plan has been submitted and posted, and allow public comment for no less than 45 days before approving, denying, or requesting additional information on the draft plan or amendment.

(b)(i) If the department denies or requests additional information for a draft plan or amendment, the department must provide the producer responsibility organization with the reasons, in writing, that the plan or amendment does not meet the plan requirements of section 113 of this act. The producer responsibility organization has 60 days from the date that the rejection or request for additional information is received to submit to the department any additional information necessary for the department's approval. The department must review and approve or disapprove the revised draft plan or amendment no later than 60 days after the department receives it. If the department disapproves the revised plan or revised plan amendment, the department shall provide the reason, in writing, and either: (A) Direct changes to the revised plan or plan amendment; or (B) require the producer responsibility organization to submit a second revision no later than 60 days from the date of the rejection.

(ii) The department may approve the second revision submitted by the producer responsibility organization with additional conditions the producer responsibility organization must implement.

(c) The department's approval of the first producer responsibility organization plans submitted by October 1, 2028, must take effect no earlier than the adjournment of the 2029 regular legislative session, in order to allow an opportunity for the 2029 legislature to determine whether to amend the requirements of this chapter, to make other recycling policy changes including the potential establishment of a bottle deposit return program, or to allow that the proposed plan and program under this chapter be implemented in full. Nothing in this subsection (5)(c) amends or limits the duties or authorities of a producer, a producer responsibility organization, or the department under this chapter, including with respect to the timing of plan submission, plan review, or plan revision processes specified in this section, while the 2029 legislature reviews the draft plan submitted to the department as provided in this subsection. Nothing in this subsection prevents a plan from being implemented in absence of legislative action after the effective date of this section.

(d) Upon recommendation of the advisory council, or upon the department's initiative, the department may require an amendment to the plan if the department determines that an amendment is necessary to ensure that the producer responsibility organization maintains compliance with the requirements of this chapter.

(6) The department must review annual reports and:

(a) Make annual reports available for public review and comment for at least 30 days;

(b) Review within 120 days of receipt of a complete annual report;

(c) Determine whether an annual report meets the requirements of this chapter, considering comments received under (a) of this subsection, and notify the producer responsibility organization of the approval or reasons for denial. The producer responsibility organization must submit a revised annual report within 60 days after receipt of a denial letter; and

(d) Notify a producer responsibility organization if the annual report demonstrates that a plan fails to achieve the requirements under this chapter.

(7) Upon request of the department for purposes of determining compliance with this chapter, or for purposes of implementing this chapter, a person must furnish to the department any information that the person has or may reasonably obtain.

NEW SECTION. **Sec. 107. .** SERVICE PROVIDER REGISTRATION. (1) By January 31, 2026, and annually thereafter, each service provider that intends to seek reimbursement for services provided under an approved plan must register with the department by submitting the following information:

(a) The contact information for a person representing the service provider;

(b) The address of the service provider;

(c) Identification of service areas where covered services are to be provided to covered entities;

(d) Identification of the covered services to be provided to covered entities, by service area; and

(e) If applicable to services provided, a report of the number of covered entities currently provided service, the number of covered entities eligible to receive service, and the total amount billed for collection for covered entities, processing services, transfer station operations provided, and tons managed during the preceding calendar year, by covered entity type and by service area. When possible, values must be separated for collection, transfer, and processing.

(2)(a) Material recovery facilities receiving covered materials collected from covered entities must register as service providers as described in subsection (1) of this section and must report annually to the department by commodity type and covered material type, in a form and format created by the department, on the following:

(i) Tons received and processed, by jurisdiction and service provider;

(ii) Inbound material quality and contamination;

(iii) Outbound material quality and contamination;

(iv) Outbound material tons, destinations, and final use by commodity type, including each destination company and location. If exported outside of the United States, the destination country must be listed. Beginning in 2031, material recovery facilities must submit certification, for each destination to which commodities containing covered materials were sent, that the destination is a responsible market;

(v) Methods of managing contaminants and residue to avoid negative impacts on other waste streams or facilities;

(vi) Residuals, including residue rate, composition, and disposal location;

(vii) Any violations of existing permits, regarding emissions to air and water, and the status of those permit violations; and

(viii) Labor metrics including wages, unions, and workforce demographics.

(b) All data reported by material recovery facilities under this subsection must, at the request of the department, be audited by an independent third party.

(c) The requirements of (a) and (b) of this subsection do not apply to any facility operated by a scrap metal business as defined in RCW 19.290.010 that holds a current scrap metal license unless the covered materials were received directly from collection services for which a producer responsibility organization has provided reimbursement.

NEW SECTION. **Sec. 108.** SERVICE PROVIDER RESPONSIBILITIES. A service provider receiving reimbursement or funding under an approved plan must:

(1) Provide covered services for covered materials included on the statewide collection lists, covered services for a refill system, or covered services for reusable covered materials, as applicable to the services offered by and service area of the service provider;

(2) Register annually with the department;

(3) Submit invoices to the producer responsibility organization for reimbursement for services rendered;

(4) Meet performance standards established in an approved plan;

(5) Ensure that covered materials are sent to responsible markets;

(6) Provide documentation to the producer responsibility organization of the amounts, covered material types, and volumes of covered materials by covered service method;

(7) Display the service provider's price, minus the reimbursement from the producer responsibility organization, when invoicing customers and, in delivering curbside collection services, pass on the applicable portion of the reimbursement, through solid waste rate reductions or credits, to all customers receiving curbside collection services eligible for reimbursement; and

(8) Comply with all other applicable requirements of this chapter.

NEW SECTION. **Sec. 109.** STATEWIDE COLLECTION LISTS. (1)(a) The department must develop lists of covered materials determined to be recyclable or compostable statewide. By October 1, 2026, the department must develop initial lists for use and evaluation in the needs assessment described in section 111 of this act. The department must also publish lists no later than 30 days after approving a plan, taking into account proposed changes in the plan. In the development of the lists, the

department must distinguish between:

(i) Materials determined to be suitable for residential recycling collection, whether in a commingled or in a separate container;

(ii) Materials determined to be suitable for residential composting collection;

(iii) Materials suitable for public place collection; and

(iv) Materials suitable for alternative collection.

(b) In determining whether a material is suitable for residential, public place, or alternative collection, the department may consider any combination of the following criteria:

(i) The stability, maturity, accessibility, and viability of responsible markets;

(ii) Environmental health and safety considerations;

(iii) The anticipated yield loss for the material during the recycling or composting process;

(iv) The material's compatibility with existing recycling infrastructure;

(v) Whether the material adheres to published design guidelines for recyclability or compostability;

(vi) The amount of the material available;

(vii) The practicalities of sorting and storing the material;

(viii) The potential to cause or be impacted by contamination;

(ix) The ability for waste generators to easily identify and properly prepare the material;

(x) Economic factors;

(xi) Environmental factors from a life-cycle perspective;

(xii) The policy expressed in RCW 70A.205.010; or

(xiii) Other criteria or factors, as determined by the department.

(2) A producer responsibility organization may propose a covered material for addition to or removal from the lists under this section as part of a plan or as a plan amendment. In considering the proposal, the department may consider the same criteria as those established under subsection (1)(b) of this section.

(3) In developing lists under this section, the department must consult with the advisory council, producer responsibility organizations, service providers, government entities, and other interested parties. The department must consider any requests received for the inclusion or removal of a covered material or covered material type on a list under this section. The department may select a third-party consultant to assist with the development of the lists.

(4)(a) Except as described in (b) of this subsection and subsection (5) of this section, a material that is not identified as suitable for residential collection may not be collected as part of a residential recycling program.

(b) A covered material that is not identified as suitable for residential collection may be temporarily collected as part of a residential recycling program and qualify for reimbursement if:

(i) The covered material is collected as part of a pilot program agreed to by the service provider, the government entity under whose authority the service is provided, and the producer responsibility organization;

(ii) The pilot program is of limited duration; and

(iii) The pilot program is conducted in a limited area.

(5) For purposes of the first plan implementation period, a group of producers representing a majority of a distinct covered material type or distinct packaging type may petition the department, prior to the department finalizing a list under this section, to consider designating that material or packaging as suitable for multiple modes of collection other than commingled residential, depending on location. The department may grant a petition that is submitted at least six months prior to the publication of the lists and that justifies why different methods are appropriate in different jurisdictions based on the factors specified in subsection (1)(b) of this section.

NEW SECTION. **Sec. 110.** CONVENIENCE STANDARDS—ALTERNATIVE COLLECTION. (1) Collection services for covered materials determined to be suitable for residential recycling collection under section 109 of this act must be available wherever residential garbage collection services are available, except in areas subject to a county ordinance as specified in RCW 70A.205.045(7)(b)(i)(C).

(2) An alternative collection program or programs for each covered material included on the alternative collection list must be provided under a plan. For purposes of the first plan implementation period, an alternative collection program may be proposed by a producer responsibility organization, a group of producers with a petition granted by the department under section 109(5) of this act, or a majority of producers of a unique product type whose packaging is designated for alternative collection. A proposal under this subsection must be submitted at the same time as the plan, and is subject to the same approval process as the plan. An alternative collection program must:

(a) Provide year-round, convenient, statewide collection opportunities, including at least one drop-off collection site located in each county;

(b) Provide tiers of service for collection, convenience, number of drop-off collection sites, and additional collection systems based on:

(i) County population size;

(ii) County population density; and

(iii) Each class of city or town under chapter 35.01 RCW;

(c) Ensure materials are sent to responsible markets;

(d) Use education and outreach strategies that can be expected to significantly increase consumer awareness of the program throughout the state; and

(e) Accurately measure the amount of each covered material collected and the applicable performance target and statewide requirement.

(3) A plan for an alternative collection program must include:

(a) The number, type, and location of each collection opportunity;

(b) A description of how each of the program requirements in (a) of this subsection will be met; and

(c) Performance targets for each covered material, as applicable, to be managed through an alternative collection program.

(4) Every subsequent needs assessment after the first needs assessment must include a review of alternative collection programs for each covered material on the statewide alternative collection list to determine if the program is meeting the criteria established in subsection (2) of this section.

(5) A retail establishment may choose to serve as a drop-off location or collection event as part of an alternative collection program, through mutual agreement with a producer responsibility organization or group of producers implementing an alternative collection program.

(6) Any group of producers, other than the producer responsibility organization registered with the department, that manages an approved alternative collection plan during the first plan implementation period must:

(a) Be exclusively responsible for management of the distinct material, packaging, or product type covered by that plan and may thereby wholly or partially offset the producers' payment obligations under this chapter with respect to the distinct material, packaging, or product type only; and

(b) Comply with all requirements applicable to a producer responsibility organization under this chapter, other than requirements determined by the department not to be relevant to the group of producers as a result of the producers' need to only manage a distinct material, packaging, or product type rather than

multiple types of materials, packaging, or product types.

NEW SECTION. **Sec. 111.** STATEWIDE NEEDS ASSESSMENTS. (1)(a) By December 31, 2026, the department must complete a preliminary assessment consistent with subsection (3) of this section.

(b) By December 31, 2027, and every five years thereafter, the department must complete a needs assessment consistent with subsection (4) of this section. The department may adjust the required content in a specific needs assessment to inform the next plan.

(2) In conducting a needs assessment, the department must:

(a) Initiate a consultation process to obtain recommendations from the advisory council, government entities, service providers, producer responsibility organizations, the utilities and transportation commission, and other interested parties, regarding the type and scope of information that should be collected and analyzed in the needs assessments required by this section;

(b) Contract with a third party who is not a producer, a producer responsibility organization, or a member of the advisory council to conduct the needs assessment;

(c) At least 90 days prior to finalizing the needs assessment, make the draft needs assessment available for comment by the advisory council, producer responsibility organizations, the utilities and transportation commission, jurisdictions planning under chapter 70A.205 RCW, and the public. The advisory council must have the opportunity to review drafts of the needs assessment and accompanying data used in the needs assessment. The department must respond in writing to the comments and recommendations of the advisory council and producer responsibility organizations; and

(d)(i) Consider information from studies related to recycling conducted by the department after 2019; and

(ii) Use the department's statewide collection lists for covered materials as established under section 109 of this act.

(3) A preliminary needs assessment must be completed for a preceding period of no less than 12 months and no more than 36 months that includes:

(a) Identification of currently or recently introduced covered materials and covered material types;

(b) Tons of collected covered materials;

(c) An evaluation of what services related to the requirements of this chapter are currently being delivered in each county and city planning under chapter 70A.205 RCW and what the costs are for those existing services, including:

(i) The availability and types of recycling services for covered materials for residents in single-family and multifamily residences, including whether current services are considered residential or commercial and whether any gaps, costs, or needs are specific to either commercial or residential customer service;

(ii) The current methods and infrastructure for servicing residents, including curbside recycling service areas and material drop-off locations;

(iii) Any densely populated areas within each jurisdiction in which curbside recycling services for covered materials identified by the department on the list developed and published under section 109 of this act are not available or are only partially available;

(iv) Any areas within each jurisdiction where curbside garbage collection services are offered to residents in single-family and multifamily residences but curbside recycling services are not offered;

(d) Processing capacity at material recovery facilities, including total tons processed and sold, composition of tons processed and sold, current technologies utilized, and facility processing fees charged to collectors delivering covered materials for recycling;

(e) Capacity of compost facilities, including total tons processed and sold, technology used by, and characteristics of compost facilities to process and recover compostable covered materials, and facility processing fees charged to collectors delivering covered materials for composting;

(f) Capacity and number of drop-off collection sites, and the materials collected at those drop-off collection sites;

(g) Capacity and number of transfer stations and transfer locations;

(h) Average term length and variability of residential recycling and composting collection contracts issued by government entities and an assessment of contract cost structures;

(i) An estimate of the total annual collection and processing service costs based on registered service provider costs;

(j) Available markets in Washington for covered materials and the capacity of those markets; and

(k) Covered materials introduced by volume, weight, and covered material types introduced by producers.

(4) Each needs assessment after the preliminary needs assessment must include at least the following:

(a) An evaluation of:

(i) Existing waste reduction, refill, reuse, recycling, and composting outcomes, as applicable, for each covered material type, including collection rates, recycling rates, composting rates, reuse rates, and return rates, as applicable, for each covered material type;

(ii) The overall recycling rate, composting rate, reuse rate, and return rate for all covered material types; and

(iii) The extent to which postconsumer recycled content, by the best estimate, is or could be incorporated into each covered materials type, as applicable, including a review of North American sources and markets and technical barriers to incorporating postconsumer materials into covered materials. For plastic covered materials, postconsumer recycled content must be measured by rigid plastic resin type and by film or flexible plastic;

(b) An evaluation of covered materials in the disposal, recycling, and composting streams to determine the covered materials types and amounts within each stream, using new studies conducted by the department or publicly available and applicable studies;

(c) Proposals for a range of outcomes for each covered materials type to be accomplished within a five-year time frame in multiple units of measurement including, but not limited to, unit-based, weight-based, and volume-based, for each of the following:

(i) Plastic source reduction rates;

(ii) Reuse rates and return rates;

(iii) Recycling rates;

(iv) Composting rates; and

(v) Postconsumer recycled content, if applicable;

(d) Proposals for a range of outcomes for the categories established in section 115(10) of this act that consider:

(i) Information contained in or used to prepare a needs assessment under this section;

(ii) Goals and requirements of chapters 70A.205 and 70A.245RCW;

(iii) The statewide greenhouse gas emissions limits of chapter 70A.45 RCW;

(iv) The need for continuous progress toward:

(A) Overall reduction in the generation of covered material waste;

(B) The reuse, recycling, or composting of covered materials to reduce environmental impacts and human health impacts; and

(C) Progress to incorporate postconsumer content to replace

virgin materials and to support more regional markets;

(v) A preference for statewide requirements that accomplish and further the goals and requirements in (d)(ii), (iii), and (iv) of this subsection as soon as practicable and to the maximum extent achievable; and

(vi) Information from paper and packaging producer responsibility programs operating in other jurisdictions;

(e) An evaluation of the criteria used for developing the lists of covered materials determined to be recyclable or compostable statewide as established in section 109 of this act;

(f) Recommended collection methods by covered materials type to maximize collection efficiency, maximize feedstock quality, and optimize service and convenience for collection of covered materials to be considered or that are included on lists established in section 109 of this act, or for which a group of producers has been granted a petition by the department under section 109(5) of this act;

(g) Proposed plans and metrics for how to measure progress in achieving performance targets and statewide requirements;

(h) An evaluation of options for third-party certification of activities to meet obligations of this chapter;

(i) An inventory of the current system, including:

(i) Infrastructure, capacity, performance, funding level, and method and source of financing for the existing covered services for covered materials operating in the state;

(ii) An estimate of total annual costs of covered services based on registered service provider costs; and

(iii) Availability and cost of covered services for covered materials to covered entities and any other location where covered materials are introduced, including identification of disparities in the availability of these services in overburdened communities compared with other areas and to socially vulnerable populations as compared to other populations and proposals for reducing or eliminating those disparities;

(j) An evaluation of investments needed to increase waste reduction, refill, reuse, recycling, and composting rates of covered materials according to the range of proposed performance targets and statewide requirements, including what new or expanded services and infrastructure are needed in each county and city planning under chapter 70A.205 RCW, and the estimated total costs of investments needed, that would also:

(i) Maintain or improve operations of existing infrastructure and account for waste reduction, refill, reuse, recycling, and composting of covered materials statewide;

(ii) Expand the availability and accessibility of recycling collection services for covered materials to all places required under this chapter and expand the availability and accessibility of composting collection services where feasible; and

(iii) Establish and expand the availability and accessibility of reuse services for reusable covered materials;

(k) A recommended methodology for applying criteria and formulas to establish reimbursement rates as described in section 117 of this act;

(l) An assessment of the viability and robustness of markets for recyclable and compostable covered materials and the degree to which these markets can be considered responsible markets;

(m) An assessment of the level and causes of contamination of source separated recyclable materials, source separated compostable materials, and collected reusables, and the impacts of contamination on service providers and on commodity values of covered material types, including the cost to manage this contamination;

(n) An assessment of toxic substances intentionally added to or residual from manufacturing in covered materials, whether this limits one or more covered material types from being used as a marketable feedstock, and best practices producers can implement to reduce intentionally added or residual toxic substances in covered materials that could be verified through suppliers' certificates of compliance, testing, or other analytical and scientifically demonstrated technology;

(o) An assessment and evaluation of current best practices and efforts on:

(i) Public awareness, education, and outreach activities accounting for culturally responsive materials and methods and an evaluation of the efficacy of those efforts;

(ii) Using product or packaging labels as a means of informing consumers about environmentally sound use and management of covered materials;

(iii) Increasing public awareness of how to use and manage covered materials in an environmentally sound manner and how to access waste reduction, refill, reuse, recycling, and composting services; and

(iv) Encouraging behavior change to increase participation in waste reduction, refill, reuse, recycling, and composting programs;

(p) Identification of the covered materials with the most significant environmental impacts, including assessing each covered material's generation of hazardous waste, generation of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;

(q) Recommendations for meeting the criteria for an alternative collection program; and

(r) Other items identified by the department that would aid the creation of the plan, the implementation of the plan, and the enforcement of this chapter.

(5) The department or its contracted third party may conduct voluntary interviews with service providers of curbside recycling or composting services or recycling or composting processing services within a jurisdiction on costs for additional infrastructure, vehicles, staff, equipment, and other investments to achieve the range of outcomes proposed under subsection (4)(c) and (d) of this section.

(6) When determining the extent to which any statewide requirement or performance target under this chapter has been achieved, information contained in a needs assessment must serve as the baseline for that determination, when applicable.

(7)(a) A service provider or other person with data or information necessary to complete a needs assessment must provide the data or information to the department upon request.

(b) A service provider or other person providing the data or information may submit a request to the department consistent with section 122 of this act that the data or information be considered confidential and not made public.

(c) The contractor conducting the needs assessment must aggregate and anonymize the nonpublic data or information, excluding location data as necessary to assess needs, received from all parties under this section and must then include the aggregated anonymized data in the needs assessment.

NEW SECTION. **Sec. 112.** EQUITY STUDY. (1) By January 31, 2032, the department must complete a study, conducted by a contracted third party that is not a producer or producer responsibility organization, of facilities operating in the state that manage covered materials and at facilities operating in the state that receive covered materials as recycled feedstock. The study must analyze, at a minimum, information about:

(a) Working conditions, wage and benefit levels, workforce development effects, and employment levels of minorities and women at those facilities;

(b) Barriers to ownership of recycling, composting, and reuse operations faced by women and minorities;

(c) The degree to which residents of multifamily buildings have less convenient access to recycling, composting, and reuse

opportunities than those living in single-family homes;

(d) The degree to which individuals living in overburdened communities have access to fewer recycling, composting, and reuse opportunities compared to other parts of the state;

(e) The degree to which programs to increase access, convenience, and education are successful in raising reuse, recycling, and composting rates in areas where participation in these activities is low. This must include an evaluation of the efficacy of activities under section 119 of this act that are conceptually, linguistically, and culturally tailored to effectively reach diverse residents, and which such activities could be adjusted or improved to achieve improved outcomes for specific areas or sectors where participation is low;

(f) Strategies to increase participation in reuse, recycling, and composting; and

(g) The degree to which residents and workers in overburdened communities are impacted by emissions, toxic substances, and other pollutants from solid waste facilities in comparison to other areas of the state and recommendations to mitigate those impacts.

(2) Producer responsibility organizations registered under this chapter must cover the cost of conducting the study through the fees charged by the department to the producer responsibility organizations, and recommended actions identified in the study must be considered for inclusion as part of future plans required under this chapter, including adjustments to service provider reimbursements under section 117 of this act.

NEW SECTION. **Sec. 113.** PLAN. (1) By October 1, 2028, and every five years thereafter, each registered producer responsibility organization must submit a plan to the department that describes the proposed operation by the organization of programs to fulfill the requirements of this chapter and that incorporates the findings and results of needs assessments.

(2) A producer responsibility organization must submit a draft plan or draft amendment to the advisory council at least 60 days prior to submitting to the department to allow the advisory council to submit comments and must address advisory council comments and recommendations prior to the submission of the draft plan or draft plan amendment to the department.

(3) A draft plan must include at a minimum:

(a) Performance targets established under section 115 of this act as applicable to each covered materials type to be accomplished within a five-year period;

(b) Any proposals for additions or removals of covered materials to the lists established under section 109 of this act;

(c) A description of the methods of collection, how collection service convenience metrics in section 110 of this act will be met, and a description of processing infrastructure and covered services to be used for each covered materials type for persons and locations receiving services, at a minimum, and how these will meet the performance targets established in section 115 of this act for covered materials that are:

(i) Included or proposed to be included on lists established in section 109 of this act;

(ii) Reusable covered materials managed through a reuse system; and

(iii) Capable of refill and managed through a refill system;

(d) A description of how, for each covered materials type, the producer responsibility organization will measure recycling, plastic source reduction, reuse, composting, and the inclusion of postconsumer recycled content, in accordance with the methodology established in section 115 of this act;

(e) Third-party certifications as required by the department or voluntarily undertaken;

(f) A budget identifying funding needs for each of the plan's five calendar years, producer fees, a description of the process used to calculate the fees, and an explanation of how the fees meet the requirements of section 116 of this act;

(g) A description of infrastructure investments, including:

(i) Goals and outcomes and a description of how the process to offer and select investments will be conducted in an open, competitive, and fair manner;

(ii) How the infrastructure investments will address gaps in the system not met by service providers; and

(iii) Potential financial and legal instruments to be used;

(h) An explanation of how the plan will be paid for by the producer responsibility organization solely through fees from producers. This restriction does not apply to refundable deposits made in connection with a product's refill, reuse, or recycling that can be redeemed by a consumer;

(i) A description of activities to be undertaken by the producer responsibility organization during each year to:

(i) Minimize the environmental impacts and human health impacts of covered materials, including assessing each covered material type's generation of hazardous waste, generation of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;

(ii) Foster the improved design of covered materials, as identified under section 116(2)(c) of this act;

(iii) Provide funding to expand and increase the convenience of waste reduction, refill, reuse, collection, recycling, and composting services to covered entities, at a minimum, according to the order of the state's solid waste management hierarchy established in RCW 70A.205.005;

(iv) Provide for reimbursement rates to service providers for statewide coverage of covered services on the lists established in section 109 of this act; and

(v) Monitor to ensure that postconsumer materials are delivered to responsible markets;

(j) A description of how the producer responsibility organization will promote the opportunity for all service providers to register with the department and to submit invoices for reimbursement with the producer responsibility organization;

(k) A description of how the program will reimburse service providers under an approved plan including, but not limited to, a description of how the program will establish:

(i) A methodology to calculate differentiated reimbursement rates as provided in sections 116 and 117 of this act;

(ii) A process for service providers to submit invoices and be reimbursed for covered services provided to covered entities;

(iii) Clear and reasonable timelines for reimbursement, at intervals no longer than monthly unless agreed to by a service provider and a producer responsibility organization; and

(iv) A process that utilizes a third-party mediator to resolve disputes that arise between the producer responsibility organization and a service provider regarding the determination of reimbursement rates and payment of reimbursements;

(l) Performance standards for service providers as applicable to the service provided including, but not limited to:

(i) Requirements that service providers must accept all covered materials on the applicable list established by the department under section 109(1)(a) of this act;

(ii) Requirements that service providers must offer residential recycling collection for materials on the applicable list established by the department under section 109(1)(a) of this act to covered entities wherever they offer residential garbage collection services, except in areas subject to a county ordinance as specified in RCW 70A.205.045(7)(b)(i)(C);

(iii) Requirements that service must be provided in a manner consistent with the requirements of: (A) Chapter 70A.205 RCW for curbside collection services of source separated recyclable

materials from residences; and (B) chapter 81.77 RCW;

(iv) Requirements that service providers must manage covered materials in a manner consistent with the state's solid waste management hierarchy established in RCW 70A.205.005; and

(v) Requirements that service providers comply with all applicable federal, state, and local laws governing health and safety;

(m) A requirement that owners or operators of a material recovery facility that manages over 25,000 tons annually of covered materials under this chapter must comply with the compensation requirements specified in section 304 of this act;

(n) A description of how the producer responsibility organization will treat and protect nonpublic data submitted by service providers;

(o) A description of how the producer responsibility organization will provide technical assistance to:

(i) Service providers in order to assist them in delivering covered materials to responsible markets;

(ii)(A) Producers regarding intentionally added toxic substances and residual toxic substances from manufacturing in covered materials; (B) best practices identified in the needs assessment that producers can take to reduce intentionally added or residual toxic substances in covered materials; and (C) best practices for verifying reduction through suppliers' certificates of compliance, testing, or other analytical and scientifically demonstrated methodology; and

(iii) Producers to make changes in product design that reduce the environmental impact of covered materials or that increase the recoverability or marketability of covered materials for reuse, recycling, or composting;

(p) A description of how the producer responsibility organization will increase public awareness, educate, and complete outreach activities that meet the requirements of section 119 of this act and will evaluate the efficacy of these efforts;

(q) A description of how the producer responsibility organization will reduce or eliminate disparities in the availability to socially vulnerable populations of covered services for covered materials;

(r) Proposed alternative collection programs as required under section 110 of this act;

(s) A description of how producers can purchase postconsumer materials from service providers at market prices if the producer is interested in obtaining recycled feedstock to achieve minimum postconsumer recycled content performance targets and statewide requirements;

(t) A summary of consultations held with the advisory council and other interested parties to provide input to the plan, a list of recommendations that were incorporated into the plan as a result, and a list of rejected recommendations and the reasons for rejection;

(u) Strategies to incorporate findings from any relevant studies required by the legislature; and

(v) Any other information required by the department by rule.

(4) Consistent with the process established in section 106(5) of this act, the department may only approve a draft plan submitted by a producer responsibility organization that meets the requirements of this section. The department shall not approve a draft plan that does not satisfy each criteria required of a plan under this section, including, but not limited to, a plan that does not reduce or eliminate disparities in the availability to socially vulnerable populations of covered services for covered materials.

NEW SECTION. **Sec. 114.** CONTINGENCY PLAN. (1) A producer responsibility organization must submit to the department a contingency plan demonstrating how the activities in the plan will continue to be carried out by some other entity, such as an escrow company, if needed:

(a) Until such time as a new or updated plan is submitted and approved by the department;

(b) Upon the expiration of an approved plan;

(c) If the producer responsibility organization notifies the department that it will cease to implement an approved plan; or

(d) In any other event that the producer responsibility organization can no longer carry out plan implementation.

(2) The contingency plan must be submitted to the department as a component of the producer responsibility organization's initial plan. The department may require a producer responsibility organization to revise the contingency plan coincident with any plan submittal.

(3) The requirements of this section do not require a producer responsibility organization to hold funds in a dedicated account until such time as the contingency plan must be implemented.

(4) The department must follow the same process and timelines for reviewing and approving the contingency plan as it follows for the plan.

NEW SECTION. **Sec. 115.** PERFORMANCE TARGETS. (1) Each producer responsibility organization must propose performance targets based on the needs assessment that meet the statewide requirements in subsection (10) of this section that must be included in an approved plan. Performance targets must include reuse rates, return rates, recycling rates for materials delivered to responsible markets, composting rates, and targets for plastic source reduction and postconsumer recycled content by covered materials type, as applicable. For products for which postconsumer recycled content rates are established in RCW 70A.245.010 through 70A.245.050 and 70A.245.090 (1), (2), and (4), those rates must be included in an approved plan. The producer responsibility organization must propose the unit or units that are most appropriate to measure each performance target as informed by the needs assessment.

(2) The department may require that a producer responsibility organization obtain third-party certification of any activity or achievement of any performance target required by this chapter if a third-party certification is readily available, deemed applicable, and of reasonable cost. The department must provide the producer responsibility organization with notice of at least one year prior to requiring use of third-party certification under this subsection.

(3) Proposed targets must demonstrate continuous improvement in reducing environmental impacts and human health impacts of covered materials over time.

(4) For purposes of determining whether recycling performance targets are being met, except as modified by the department, a plan must provide a methodology for measuring the amount of covered material sent for recycling at the point at which material leaves a material recovery facility or other processing facility and must account for:

(a) Levels and types of estimated contamination documented by the facility;

(b) Any exclusions for fuel or energy capture; and

(c) Compliance with all state laws pertaining to toxic substances in covered materials.

(5)(a) The department must, in consultation with representatives from overburdened communities, the advisory council, service providers, municipalities, state agencies, alternative recycling technology providers, and others, approve or deny a proposal by a producer responsibility organization to count towards recycling performance targets the materials sent to facilities that use an alternative recycling process for conversion of plastic covered materials for the purpose of producing recycled material.

(b) The department must establish a process by which a producer responsibility organization may annually propose to count towards recycling performance targets the materials sent to

a facility that uses an alternative recycling process.

(c) The department may only approve the producer responsibility organization's proposal to count towards recycling performance targets the materials sent to a facility that uses an alternative recycling process if the department determines that the alternative recycling process:

(i) Does not include combustion, fuel production, and other forms of energy recovery of plastic covered materials in processing or disposal;

(ii) Provides protection for the environment and human health with consideration of inputs and outputs, including as measured against all of the following criteria:

(A) Environmental release of air and water pollutants or any hazardous pollutants;

(B) Generation of hazardous waste;

(C) Energy use and generation of greenhouse gases;

(D) Environmental impacts on overburdened communities and socially vulnerable populations;

(E) Water usage including, but not limited to, impacts to local water resources and sewage infrastructure;

(F) Public health impacts; and

(G) Capture and recycling rates;

(iii) Reduces gaps in collection, recycling, and composting services at covered entities;

(iv) Meets an unmet need in the state that will result in meeting recycling performance targets, including creating new recycling markets for materials currently disposed of in landfills or incinerated;

(v) Provides third-party certification of recycled content; and

(vi) Addresses those other environmental impacts as determined by the department.

(d)(i) In making its determination under (c) of this subsection, the department must take into consideration any local, state, or federal environmental permitting requirements that govern the operation of an alternative recycling process that reduces air and water pollutants or the generation of hazardous waste or pollutants. The department must also take into consideration whether the alternative process produces food-grade or pharmaceutical-grade recycled content.

(ii) The department must publish a determination on the producer responsibility organization's proposal, detailing why it was approved or denied and how it measured against the criteria listed in (c) of this subsection. The department must also conduct a public review process for at least 60 days.

(e) A person may appeal a decision by the department under (d) of this subsection to the pollution control hearings board.

(f) The department must, no more frequently than every five years, require the producer responsibility organization to provide any updated information deemed necessary that demonstrates that an approved alternative recycling process is continuing to meet the requirements of this section. If the facility fails to meet the requirements of this section, the department shall prohibit the producer responsibility organization from counting material sent to the alternative recycling facility towards recycling performance targets.

(g) Nothing in this chapter prohibits or affects the use of any alternative recycling process for products or packaging that are not covered materials under this chapter.

(6) For purposes of determining whether plastic source reduction performance targets are being met, a plan must provide a methodology for measuring the amount of plastic source reduction of covered materials in a manner that can be used to determine the extent to which the amount of material used for a covered material can be reduced to what is necessary to efficiently deliver a product without damage or spoilage, or other means of covered material redesign to reduce overall use and environmental impacts and maintain recyclability, compostability, or reusability. No more than eight percent of a producer responsibility organization's plastic source reduction performance target may be met by switching from virgin covered material to postconsumer recycled content through a sliding scale alternative compliance formula developed by the department based on the ratio of virgin plastic to postconsumer recycled plastic. For producers subject to the postconsumer recycled content requirements of chapter 70A.245 RCW, the postconsumer recycled content used to comply with those requirements may be credited towards the plastic source reduction performance target, subject to the eight percent limit.

(7) For purposes of determining whether reuse performance targets are being met, a plan must provide a methodology for measuring the amount of reusable covered materials at the point at which reusable covered materials meet the following criteria as demonstrated by the producer and approved by the department whether the:

(a) Average minimum number of cycles of reuses within a recognized reuse system has been met based on the number of times an item must be reused for it to have lower environmental impacts than the single-use versions of those items based on accepted industry standards; and

(b) Demonstrated or research-based anticipated return rate of the covered material to the reuse system has been met.

(8) For purposes of determining whether postconsumer recycled content performance targets are being met under this chapter, a plan must provide a methodology for measuring postconsumer recycled content across all producers for a covered materials type where producers may determine their postconsumer recycled content based on their United States market territory if state-specific postconsumer recycled content is impractical to determine.

(9) For other performance targets, the producer responsibility organization must propose methodologies for review and approval as part of the plan based on findings from the needs assessment.

(10)(a) The department must establish statewide requirements and a date by which those requirements must be met for each of the following categories:

(i) Recycling rate;

(ii) Composting rate;

(iii) Reuse rate;

(iv) Return rate;

(v) The percentage of covered materials introduced that must be plastic source reduced; and

(vi) The percentage of postconsumer recycled content that covered materials must contain, including an overall percentage for all covered materials, as applicable, excluding compostable materials that cannot include postconsumer recycled content due to unique chemical or physical properties or health or safety requirements that prohibit introduction of postconsumer recycled content.

(b) The department may use the following information and criteria when establishing statewide requirements under (a) of this subsection:

(i) The needs assessment;

(ii) The goals and requirements of chapter 70A.205 RCW;

(iii) The greenhouse gas emissions limits of chapter 70A.45 RCW;

(iv) The need for continuous progress towards overall reduction in the generation of covered materials waste, the reuse, recycling, or composting of covered materials to reduce environmental impacts and human health impacts, and progress

to incorporate postconsumer recycled content to replace virgin materials and support more regional markets;

(v) A preference for statewide requirements that accomplish and further the goals and requirements in (b)(ii) through (iv) of this subsection as soon as practicable and to the maximum extent achievable; and

(vi) Information from packaging and paper product producer responsibility programs operating in other jurisdictions.

(c) The department must consult with producer responsibility organizations on establishing statewide requirements, submit proposed statewide requirements for review by the advisory council, and consider the advisory council's recommendations before finalizing the statewide requirements.

(d) Every five years, the department must review the statewide requirements established under this subsection. If the department decides an update is not warranted at that time, the department must submit the reasoning to the advisory council and consider the advisory council's recommendations before making a final decision. If the department decides an update is warranted, the department must follow the process specified in (b) and (c) of this subsection.

(e) Producer responsibility organizations must ensure the statewide requirements are met.

NEW SECTION. **Sec. 116.** PRODUCER FEES. (1) A registered producer responsibility organization may charge each member producer a fee according to each producer's unit-based, weight-based, volume-based, or sales-based market share or by another method it determines to be an equitable determination of each producer's payment obligation, so that the aggregate fees charged to member producers are sufficient to pay the producer responsibility organization's costs in full until the producer responsibility organization has an approved plan.

(2) A producer responsibility organization with an approved plan must annually collect a fee from each member producer that must:

(a) Vary based on the total amount of covered materials each producer introduces in the prior year calculated on a per unit basis, such as per ton, per item, or another unit of measurement;

(b) Reflect program costs for each covered materials type, net of commodity value for that covered materials type when used as a recycled material, as well as allocated fixed costs that do not vary based on covered materials type. Any membership fees charged for different covered material types, materials, and formats must:

(i) For covered materials that are on the statewide lists established under section 109 of this act, be proportional to the costs to the producer responsibility organization for that covered material type, covered material, or format; and

(ii) Discourage the use of covered materials that are not on the statewide lists established under section 109 of this act;

(c) Incentivize using materials and design attributes that reduce the environmental impacts and human health impacts of covered materials by:

(i) Eliminating intentionally added toxic substances or residual toxic substances from manufacturing in covered materials;

(ii) Reducing the amount of:

(A) Packaging per individual covered material that is necessary to efficiently deliver a product without damage or spoilage and without reducing its ability to be recycled or composted; and

(B) Paper used to manufacture individual paper products;

(iii) Increasing the amount of covered materials managed in a reuse system;

(iv) Increasing the proportion of postconsumer material in covered materials;

(v) Enhancing the recyclability or compostability of a covered material;

(vi) Increasing the amounts of inputs derived from renewable and sustainable sources without reducing its ability to be recycled; and

(vii) Other means, as approved by the department;

(d) Discourage using materials and design attributes in covered materials whose environmental impacts and human health impacts can be reduced by the methods listed in (c) of this subsection;

(e) Prioritize reuse by charging covered materials that are managed through a reuse system only once, upon initial entry into the marketplace; and

(f) Generate revenue sufficient to pay in full:

(i) The fee to the department required under section 106 of this act;

(ii) The financial obligations to complete activities described in an approved plan and to reimburse service providers under section 117 of this act;

(iii) The funding required under section 104 of this act for the reuse financial assistance program;

(iv) The operating costs of the producer responsibility organization; and

(v) For establishment and maintenance of a financial reserve that is sufficient to operate the program in a fiscally prudent and responsible manner.

(3) Revenues collected under this section that exceed the amount needed to pay the costs described in subsection (2)(f) of this section must be used to improve or enhance program outcomes or to reduce producer fees according to provisions of an approved plan.

(4) Fees collected from producers under this chapter may not be used for lobbying or political advocacy activities that would require reporting under chapter 42.17A RCW or under the federal election campaign act, 2 U.S.C. chapter 14.

NEW SECTION. **Sec. 117.** SERVICE PROVIDER REIMBURSEMENT. (1) The reimbursements provided for covered services to covered entities under an approved plan must only be provided to service providers that, at a minimum, meet the performance standards established under an approved plan.

(2)(a) A plan must provide a methodology for reimbursement rates for covered services for covered materials, exclusive of exempt materials. The methodology for reimbursement rates must consider estimated revenue received by service providers from the sale of covered materials based on relevant material indices and incorporate relevant cost information identified by the needs assessment. Reimbursement rates must be annually updated and reflect the net costs for covered services for covered materials from entities receiving services under this chapter, at a minimum. Reimbursement rates must be established equivalent to net costs, using a methodology in an approved plan as follows:

(i) No less than 50 percent of the net costs by February 15, 2030;

(ii) No less than 75 percent of the net costs by February 15, 2031; and

(iii) No less than 90 percent of the net costs by February 15, 2032, and each year thereafter.

(b) Reimbursement rates must be based on the following, as applicable by the service provided:

(i) The cost to collect covered material for recycling, a proportional share of composting, or reuse adjusted to reflect conditions that affect those costs, varied by region or jurisdiction in which the covered services are provided including, but not limited to:

(A) The number and type of covered entities;

(B) Population density;

(C) Collection methods employed;

(D) Distance traveled by collection vehicles to consolidation or

transfer facilities, to reuse, recycling, or composting facilities, and to responsible markets;

(E) Other factors that may contribute to regional or jurisdictional cost differences;

(F) The proportion of covered compostable materials within all source separated compostable materials collected or managed through composting; and

(G) The general quality of covered materials collected by service providers;

(ii) The cost to transfer collected covered materials from consolidation or transfer facilities to reuse, processing, recycling, or composting facilities or to responsible markets;

(iii) The cost to:

(A) Sort and process covered materials for sale or use and remove contamination from covered materials by a recycling or composting facility, minus the average fair market value for that covered material based on market indices for the region; and

(B) Manage contamination removed from collected covered material;

(iv) The administrative costs of service providers, including education, public awareness campaigns, and outreach program costs as applicable; and

(v) The costs of covered services for a refill system or covered services provided for reusable covered materials and management of contamination.

(c) A service provider retains all revenue from the sale of covered materials unless otherwise agreed upon by the service provider. Nothing in this chapter may restrict a service provider from charging a fee for covered services for covered materials to the extent that reimbursement from a producer responsibility organization does not cover all costs of services, including continued investment and innovation in operations, operating profits, and returns on investments required by a service provider to provide sustainability of the services.

(d) Reimbursement rates may be calculated per ton, by household, or by another unit of measurement.

(3)(a) Nothing in this section may be construed to require a government entity to agree to operate under a plan. Any government entity that is also a service provider is eligible to be registered with the department and reimbursed per the rates and schedule established in accordance with this section.

(b) Nothing in this chapter restricts the authority of a political subdivision of the state to provide waste management services to residents, to contract with any entity to provide waste management services, or to exercise its authority granted under RCW 35.21.120, 35.21.130, 35.21.152, or 36.58.040. A producer responsibility organization may not restrict or otherwise interfere with a government entity exercising its authority under RCW 35.21.120, 35.21.130, 35.21.152, or 36.58.040 to organize collection of solid waste, including materials collected for recycling or composting, or to extend, renew, or otherwise manage any contracts entered into as a result of exercising such authority or otherwise resulting from a competitive procurement process.

(4) A producer responsibility organization must establish a dispute resolution process utilizing third-party mediators for disputes related to reimbursements.

NEW SECTION. **Sec. 118.** INFRASTRUCTURE INVESTMENTS. (1) For infrastructure investments, a producer responsibility organization must use a competitive bidding process and publicly post bid opportunities, except that preference must be given to existing facilities and providers of services in the state for waste reduction, refill, reuse, collection, recycling, and composting of covered materials.

(2) A producer or producer responsibility organization may not own or partially own infrastructure that is used to fulfill obligations under this chapter, except in the following circumstances:

(a) A producer may hold an ownership stake in infrastructure used to fulfill obligations under this chapter as long as the stake was held before the effective date of this section and the ownership stake is fully disclosed by the producer to the producer responsibility organization;

(b) After a bidding process described in subsection (1) of this section under which no service provider bids on the contract, the producer responsibility organization may make infrastructure investments to implement the requirements of this chapter; or

(c) A producer or producer responsibility organization may own or partially own infrastructure that is used solely for purposes of the reuse financial assistance program or as needed to fulfill an individual plan or alternative collection program.

(3) The direct or indirect receipt of funds from a producer responsibility organization under this chapter does not confer any inherent ownership or interest in any asset or company to which funds are directed and does not confer any inherent right to control use of any asset or company operations.

NEW SECTION. **Sec. 119.** EDUCATION AND OUTREACH. (1) A producer responsibility organization must develop and maintain a public website that uses best practices for accessibility and contains, at a minimum:

(a) Information regarding a process that members of the public may use to contact the producer responsibility organization with questions;

(b) A directory of all service providers operating under the plan administered by the producer responsibility organization, grouped by location or government entity;

(c) Registration materials submitted to the department;

(d) The draft and approved plan and any draft and approved amendments;

(e) The list of exempt materials under this chapter;

(f) Current and all past needs assessments;

(g) Annual reports submitted to the department by the producer responsibility organization;

(h) A link to administrative rules implementing this chapter;

(i) Comments of the advisory council on the documents listed in (d) and (f) of this subsection and the responses of the producer responsibility organization to those comments;

(j) A list, updated at least monthly, of all member producers that will operate under the plan administered by the producer responsibility organization and, for each producer, a list of all brands of the producer's covered materials; and

(k) Education materials on waste reduction, refill, reuse, recycling, and composting for producers and the general public.

(2) A producer responsibility organization must implement education and outreach activities that are conceptually, linguistically, and culturally tailored to effectively reach diverse residents and include culturally responsive materials and methods that rely on evidence-based practices, are accessible, clear, and support the achievement of the performance targets, including by developing and providing educational materials, resources, and campaigns that encourage and support recycling, composting, and reuse behaviors by residents and visitors. Activities must:

(a) Assist producers in improving product labels as a means of informing consumers about refill, reuse, recycling, composting, and other environmentally sound methods of managing covered materials;

(b) Increase public awareness of how to use and manage covered materials in an environmentally sound manner and how to access waste reduction, refill, reuse, recycling, and composting services;

(c) Encourage behavior change to increase participation in waste reduction, refill, reuse, recycling, and composting programs including by considering motivational structures for recycling and reuse by engaging local communities in the design and implementation of programs and developing community-led solutions that are tailored to their specific cultural practices and waste generation patterns;

(d) Reduce resident confusion regarding the appropriate solid waste collection container or end-of-life management option for each type of covered material; and

(e) Develop and provide education and outreach materials that are able to be used by retail establishments, collectors, government entities, service providers, schools, institutions, youth organizations, and nonprofit organizations. Outreach materials must be accessible in multiple languages and culturally appropriate formats including by reaching non-English-speaking communities and by using a variety of tailored media and behavior change strategies.

(3) A producer responsibility organization must coordinate with registered service providers and any government entities that choose to participate in carrying out education and outreach consistent with the plan.

NEW SECTION. **Sec. 120.** ANNUAL REPORT. (1) By July 1, 2031, and each July 1st thereafter, a producer responsibility organization must submit an annual report to the department that contains, at a minimum, the following information for the previous calendar year:

(a) The amount of covered materials introduced, by covered materials type, reported in the same units used to establish producer fees under this chapter;

(b) Progress made toward the performance targets reported in the same units used to establish producer fees under this chapter, and reported statewide and for each county, including:

(i) The amount of covered materials successfully source reduced, reused, recycled, and composted by covered materials type and the strategies or collection methods used; and

(ii) Information about third-party certifications obtained;

(c) The total cost to implement the program and a detailed description of program expenditures by category, including:

(i) The total amount of producer fees collected;

(ii) A description of infrastructure investments made; and

(iii) A breakdown of reimbursements by covered services, entities receiving covered services, and regions of the state;

(d) A copy of a financial audit of program operations conducted by an independent auditor approved by the department that meets the requirements of the *Financial Accounting Standards Board's Accounting Standards* update 2016-14, not-for-profit entities (Topic 958), as it existed as of January 1, 2025, or an updated standard as required by the department by rule;

(e) A description of the program performance problems that emerged in specific locations and efforts taken or proposed by the producer responsibility organization to address them;

(f) A discussion of technical assistance provided to producers regarding toxic substances in covered materials and actions taken by producers to reduce intentionally added toxic substances and residual toxic substances from manufacturing in covered materials beyond compliance with prohibitions already established in law;

(g) A description of public awareness, education, and outreach activities undertaken, including any evaluations conducted of their efficacy, plans for next calendar year's activities, and an evaluation of the process established by the producer responsibility organization to answer questions from consumers regarding collection, recycling, composting, waste reduction, and reuse activities;

(h) A description, which includes quantitative measurements, of changes in levels of access to covered services for covered materials by socially vulnerable populations relative to levels of access to and participation in covered services for covered materials by socially vulnerable populations prior to the implementation of the first plan under this chapter;

(i) A summary of consultations held with the advisory council and how any feedback was incorporated into the report as a result, together with a list of rejected recommendations and the reasons for rejection;

(j) A list of producers found to be out of compliance with this chapter and actions taken by the producer responsibility organization to return producers to compliance, and notification of any producers that are no longer participating in the producer responsibility organization or who have been expelled due to their lack of compliance;

(k) Proposed amendments to the plan to improve program performance or reduce costs, including changes to producer fees, infrastructure investments, or reimbursement rates;

(l) Recommendations for additions or removals of covered materials to or from the recyclable or compostable covered materials lists established under section 109 of this act; and

(m) Information requested by the department to evaluate the effectiveness of the program as it is described in the plan and to assist with determining compliance with this chapter.

(2) A producer responsibility organization that fails to meet a performance target approved in a plan must, within 90 days of filing an annual report under this section, file with the department an explanation of the factors contributing to the failure and propose an amendment to the plan specifying changes in operations, including education and outreach, that the producer responsibility organization will make that are designed to achieve the performance targets. If a performance target is unmet due to the lack of government entity participation in the program, the department may revise the statewide requirements. If a revision to the statewide requirements is completed by the department, the producer responsibility organization may revise the performance targets at the same time. An amendment filed under this subsection must be reviewed by the advisory council and approved by the department in the manner specified in section 106 of this act.

NEW SECTION. **Sec. 121.** INDEPENDENT REVIEW OF PROGRAM. (1)(a) By January 1, 2028, the department must contract with an independent consultant to carry out a one-time ex-ante analysis of each draft plan submitted to the department by October 1, 2028, that addresses:

(i) The impact of the proposed program on the consumer prices of covered materials and items sold with covered materials;

(ii) The impacts of the proposed program on environmental justice, as defined in RCW 70A.02.010, and on the availability and convenience of recycling, composting, and reuse services, including specific analysis of the availability and convenience of recycling, composting, and reuse services used by socially vulnerable populations and in overburdened communities; and

(iii) Whether and how a beverage container deposit return program could be established as a complement to the proposed plan, and designed in a manner that would improve on the performance targets and program outcomes proposed in the plan and in a manner that would improve accessibility and convenience to recycling options for beverage containers.

(b) The analysis must be informed by input from stakeholders and informed by experience from other jurisdictions.

(c) The analysis must be completed and submitted to the department by January 15, 2029.

(d) The department's contract with the independent consultant must allow the consultant to begin its analysis prior to the submission of the draft plan on October 1, 2028. The department

must require a producer responsibility organization to cooperate and share information with the independent consultant hired by the department to facilitate the consultant being able to complete its analysis in time to allow for consideration by the 2029 legislature.

(e) The department must notify the appropriate committees of the legislature upon the completion of the analysis under this subsection (1).

(2) By September 1, 2038, the department must contract with an independent consultant to analyze the impacts of the initial seven years of program implementation and must submit a report summarizing the analysis to the appropriate committees of the legislature. The analysis must include the effects of the program on:

(a) Solid waste, composting, or recycling costs;

(b) Recycling rates, reuse rates, postconsumer recycled content rates, source reduction rates, and composting rates; and

(c) The availability and convenience of recycling, composting, and reuse services, including specific analysis of the availability and convenience of recycling, composting, and reuse services used by socially vulnerable populations.

(3)(a) The independent consultant, for purposes of the independent review of the program carried out under this section, may review:

(i) Information submitted to the department under section 120 of this act; and

(ii) Producer or producer responsibility organization data or information pertinent to the program.

(b) The independent consultant must treat confidential records in a manner consistent with the department's policy under section 122 of this act.

(4) To the extent that sufficient state-level data is not available to complete the analyses required in subsection (2) of this section, the independent consultant may review data or studies from states with similar programs.

NEW SECTION. **Sec. 122.** CONFIDENTIAL INFORMATION SUBMISSION. A producer responsibility organization, service provider, material recovery facility, organic material management facility, responsible market, or other entity that submits information or records to the department under this chapter may request that the information or records, including data related to business profits, service rates, fees, or business expenses or private data on individuals, be made available only for the confidential use of the department, the director of the department, the appropriate division of the department, or the independent consultant carrying out the independent review of the program in section 121 of this act. The director of the department must consider the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1)(a) The department may administratively impose a civil penalty of up to $1,000 per violation per day on any producer who violates this chapter and up to $10,000 per violation per day for the second and each subsequent violation.

(b) For a producer out of compliance with the requirements of this chapter, the department shall provide written notification and offer information. For the purposes of this subsection, written notification serves as notice of the violation. The department must issue at least one notice of violation by certified mail prior to assessing a penalty and the department may only impose a penalty on a producer that has not met the requirements of this chapter 60 days following the date the written notification of the violation was sent.

(2)(a) The department may administratively impose a civil penalty of up to $1,000 per violation per day on any producer responsibility organization that violates this chapter and up to $10,000 per violation per day for the second and each subsequent violation.

(b) The department may, in addition to assessing the penalties provided in (a) of this subsection, take any combination of the following actions:

(i) Issue a corrective action order to a producer responsibility organization;

(ii) Issue an order to a producer responsibility organization to provide for the continued implementation of the program in the absence of an approved plan;

(iii) Revoke the producer responsibility organization's plan approval and require implementation of the contingency plan;

(iv) Require a producer responsibility organization to revise or resubmit a plan within a specified time frame; or

(v) Require additional reporting related to the area of noncompliance.

(c) Prior to taking an action described in this subsection, the department must provide the producer responsibility organization an opportunity to respond to or rebut the written finding upon which the action is predicated.

(3) A person may not sell or distribute in or into the state a covered material of a producer that is not participating in a producer responsibility organization or that is not in compliance with the requirements of this chapter or rules adopted under this chapter.

(a) The department shall serve, or send with delivery confirmation, a written warning explaining the violation to a person distributing or selling covered materials of a producer that is not in compliance with this chapter.

(b) The department may assess a penalty on a person that continues to sell or distribute covered materials of a producer that is in violation of this chapter 60 days after receipt of the written warning under this subsection. The amount of the penalty that the department may assess under this subsection is twice the value of the covered materials sold in violation of this chapter or $500, whichever is greater. The department must waive the penalty upon verification that the person has discontinued distribution or sales of the covered material within 30 days of the date the penalty is assessed.

(4) Any person who incurs a penalty or receives an order may appeal the penalty or order to the pollution control hearings board established in chapter 43.21B RCW.

(5) Penalties levied under this section must be deposited in the recycling enhancement account created in RCW 70A.245.100.

(6) Upon receipt of a request from the advisory council, the department must consider the appropriateness of the use of enforcement authority authorized in this section.

NEW SECTION. **Sec. 124.** STUDY OF DEPOSIT RETURN SYSTEM. (1) The department shall contract with an independent consultant to conduct two studies on the potential statewide impacts of a recycling refunds program, also known as a beverage container deposit return system, in Washington state. The studies must prioritize equity, accessibility, and community perspectives.

(2) The consultant, in coordination with the department, shall lead a community engagement process in at least three geographically diverse areas of the state with a high concentration of socially vulnerable or overburdened populations, as identified by the department consistent with RCW 70A.02.010. The results of this engagement process must be submitted to the legislature by January 1, 2027. The engagement process must:

(a) Solicit input on access to recycling and redemption services, local infrastructure needs, and community priorities related to convenience and equity;

(b) Assess consumer sentiment, awareness, and perceptions of a recycling refunds program, including perceived benefits, barriers to participation, and potential economic impacts, particularly for low-income households;

(c) Include:

(i) Community input sessions in overburdened communities;

(ii) Outreach to local governments, tribal governments, environmental justice and equity organizations, producers, recycling system operators, and other relevant stakeholders; and

(iii) Engagement with individuals and organizations concerned about the economic impacts of a recycling refunds program, particularly on low-income consumers; and

(d) Develop recommendations to ensure that a recycling refunds program is equitably accessible, convenient, and responsive to community needs across all regions of the state.

(3) In the same three regions required to be identified under subsection (2) of this section, the consultant shall evaluate and model what convenient access to redemption services would look like, with respect to the types of express and full-service redemption sites. The results of this engagement process must be submitted to the legislature by January 1, 2026. This analysis must at a minimum consider:

(a) The availability of suitable infrastructure for redemption services that include reusable packaging;

(b) Accessibility via public transportation;

(c) Colocation opportunities with existing waste or recycling facilities; and

(d) Strategies to reduce transportation burdens on residents in rural, remote, and underserved communities.

(4) The department shall submit the consultant's findings and recommendations to the appropriate committees of the house of representatives and the senate by January 1, 2026, for the study completed in subsection (3) of this section and January 1, 2027, for the study completed in subsection (2) of this section.

(5) Registered producer responsibility organizations under section 103 of this act are responsible for payment of the department's cost to complete these studies as part of the one-time payment due to the department on September 1, 2026, under section 103(4) of this act.

NEW SECTION. **Sec. 125.** DEPOSIT RETURN SYSTEM. (1) It is the intent of the legislature that if a bottle deposit return system is enacted in the future, it will be harmonized with this chapter in a manner that ensures that:

(a) Materials covered in that system are exempt from this chapter or related financial obligations are reduced;

(b) Colocation of drop-off collection sites is maximized;

(c) Education and outreach are integrated between the two programs; and

(d) Waste reduction and reuse strategies are prioritized between the two programs.

(2) Any implementation of a bottle deposit return system must include a two-year transition period before the expiration of the currently approved plan and be conducted in a manner that does not create sudden and significant operational or financial disruption to the implementation of a plan under this chapter, including provisions of recycling or reuse services contained in the plan.

NEW SECTION. **Sec. 126.** PETITION FOR THE EXCLUSION OF CERTAIN PRODUCTS. (1) Except as provided in subsection (4) of this section, one year prior to the submission of a plan, a producer, group of producers, or a producer responsibility organization may submit a petition to the department to request for reasons of public health or safety the temporary exclusion of packaging used to contain the following categories of products, subcategories of the following categories of products, or individual products:

(a) Raw meat products that are demonstrated to transfer pathogens to direct contact packaging;

(b) Products regulated under the poison prevention packaging act of 1970; and

(c) Products subject to requirements under federal laws that make their inclusion in the requirements of this chapter infeasible or inadvisable.

(2) A petition must provide information that is necessary and sufficient for the department to make a determination including, at a minimum, the following:

(a) The technical feasibility of including the category of product, subcategory of product, or individual product in the program created by this chapter, and in recycling the packaging of the product or products;

(b) An analysis of any potential risks to public health and safety associated with the inclusion of a category of product, subcategory of product, or individual product in the program created by this chapter, and in recycling the packaging of the product or products; and

(c) The progress made by producers in achieving the goals of this chapter, including by reducing the amount of packaging used with the products, increasing the recycled content of the product packaging, and increasing the ability of the products' packaging to be reused, composted, or recycled if appropriate.

(3) The department must make a determination and notify the petitioner within 90 days of receipt of the petition.

(4) The producer of a product that is temporarily excluded from the requirements of this chapter under this section must report, directly to the department in a form created by the department, the information related to the temporarily excluded product that is required to be reported to the department by producer responsibility organizations under sections 103 and 120 of this act.

NEW SECTION. **Sec. 127.** IDENTIFICATION OF SOCIALLY VULNERABLE POPULATIONS. (1) The department must periodically assess the availability of, and methodology used by, the United States centers for disease control and the agency for toxic substances and disease registry's social vulnerability index, as compared to how it existed as of January 1, 2025.

(2) If the department determines that the social vulnerability index is no longer available in substantially the same form as it existed on January 1, 2025, the department must notify each registered producer responsibility organization that for purposes of the identification of socially vulnerable populations under this chapter, the department and producer responsibility organizations are no longer required to reference the United States centers for disease control and the agency for toxic substances and disease registry's social vulnerability index. Instead, the department and registered producer responsibility organizations must reference the alternative populations specified in subsection (3) of this section.

(3)(a) Until such time as a rule is adopted under (b) of this subsection, the department and registered producer responsibility organizations must, for purposes of identifying socially vulnerable populations, identify as socially vulnerable populations those communities ranked as an eight or higher on the environmental health disparities map developed under RCW 43.70.815.

(b) After making a determination under subsection (2) of this section, by rule the department may, but is not required to, adopt an alternative methodology for the identification of socially vulnerable populations to replace the reference to the United

States centers for disease control and the agency for toxic substances and disease registry's social vulnerability index. A rule adopted under this subsection may, but is not required to, rely in whole or in part on the environmental health disparities map developed by the department of health under RCW 43.70.815.

NEW SECTION. **Sec. 128.** OTHER. (1) Nothing in this act impacts an entity's eligibility for any state or local incentive or assistance program to which they are otherwise eligible. Nothing in this act limits the authority of private parties or government entities to enter into contracts.

(2) Nothing in this chapter authorizes the department or a producer responsibility organization to impose any requirement, in direct conflict with a federal law or regulation including, but not limited to:

(a) Laws or regulations covering tamper-evident packaging pursuant to 21 C.F.R. Sec. 211.132;

(b) Laws or regulations covering child-resistant packaging pursuant to 16 C.F.R. Sec. 1700.1, et seq.;

(c) Regulations, rules, or guidelines issued by the United States department of agriculture or the United States food and drug administration related to packaging agricultural commodities; and

(d) Requirements for microbial contamination, structural integrity, or safety of packaging, where no viable recyclable or compostable packaging that can meet the requirements exists, pursuant to:

(i) The federal food, drug, and cosmetic act (21 U.S.C. Sec. 301, et seq.);

(ii) 21 U.S.C. Sec. 2101, et seq.;

(iii) The federal food and drug administration food safety modernization act (21 U.S.C. Sec. 2201, et seq.);

(iv) The federal poultry products inspection act (21 U.S.C. Sec. 451, et seq.);

(v) The federal meat inspection act (21 U.S.C. Sec. 601, et seq.); or

(vi) The federal egg products inspection act (21 U.S.C. Sec. 1031, et seq.).

(3) No penalty may be assessed under this chapter on an individual or resident for the improper disposal of covered materials in a noncommercial or residential setting.

(4) Nothing in this chapter limits the authority of the utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, in accordance with chapter 81.77 RCW.

(5) Nothing in this chapter affects the authority or duties of the department of agriculture related to pest and noxious weed control and quarantine measures under chapter 17.24 RCW.

NEW SECTION. **Sec. 129.** ACCOUNT. The responsible recycling management account is created in the custody of the state treasurer. All receipts received by the department under this chapter must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for implementing, administering, and enforcing the requirements of this chapter, and by the department of labor and industries necessary to cover the cost for the implementation and enforcement of section 304 of this act. It is the intent of the legislature that the portion of the producer responsibility organization fee received in 2026 for the costs of the department be transferred to whichever state account was used to cover the costs of the department prior to the payment of the producer responsibility organization fee in 2026.

Part Two

Amendments to Existing Solid Waste Management Laws

Sec. 201. RCW 70A.205.045 and 2020 c 20 s 1163 are each amended to read as follows:

Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected ((~~twenty~~)) 20 years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by the franchise;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70A.205.005, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies, which may include strategies to reduce wasted food and food waste that are designed to achieve the goals established in RCW 70A.205.715(1) and that are consistent with the plan developed in RCW 70A.205.715(3);

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences ((~~in urban and rural areas. In urban areas, these~~)).

(A) Until January 1, 2030, these programs shall include collection of source separated recyclable materials from single and multiple-family residences, in urban areas, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of

environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(B) Except as provided in (b)(i)(C) of this subsection, beginning January 1, 2030, these programs shall:

(I) Provide curbside collection of source separated recyclable materials from single-family and multiple-family residences wherever curbside garbage collection services are provided to these entities;

(II) Include materials on the statewide collection list designated for residential collection established by the department; and

(III) Include service standards for curbside collection frequency, container size, and method of collection, established under plans approved by the department under chapter 70A.--- RCW (the new chapter created in section 401 of this act);

(C) A county may, by ordinance, direct that the full list of materials on the statewide collection list identified as suitable for residential collection be collected exclusively through drop-off locations in areas regulated by the utilities and transportation commission under the provisions of chapter 81.77 RCW if the areas were designated as rural in the county solid waste management plan and no curbside recycling collection service was offered within those areas as of January 1, 2025. Where a county has adopted such an ordinance, the provisions of (b)(i)(B) of this subsection do not apply;

(D) Comprehensive solid waste management plans may incorporate by reference programs described in an approved producer responsibility organization plan under chapter 70A.--- RCW (the new chapter created in section 401 of this act) to fulfill the requirements of this subsection (7)(b)(i) in whole or in part;

(E) Before January 1, 2030, each comprehensive solid waste management plan must be amended, revised, or updated by a jurisdiction consistent with the requirements of this subsection (7)(b)(i). If a comprehensive solid waste management plan has not been amended, revised, or updated before January 1, 2030, to be consistent with the requirements of this subsection (7)(b)(i), beginning January 1, 2030, the model comprehensive solid waste plan amendment provided by the department under section 106 of this act applies in the jurisdiction;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste and food waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted yard waste and food waste within or near the service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction, refill, reuse, and recycling;

(c) Recycling strategies for materials not covered under chapter 70A.--- RCW (the new chapter created in section 401 of this act), including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70A.205.110.

(10) A contamination reduction and outreach plan. The contamination reduction and outreach plan must address reducing contamination in recycling. Except for counties with a population of ((~~twenty five thousand~~)) 25,000 or fewer, by July 1, 2021, a contamination reduction and outreach plan must be included in each solid waste management plan by a plan amendment or included when revising or updating a solid waste management plan developed under this chapter. Jurisdictions may adopt the state's contamination reduction and outreach plan as developed under RCW 70A.205.070 or participate in a producer responsibility organization's plan under chapter 70A.--- RCW (the new chapter created in section 401 of this act) in lieu of creating their own plan. A recycling contamination reduction and outreach plan must include the following:

(a) A list of actions for reducing contamination in recycling programs for single-family and multiple-family residences, commercial locations, and drop boxes depending on the jurisdictions system components;

(b) A list of key contaminants identified by the jurisdiction or identified by the department;

(c) A discussion of problem contaminants and the contaminants' impact on the collection system;

(d) An analysis of the costs and other impacts associated with contaminants to the recycling system; and

(e) An implementation schedule and details of how outreach is to be conducted. Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, websites, or community events, informing recycling drop box customers about contamination, and improving signage.

Sec. 202. RCW 70A.205.500 and 1988 c 175 s 3 are each amended to read as follows:

((~~The department of ecology, at~~)) At the request of a local government jurisdiction, the department or a producer responsibility organization implementing a plan under chapter 70A.--- RCW (the new chapter created in section 401 of this act) may periodically provide educational material promoting household waste reduction and recycling to public and private refuse haulers. The educational material shall be distributed to households receiving refuse collection service by local governments or the refuse hauler providing service. The refuse hauler may distribute the educational material by any means that assures timely delivery.

Reasonable expenses incurred in the distribution of this material shall be considered, for rate-making purposes, as legitimate operating expenses of garbage and refuse haulers regulated under chapter 81.77 RCW.

Sec. 203. RCW 81.77.030 and 2020 c 20 s 1467 are each amended to read as follows:

(1) The commission shall supervise and regulate every solid waste collection company in this state,

(((~~(1)~~))) (a) By fixing and altering its rates, charges, classifications, rules and regulations;

(((~~(2)~~))) (b) By regulating the accounts, service, and safety of operations;

(((~~(3)~~))) (c) By requiring the filing of annual and other reports and data;

(((~~(4)~~))) (d) By supervising and regulating such persons or companies in all other matters affecting the relationship between

them and the public which they serve;

(((~~(5)~~))) (e) By requiring compliance with local solid waste management plans and related implementation ordinances;

(((~~(6)~~))) (f) By reviewing producer responsibility organization reimbursement of regulated service providers consistent with the requirements of chapter 70A.--- RCW (the new chapter created in section 401 of this act);

(g) By requiring certificate holders under this chapter ((~~81.77 RCW~~)) to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70A.205.005 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans. The commission may order consolidated billing and provide for reasonable and necessary expenses to be paid to the administering company if more than one certificate is granted in an area; and

(h) By requiring certificate holders under this chapter to deliver covered materials only to responsible markets, as those terms are defined in section 102 of this act.

(2) The commission, on complaint made on its own motion or by an aggrieved party, at any time, after providing the holder of any certificate with notice and an opportunity for a hearing at which it shall be proven that the holder has willfully violated or refused to observe any of the commission's orders, rules, or regulations, or has failed to operate as a solid waste collection company for a period of at least one year preceding the filing of the complaint, may suspend, revoke, alter, or amend any certificate issued under the provisions of this chapter.

Sec. 204. RCW 81.77.160 and 1997 c 434 s 1 are each amended to read as follows:

(1) The commission, in fixing and altering collection rates charged by every solid waste collection company under this section, shall include in the base for the collection rates:

(a) All charges for the disposal of solid waste at the facility or facilities designated by a local jurisdiction under a local comprehensive solid waste management plan or ordinance; ((~~and~~))

(b) All known and measurable costs related to implementation of the approved county or city comprehensive solid waste management plan; and

(c) All costs related to the implementation of curbside recycling collection services performed by a solid waste collection company consistent with chapter 70A.--- RCW (the new chapter created in section 401 of this act).

(2) If a solid waste collection company files a tariff to recover the costs specified under this section, and the commission suspends the tariff, the portion of the tariff covering costs specified in this section shall be placed in effect by the commission at the request of the company on an interim basis as of the originally filed effective date, subject to refund, pending the commission's final order. The commission may adopt rules to implement this section.

(3) This section applies to a solid waste collection company that has an affiliated interest under chapter 81.16 RCW with a facility, if the total cost of disposal, including waste transfer, transport, and disposal charges, at the facility is equal to or lower than any other reasonable and currently available option.

Sec. 205. RCW 81.77.185 and 2010 c 154 s 3 are each amended to read as follows:

(1) The commission shall allow solid waste collection companies collecting recyclable materials other than covered materials collected under an approved plan in chapter 70A.--- RCW (the new chapter created in section 401 of this act) to retain up to ((~~fifty~~)) 50 percent of the revenue paid to the companies for the material if the companies submit a plan to the commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

(2) By December 2, 2005, the commission shall provide a report to the legislature that evaluates:

(a) The effectiveness of revenue sharing as an incentive to increase recycling in the state; and

(b) The effect of revenue sharing on costs to customers.

Part Three
Other Conforming Amendments and Miscellaneous Provisions

Sec. 301. RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and 2024 c 339 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 chapter 70A.230 RCW and RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100, 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 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, 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530, 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

(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, a decision to approve or deny a solid waste management plan under RCW 70A.205.055, approval or denial of an application for a beneficial use determination under RCW 70A.205.260, an application for a change under RCW 90.03.383, or a permit to distribute reclaimed water under RCW 90.46.220.

(d) Decisions of local health departments regarding the granting or denial of solid waste permits pursuant to chapter 70A.205 RCW, including appeals by the department as provided in RCW 70A.205.130.

(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.

(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 as provided in RCW 90.64.028.

(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.

(p) Decisions by the department of ecology under section 115(5) of this act regarding a proposal by a producer responsibility organization to count materials sent to an alternative recycling facility towards recycling performance targets.

(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, except where appeals to the pollution control hearings board and appeals to the shorelines hearings board have been consolidated pursuant to RCW 43.21B.340.

(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. 302. RCW 43.21B.300 and 2024 c 347 s 6 and 2024 c 340 s 5 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.230.080, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority 30 days after the date of receipt by the person penalized of the notice imposing the penalty or 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) 30 days after receipt of the notice imposing the penalty;

(b) 30 days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) 30 days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within 30 days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except the following:

(a) Penalties imposed pursuant to RCW 18.104.155 must be credited to the reclamation account as provided in RCW 18.104.155(7);

(b) Penalties imposed pursuant to RCW 70A.15.3160 must be disposed of pursuant to RCW 70A.15.3160;

(c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090, 70A.430.070, 70A.555.110, ((~~and~~)) 70A.560.020, and 70A.565.030 must be credited to the model toxics control operating account created in RCW 70A.305.180;

(d) Penalties imposed pursuant to RCW 70A.245.040 ((~~and~~)), 70A.245.050, and chapter 70A.--- RCW (the new chapter created in section 401 of this act) must be credited to the recycling enhancement account created in RCW 70A.245.100;

(e) Penalties imposed pursuant to RCW 70A.500.260 must be deposited into the electronic products recycling account created in RCW 70A.500.130;

(f) Penalties imposed pursuant to RCW 70A.65.200 must be credited to the climate investment account created in RCW 70A.65.250;

(g) Penalties imposed pursuant to RCW 90.56.330 must be credited to the coastal protection fund established in RCW 90.48.390; and

(h) Penalties imposed pursuant to RCW 70A.355.070 must be credited to the underground storage tank account created in RCW 70A.355.090.

NEW SECTION. **Sec. 303.** LITTER TAX STUDY. (1) In

consultation with producer responsibility organizations registered with the department of ecology under chapter 70A.--- RCW (the new chapter created in section 401 of this act), the department of ecology and, for the purposes of (c) of this subsection, the department of revenue must study:

(a) The impacts of producer requirements under chapter 70A.--- RCW (the new chapter created in section 401 of this act) on the litter rates of covered materials under that chapter;

(b) The extent to which covered materials contribute to litter and marine debris for the purpose of informing how a producer responsibility organization implementing a plan can support litter and marine debris prevention as it relates to activities required under chapter 70A.--- RCW (the new chapter created in section 401 of this act). The assessment should draw on available data, assess gaps, and identify strategies for improving prevention and cleanup of litter and marine debris from covered materials; and

(c) Possible improvements to the structure of the litter tax under chapter 82.19 RCW including administration, compliance, and distribution of the tax and application of the tax to certain products, for achieving the purpose of chapter 82.19 RCW. The improvements to the structure of the litter tax to be studied under this section may not include an increase in the rate of the litter tax under chapter 82.19 RCW or an expansion of the types of covered materials under chapter 70A.--- RCW (the new chapter created in section 401 of this act) that are subject to the litter tax.

(2) By January 1, 2030, the department of ecology, in consultation with the department of revenue, must provide recommendations to the appropriate committees of the legislature on:

(a) Applicability of the litter tax to covered materials, based on whether the purpose of the litter tax under chapter 82.19 RCW is being achieved for those materials by the requirements of producers under chapter 70A.--- RCW (the new chapter created in section 401 of this act); and

(b) Improvements to the structure of the litter tax for meeting the purposes of chapter 82.19 RCW.

(3) This section expires July 1, 2030.

NEW SECTION. **Sec. 304.** A new section is added to chapter 49.46 RCW to read as follows:

(1) Employers associated with a material recovery facility that annually manages 25,000 tons or more of covered materials under chapter 70A.--- RCW (the new chapter created in section 401 of this act) must ensure that workers at the facility receive minimum industry standard compensation, beginning October 1, 2028.

(2) Employers are not required to establish "usual benefit" programs. However, if an employer chooses not to provide such benefits, wages paid must be at the full minimum industry standard rate.

(3)(a) If more than one collective bargaining agreement exists that covers similar or equivalent work in the same county, the higher rate applies.

(b) If no collective bargaining agreement exists that covers similar or equivalent work in the same county, the rate in the county with a collective bargaining agreement that is closest geographically applies.

(4) The minimum industry standard compensation requirements of this section constitute a wage payment requirement as defined in RCW 49.48.082. The department of labor and industries may otherwise enforce this provision as a wage under RCW 49.48.040 through 49.48.080 and the applicable provisions of chapter 49.52 RCW.

(5)(a) The director may initiate an investigation without an employee's complaint to ensure compliance with this section. The department of labor and industries may also initiate an investigation on behalf of one or more employees when the director has reason to believe that a violation has occurred or will occur.

(b) The department of labor and industries may conduct a consolidated investigation for any alleged violation identified under this section, or associated rules, when there are common questions of law or fact. If the department of labor and industries consolidates such matters into a single investigation, the department of labor and industries must provide notice to the employer.

(c) The department of labor and industries may request that an employer perform a self-audit of any records relating to this section, which must be provided within a reasonable time. Reasonable timelines will be specified in the self-audit request. The department of labor and industries must determine reasonable time based on the number of affected employees and the period of time covered by the self-audit. The records examined by the employer in order to perform the self-audit must be made available to the department of labor and industries upon request.

(d) Upon request of the department of labor and industries, an employer must notify affected employees in writing that the department is conducting an investigation. The department of labor and industries may require the employer to include a general description of each investigation as part of the notification, including the allegations and whether the notified employee may be affected. The employer may consult with the department of labor and industries to provide the information for the description of the notification of investigation.

(e) Upon receiving a complaint, the department of labor and industries may request or subpoena the records of the material recovery facility.

(f) In addition to any enforcement authority provided in this section or applicable rules, the department of labor and industries may enforce any violation under this section or applicable rules by filing an action in the superior court for the county in which the violation is alleged to have occurred. If the department of labor and industries prevails, the department is entitled to reasonable attorneys' fees and costs, in the amount to be determined by the court.

(6) The department of labor and industries may adopt rules to implement this section.

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

(a) "Minimum industry standard compensation" means a wage and usual benefits package equal to or greater than the combined hourly wage and usual benefits package set by a collective bargaining agreement that covers similar or equivalent work in a county.

(b) "Rate of contribution" means the effective annual rate of usual benefit contributions for all hours, public and private, worked during the year by an employee (commonly referred to as "annualization" of benefits). The only exemption to the annualization requirements is for defined contribution pension plans that have immediate participation and vesting.

(c)(i) "Usual benefits" includes the amount of:

(A) The rate of contribution irrevocably made by an employer to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) The rate of costs to the employer, which may be reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program that was communicated in writing to the workers affected, for medical or hospital care, pensions on retirement or death, compensation for all injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability

and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the employer is not required by other federal, state, or local law to provide any of these benefits.

(ii) To be deemed a "usual benefit," both of the following requirements must be satisfied:

(A) Employer payments for the usual benefit are made only in conformance with all applicable federal and state laws, including the requirements of the employment retirement income security act of 1974, as amended, and of the internal revenue service; and

(B) Employee payments toward the usual benefit, through self-contribution, payroll deduction, or otherwise, do not constitute a credit to the employer for minimum industry standard compensation purposes.

Sec. 305. RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this section and RCW 49.48.083 through 49.48.086:

(1) "Citation" means a written determination by the department that a wage payment requirement has been violated.

(2) "Department" means the department of labor and industries.

(3) "Determination of compliance" means a written determination by the department that wage payment requirements have not been violated.

(4) "Director" means the director of the department of labor and industries, or the director's authorized representative.

(5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for purposes of a wage payment requirement set forth in RCW 49.46.020 or 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

(6) "Employer" has the meaning provided in RCW 49.46.010 for purposes of a wage payment requirement set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

(7) "Notice of assessment" means a written notice by the department that, based on a citation, the employer shall pay the amounts assessed under RCW 49.48.083.

(8) "Repeat willful violator" means any employer that has been the subject of a final and binding citation and notice of assessment for a willful violation of a wage payment requirement within three years of the date of issue of the most recent citation and notice of assessment for a willful violation of a wage payment requirement.

(9) "Successor" means any person to whom an employer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys in bulk and not in the ordinary course of the employer's business, more than ((~~fifty~~)) 50 percent of the property, whether real or personal, tangible or intangible, of the employer's business.

(10) "Wage" has the meaning provided in RCW 49.46.010.

(11) "Wage complaint" means a complaint from an employee to the department that asserts that an employer has violated one or more wage payment requirements and that is reduced to writing.

(12) "Wage payment requirement" means a wage payment requirement set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, ((~~or~~)) 49.52.060, or section 304 of this act, and any related rules adopted by the department.

(13) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute, as evaluated under the standards applicable to wage payment violations under RCW 49.52.050(2).

Sec. 306. RCW 70A.245.100 and 2021 c 313 s 13 are each amended to read as follows:

The recycling enhancement account is created in the custody of the state treasurer. All penalties collected by the department pursuant to RCW 70A.245.040 ((~~and~~)), 70A.245.050, and section 123 of this act must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for providing grants to local governments for the purpose of supporting local solid waste and financial assistance programs.

NEW SECTION. **Sec. 307.** 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. 308.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void.

Part Four
Codification Directives

NEW SECTION. **Sec. 401.** Sections 101 through 129 of this act constitute a new chapter in Title 70A RCW."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Lovelett moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5284.

Senator Lovelett spoke in favor of the motion.

Senator Boehnke spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Lovelett that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5284.

The motion by Senator Lovelett carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5284 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5284, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5284, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Cleveland, Conway, Cortes, Dhingra, Frame, Hansen, Hasegawa, Kauffman, Liias, Lovelett, Lovick, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Chapman, Christian, Dozier, Fortunato, Gildon, Goehner, Harris, Holy, King, Krishnadasan, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, J.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5284, as amended by the House, having received the

constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the seniors from the Bonnie Lake Senior Center who were seated in the gallery. They were guests of Senator Fortunato.

PERSONAL PRIVILEGE

Senator Lovick: "

REMARKS BY THE PRESIDENT

President Heck: "

MESSAGE FROM THE HOUSE

April 16, 2025

MR. PRESIDENT:

The House passed SENATE BILL NO. 5319 with the following amendment(s): 5319 AMH AGNR H2100.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 78.44.085 and 2017 3rd sp.s. c 27 s 1 are each amended to read as follows:

(1) An applicant ((~~for an expansion of a permitted surface mine, a new reclamation permit under RCW 78.44.081, or for combining existing public or private reclamation permits, shall pay a nonrefundable application fee to the department before being granted the requested permit or permit expansion~~)): (a) For a revision of an existing reclamation permit or reclamation plan; (b) for an expansion of a permitted surface mine; (c) for a new reclamation permit under RCW 78.44.081; or (d) seeking to combine existing public or private surface mine reclamation permits, shall pay a nonrefundable application fee to the department before the department will make a decision on the application. The amount of the application fee shall be ((~~four thousand five hundred dollars.~~

~~(2) Permit holders submitting a revision to an application for an existing reclamation plan that is not an expansion shall pay a nonrefundable reclamation plan revision fee of two thousand five hundred dollars~~)) $4,500.

(((~~(3)~~))) (2) After June 30, 2017, each public or private permit holder shall pay an annual permit fee in an amount pursuant to this section. The annual permit fee shall be payable to the department prior to the reclamation permit being issued and on the anniversary of the permit date each year thereafter.

(((~~(4)~~))) (3)(a) Except as otherwise provided in this subsection, each public or private permit holder must pay an annual fee of ((~~two thousand dollars~~)) $3,500.

(b) Annual fees paid by a county for mines used exclusively for public works projects and having less than seven acres of disturbed area per mine shall not exceed ((~~one thousand dollars~~)) $1,000.

(c) ((~~Annual fees are waived for all mines used primarily for public works projects if the mines are owned and primarily operated by counties with 1993 populations of less than twenty thousand persons, and if each mine has less than seven acres of disturbed area~~)) Except as provided in (b) of this subsection, the annual fee for a public permit holder for mines used exclusively for public works projects, as defined in RCW 39.04.010(5), is $2,500.

(((~~(5)~~))) (4) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department are to be held as confidential and not released as part of a public records request under chapter 42.56 RCW.

(((~~(6)~~))) (5) Appeals from any determination of the department shall not stay the requirement to pay any annual permit fee. Failure to pay the annual fees may constitute grounds for an order to suspend surface mining, pay fines, or cancel the reclamation permit as provided in this chapter.

(((~~(7)~~))) (6) All fees collected by the department shall be deposited into the surface mining reclamation account created in RCW 78.44.045.

(((~~(8)~~))) (7) If the department delegates enforcement responsibilities to a county, city, or town, the department may allocate funds collected under this section to the county, city, or town.

(((~~(9)~~))) (8) Within ((~~sixty~~)) 60 days after receipt of an application for a new or expanded permit, or revision to an existing reclamation permit or reclamation plan, the department shall advise applicants of any information necessary to successfully complete the application.

(((~~(10)~~))) (9) In addition to other enforcement authority, the department may refer matters to a collection agency licensed under chapter 19.16 RCW when permit fees or fines are past due. The collection agency may impose its own fees for collecting delinquent permit fees or fines."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Shewmake moved that the Senate concur in the House amendment(s) to Senate Bill No. 5319.

MOTION

On motion of Senator Nobles, Senator Saldaña was excused.

Senator Shewmake spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Shewmake that the Senate concur in the House amendment(s) to Senate Bill No. 5319.

The motion by Senator Shewmake carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5319 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5319, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5319, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Dhingra, Frame, Hansen, Hasegawa, Kauffman, Krishnadasan, Liias, Lovelett, Lovick, Nobles,

Orwall, Pedersen, Riccelli, Robinson, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Cortes, Dozier, Fortunato, Gildon, Goehner, Harris, Holy, King, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, J.

Excused: Senator Saldaña

SENATE BILL NO. 5319, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 15, 2025

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5568 with the following amendment(s): 5568-S AMH APP H2158.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) In 1987, as directed by the state health planning and resources development act, the state health coordinating council released the state health plan, which set forth objectives for the improvement of health status and development of health services in the state. The plan included recommendations on improving the health status of Washingtonians, improving access and quality of care, containing health care cost growth, and planning for long-term care needs.

(2) In 2006, the legislature created the blue ribbon commission on health care costs and access. The commission was tasked with developing a five-year plan for substantially improving access to affordable health care for all Washington residents. In 2007, the legislature enacted several recommendations from the commission including directing the office of financial management to develop a statewide health resources strategy to establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. Certificate of need determinations must be consistent with that strategy.

(3) In 2024, the legislature directed the department of health to conduct an analysis of the certificate of need program and report its findings and recommendations for statutory updates by June 30, 2025. Under this determination, the department must, at a minimum, consider other state approaches to certificates of need, impacts on access to care, cost control of health services, and equity, and approaches to identifying health care service needs at the statewide and community levels.

(4) The legislature intends to renew efforts to develop a sustainable state health plan and resource strategy by updating duties assigned to the office of financial management in chapter 43.370 RCW.

Sec. 2. RCW 43.370.010 and 2007 c 259 s 50 are each amended to read as follows:

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

(1) "Health care provider" means an individual who holds a license issued by a disciplining authority identified in RCW 18.130.040 and who practices his or her profession in a health care facility or provides a health service.

(2) "Health facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, ((~~psychiatric~~)) behavioral health hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers under chapter 70.38 RCW, ambulatory diagnostic, treatment, or surgical facilities under chapter 70.230 RCW, drug and alcohol treatment facilities licensed under chapter ((~~70.96A~~)) 71.24 RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision, including a public hospital district, or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(3) "Health service" or "service" means that service, including primary care service, offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(4) "Health service area" means a geographic region appropriate for effective health planning that includes a broad range of health services.

(5) "Office" means the office of financial management.

(6) "Strategy" means the statewide health resources strategy.

Sec. 3. RCW 43.370.020 and 2010 1st sp.s. c 7 s 113 are each amended to read as follows:

(1) The office shall serve as a coordinating body for public and private efforts to improve quality in health care, promote cost-effectiveness in health care, and plan health facility and health service availability. In addition, the office shall facilitate access to health care data collected by public and private organizations as needed to conduct its planning responsibilities.

(2) The office shall:

(a) Conduct strategic health planning activities related to the preparation of the strategy, as specified in this chapter;

(b) Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning responsibilities. The office may contract with an organization to create the computerized system capable of meeting the needs of the office;

(c) Have access to the information submitted as part of the health professional licensing application and renewal process, excluding social security number and background check information, whether the license is issued by the secretary of the department of health or a board or commission. The office shall also have access to information submitted to the department of health as part of the medical or health facility licensing process. Access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines, and the office shall maintain the same degree of confidentiality as the department of health. For professional licensing information provided to the office, the department of health shall replace any social security number with an alternative identifier capable of linking all licensing records of an individual; ((~~and~~))

(d) Have access to and use of the data contained in the all-payer claims database and information submitted to the health care authority as part of the annual reporting process;

(e) Have access to and use of other relevant health care authority, department of health, office of the insurance commissioner, health benefit exchange, and department of social and health services data, where doing so would avoid duplicating collection efforts; and

(f) Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the purposes of the strategy.

(3) Access to and use of all data received from other entities shall be in accordance with state and federal confidentiality laws and ethical guidelines, and the office shall maintain the same degree of confidentiality and nondisclosure as the originating entity.

Sec. 4. RCW 43.370.030 and 2010 1st sp.s. c 7 s 114 are each

amended to read as follows:

(1) The office ((~~shall develop~~)), in coordination with relevant public and private stakeholders, shall update the state health plan by developing a statewide health resources strategy. The strategy shall establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. The strategy shall identify needs according to geographic regions suitable for comprehensive health planning as designated by the office.

(2) The development of the strategy shall consider the following general goals and principles:

(a) That excess capacity of health services and facilities place considerable economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance purchasers, carriers, and taxpayers; ((~~and~~))

(b) That the development and ongoing maintenance of current and accurate health care information and statistics related to cost and quality of health care, as well as projections of need for health facilities and services, are essential to effective strategic health planning; and

(c) That a statewide health resources strategy should take into consideration the principles of health equity.

(3) The strategy, with public input by health service areas, shall include:

(a) A health system assessment and objectives component that:

(i) Describes state and regional population demographics, health status indicators, and trends in health status and health care needs; and

(ii) Identifies key policy objectives for the state health system related to access to care, health outcomes, quality, and cost-effectiveness;

(b) A health care facilities and services plan that shall assess the demand for health care facilities and services to inform state health planning efforts and direct certificate of need determinations, for those facilities and services subject to certificate of need as provided in chapter 70.38 RCW. The plan shall include:

(i) An inventory of each geographic region's existing health care facilities and services;

(ii) Projections of need for each category of health care facility and service, including those subject to certificate of need;

(iii) Policies to guide the addition of new or expanded health care facilities and services to promote the use of quality, evidence-based, cost-effective health care delivery options, including any recommendations for criteria, standards, and methods relevant to the certificate of need review process; and

(iv) An assessment of the availability of health care providers, public health resources, transportation infrastructure, and other considerations necessary to support the needed health care facilities and services in each region;

(c) A health care data resource plan that identifies data elements necessary to properly conduct planning activities and to review certificate of need applications, including data related to inpatient and outpatient utilization and outcomes information, and financial and utilization information related to charity care, quality, and cost. The plan shall inventory existing data resources, both public and private, that store and disclose information relevant to the health planning process, including information necessary to conduct certificate of need activities pursuant to chapter 70.38 RCW. The plan shall identify any deficiencies in the inventory of existing data resources and the data necessary to conduct comprehensive health planning activities. The plan may recommend that the office be authorized to access existing data sources and conduct appropriate analyses of such data or that other agencies expand their data collection activities as statutory authority permits. The plan may identify any computing infrastructure deficiencies that impede the proper storage, transmission, and analysis of health planning data. The plan shall provide recommendations for increasing the availability of data related to health planning to provide greater community involvement in the health planning process and consistency in data used for certificate of need applications and determinations;

(d) An assessment of emerging trends in health care delivery and technology as they relate to access to health care facilities and services, quality of care, and costs of care. The assessment shall recommend any changes to the scope of health care facilities and services covered by the certificate of need program that may be warranted by these emerging trends. In addition, the assessment may recommend any changes to criteria used by the department to review certificate of need applications, as necessary;

(e) A rural health resource plan to assess the availability of health resources in rural areas of the state, assess the unmet needs of these communities, and evaluate how federal and state reimbursement policies can be modified, if necessary, to more efficiently and effectively meet the health care needs of rural communities. The plan shall consider the unique health care needs of rural communities, the adequacy of the rural health workforce, and transportation needs for accessing appropriate care.

(4) The office shall submit ((~~the initial strategy~~)) a preliminary report outlining its work in developing a state health resources strategy by July 1, 2026. The office shall submit the completed health resources strategy report to the governor and the appropriate committees of the senate and house of representatives by ((~~January 1, 2010. Every two~~)) December 31, 2027. The report must include projections and policy recommendations through 2032. Beginning January 1, 2033, the office shall report on strategy updates and implementation every four years ((~~the office shall submit an updated strategy. The health care facilities and services plan as it pertains to a distinct geographic planning region may be updated by individual categories on a rotating, biannual schedule~~)).

(5) The office shall hold at least one virtual or hybrid public hearing and allow opportunity to submit written comments prior to the issuance of the ((~~initial~~)) preliminary report outlining its work in developing the state health resources strategy ((~~or an~~)) and at least one virtual or hybrid public meeting before issuance of the completed health resources strategy report and any updated strategy reports. ((~~A public hearing shall be held prior to issuing a draft of an updated health care facilities and services plan, and another public hearing shall be held before final adoption of an updated health care facilities and services plan. Any hearing related to updating a health care facilities and services plan for a specific planning region shall be held in that region with sufficient notice to the public and an opportunity to comment.~~))

Sec. 5. RCW 43.370.040 and 2007 c 259 s 53 are each amended to read as follows:

The office shall submit the strategy to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. As the health care facilities and services plan is updated for any specific geographic planning region, the office shall submit that plan to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. The office shall not issue determinations of the merits of specific project proposals submitted by applicants for certificates of need. The department of health may not adopt rules in response to the strategy issued in 2027."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Cleveland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5568.

Senator Cleveland spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Cleveland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5568.

The motion by Senator Cleveland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5568 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5568, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5568, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Cortes, Dhingra, Frame, Goehner, Hansen, Harris, Hasegawa, Holy, Kauffman, Krishnadasan, Liias, Lovelett, Lovick, MacEwen, Muzzall, Nobles, Orwall, Pedersen, Riccelli, Robinson, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wagoner, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Dozier, Fortunato, Gildon, King, McCune, Schoesler, Short, Torres, Warnick and Wilson, J.

Excused: Senator Saldaña

SUBSTITUTE SENATE BILL NO. 5568, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

HOUSE BILL NO. 1009,
HOUSE BILL NO. 1018,
SUBSTITUTE HOUSE BILL NO. 1023,
HOUSE BILL NO. 1039,
SUBSTITUTE HOUSE BILL NO. 1576,
SECOND SUBSTITUTE HOUSE BILL NO. 1587,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1596,
SUBSTITUTE HOUSE BILL NO. 1621,
ENGROSSED HOUSE BILL NO. 1628,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1651,
HOUSE BILL NO. 1757,
SUBSTITUTE HOUSE BILL NO. 1811,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 1813,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1829,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1837,
ENGROSSED HOUSE BILL NO. 1874,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1878,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1946,
HOUSE BILL NO. 1970,
SECOND SUBSTITUTE HOUSE BILL NO. 1990.

MESSAGE FROM THE HOUSE

April 18, 2025

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1440 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Dhingra moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1440.

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

The President declared the question before the Senate to be motion by Senator Dhingra that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1440.

The motion by Senator Dhingra carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1440 by voice vote.

MOTION

Senator Dhingra moved that the rules be suspended and Engrossed Second Substitute House Bill No. 1440 be returned to second reading for the purposes of amendment.

Senator Dhingra spoke in favor of the motion.

Senator Holy spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Dhingra that the Senate return Engrossed Second Substitute House Bill No. 1440 to the Second Reading for the purpose of amendment.

The motion by Senator Dhingra carried and Engrossed Second Substitute House Bill No. 1440 was returned to Second Reading.

MOTION

Senator Dhingra moved that the rules be suspended and Engrossed Second Substitute House Bill No. 1440 be returned to second reading for the purposes of amendment.

Senator Dhingra spoke in favor of the motion.

Senator Holy spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Dhingra that the rules be suspended and Engrossed Second Substitute House Bill No. 1440 be returned to second reading for the purposes of amendment.

The motion by Senator Dhingra carried and Engrossed Second Substitute House Bill No. 1440 was returned to second reading by voice vote.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1440, by House Committee on Transportation (originally sponsored by Goodman, Hackney, Peterson, and Ormsby)

Concerning seizure and forfeiture procedures and reporting.

MOTION

Senator Dhingra moved that the following striking floor amendment no. 0470 by Senator Dhingra be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** This chapter provides standard procedures governing civil asset forfeiture and is applicable to laws of this state that authorize civil forfeiture of property and that indicate the provisions of this chapter apply.

NEW SECTION. **Sec. 2.** (1)(a) Except with respect to contraband items, which shall be seized and summarily forfeited, proceedings for forfeiture are deemed commenced by the seizure. The agency under whose authority the seizure was made shall cause notice to be served within 15 days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure must be made according to the rules of civil procedure, except that service by mail shall be by certified mail, return receipt requested. However, a default judgment with respect to real property may not be obtained against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, must be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(b) The notice must include information indicating that if the property owner or other person claiming a right or interest in the property contests the forfeiture, the person has the right to move the matter to a court of competent jurisdiction, and if the person substantially prevails in a forfeiture proceeding, the person is entitled to reimbursement for reasonable attorneys' fees.

(2) If no person notifies the seizing agency in writing of the person's claim of ownership or right to possession of an item seized within 60 days of the service of notice from the seizing agency in the case of personal property and 120 days in the case of real property, the item seized is deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(3) If any person notifies the seizing agency in writing of the person's claim of ownership or right to possession of an item seized within 60 days of the service of notice from the seizing agency in the case of personal property and 120 days in the case of real property, the person or persons must be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail is deemed complete upon mailing within the 60-day period following service of the notice of seizure in the case of personal property and within the 120-day period following service of the notice of seizure in the case of real property.

(4) The hearing must be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except that where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing must be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW. Such a hearing and any appeal therefrom must be under Title 34 RCW.

(5) Any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within 45 days after the person seeking removal has notified the seizing agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed must be the district court, or the municipal court for the jurisdiction in which the property was seized, when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020.

(6)(a) Whether the matter is heard under Title 34 RCW pursuant to subsection (4) of this section or removed to court pursuant to subsection (5) of this section, the burden of proof is upon the seizing agency to establish, by clear, cogent, and convincing evidence, that the property is subject to forfeiture.

(b) No personal property may be forfeited to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(c) No real property may be forfeited to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent.

(d) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(7) The seizing agency shall promptly return seized items, in a substantially similar condition as when they were seized, to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof.

(8) In any proceeding to forfeit property under this chapter, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant.

(9) The protections afforded by the service members' civil relief act, chapter 38.42 RCW, are applicable to proceedings under this chapter.

NEW SECTION. **Sec. 3.** (1) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(2)(a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited only if:

(i) An employee, agent, or officer of the seizing agency, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by the employee, agent, or officer of the seizing agency prior to asserting a claim under the provisions of this section;

(A) Only if the funds applied under (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by the employee, agent, or officer of the seizing agency, may the landlord seek compensation for the damage by filing a claim

against the governmental entity under whose authority the seizing agency operates within 30 days after the search;

(B) Only if the governmental entity denies or fails to respond to the landlord's claim within 60 days of the date of filing, may the landlord collect damages under this subsection by filing within 30 days of denial or the expiration of the 60-day period, whichever occurs first, a claim with the seizing agency. The seizing agency must notify the landlord of the status of the claim by the end of the 30-day period. Nothing in this section requires the claim to be paid by the end of the 60-day or 30-day period.

(b) For any claim filed under (a)(ii) of this subsection, the seizing agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or the chapter pursuant to which the seizure was made; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(3) The landlord's claim for damages under subsection (2) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by the employee, agent, or officer of the seizing agency;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property.

(4) Subsections (2) and (3) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a seizing agency satisfies a landlord's claim under subsection (2) of this section, the rights the landlord has against the tenant for damages directly caused by an employee, agent, or officer of the seizing agency under the terms of the landlord and tenant's contract are subrogated to the seizing agency.

NEW SECTION. **Sec. 4.** When property is forfeited under this chapter, the seizing agency may:

(1) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency to be used in enforcement;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(3) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law;

(4) Forward it to an appropriate entity, such as the drug enforcement administration, for disposition;

(5) Satisfy any known court-ordered restitution owed by the person from whom the property was forfeited; or

(6) Take any other action allowed by statute.

NEW SECTION. **Sec. 5.** (1)(a)(i) Except as provided in (a)(ii) of this subsection, by January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to 10 percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund unless otherwise provided in statute.

(ii) By January 31st of each year, each seizing agency shall remit to the state an amount equal to 10 percent of the net proceeds of any property forfeited under RCW 10.105.010 and 46.61.5058 during the preceding calendar year for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under section 3 of this act.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(2) Forfeited property and net proceeds not required to be paid to the state shall be retained by the seizing agency exclusively for the expansion and improvement of related enforcement activities. Money retained under this section may not be used to supplant preexisting funding sources.

Sec. 6. RCW 9.68A.120 and 2022 c 162 s 4 are each amended to read as follows:

The following are subject to seizure and forfeiture:

(1) All visual or printed matter that depicts a minor engaged in sexually explicit conduct.

(2) All raw materials, equipment, and other tangible personal property of any kind used or intended to be used to manufacture or process any visual or printed matter that depicts a minor engaged in sexually explicit conduct, and all conveyances, including aircraft, vehicles, or vessels that are used or intended for use to transport, or in any manner to facilitate the transportation of, visual or printed matter in violation of RCW 9.68A.050 or 9.68A.060, but:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) No property is subject to forfeiture under this section by reason of any act or omission ((~~established by the owner of the property to have been~~)) committed or omitted without the owner's knowledge or consent;

(c) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(d) When the owner of a conveyance has been arrested under this chapter the conveyance may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest.

(3) All personal property, moneys, negotiable instruments, securities, or other tangible or intangible property furnished or intended to be furnished by any person in exchange for visual or printed matter depicting a minor engaged in sexually explicit conduct, or constituting proceeds traceable to any violation of this chapter.

(4) Property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a

prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(5) In the event of seizure under subsection (4) of this section, proceedings for forfeiture ((~~shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.~~

~~(6) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of seized items within forty-five days of the seizure, the item seized shall be deemed forfeited.~~

~~(7) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of seized items within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. The hearing before an administrative law judge and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the seized items. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is lawfully entitled to possession thereof of the seized items.~~

~~(8) If property is sought to be forfeited on the ground that it constitutes proceeds traceable to a violation of this chapter, the seizing law enforcement agency must prove by a preponderance of the evidence that the property constitutes proceeds traceable to a violation of this chapter.~~

~~(9) When property is forfeited under this chapter the seizing law enforcement agency may:~~

~~(a) Retain it for official use or upon application by any law enforcement agency of this state release the property to that agency for the exclusive use of enforcing this chapter or chapter 9A.88 RCW;~~

~~(b) Sell that which is not required to be destroyed by law and which is not harmful to the public; or~~

~~(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law.~~

~~(10)(a) By January 31st of each year, each seizing agency shall remit to the state an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the prostitution prevention and intervention account under RCW 43.63A.740.~~

~~(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to an independent selling agency.~~

~~(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure determined when possible by reference to an applicable commonly used index. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.~~

~~(11) Forfeited property and net proceeds not required to be remitted to the state under this chapter shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Money remaining after payment of these expenses shall be retained by the seizing law enforcement agency for the exclusive use of enforcing the provisions of this chapter or chapter 9A.88 RCW~~)) are governed by chapter 7.--- RCW (the new chapter created in section 15 of this act).

Sec. 7. RCW 9A.88.150 and 2022 c 162 s 5 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) Any property or other interest acquired or maintained in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070 to the extent of the investment of funds, and any appreciation or income attributable to the investment, from a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(b) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission ((~~established by the owner thereof to have been~~)) committed or omitted without the owner's knowledge or consent;

(iii) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(iv) When the owner of a conveyance has been arrested for a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(c) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(d) All proceeds traceable to or derived from an offense defined in RCW 9.68A.100, 9.68A.101, or 9A.88.070 and all moneys, negotiable instruments, securities, and other things of value

significantly used or intended to be used significantly to facilitate commission of the offense;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(f) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(f), to the extent of the interest of an owner, by reason of any act or omission((~~, which that owner establishes was~~)) committed or omitted without the owner's knowledge or consent; and

(g) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, if a substantial nexus exists between the violation and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this section may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding; or

(c) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture ((~~shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including, but not limited to, service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.~~

~~(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.~~

~~(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first class mail. Service by mail shall be deemed complete upon mailing within the forty five day period following service of the notice of seizure in the case of personal property and within the ninety day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency

~~to establish, by a preponderance of the evidence, that the property is subject to forfeiture.~~

~~The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1) of this section.~~

~~(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.~~

~~(7) When property is forfeited under this chapter, the seizing law enforcement agency may:~~

~~(a) Retain it for official use or upon application by any law enforcement agency of this state release the property to that agency for the exclusive use of enforcing this chapter or chapter 9.68A RCW;~~

~~(b) Sell that which is not required to be destroyed by law and which is not harmful to the public; or~~

~~(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law.~~

~~(8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.~~

~~(b) Each seizing agency shall retain records of forfeited property for at least seven years.~~

~~(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.~~

~~(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.~~

~~(9)(a) By January 31st of each year, each seizing agency shall remit to the state an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the prostitution prevention and intervention account under RCW 43.63A.740.~~

~~(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (12) of this section.~~

~~(c) The value of sold forfeited property is the sale price. The value of destroyed property and retained firearms or illegal property is zero.~~

~~(10) Net proceeds not required to be remitted to the state shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Money remaining after payment of these expenses shall be retained by the seizing law enforcement agency for the exclusive use of enforcing the provisions of this chapter or chapter 9.68A RCW.~~

~~(11) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.~~

~~(12) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (9) of this section, only if:~~

~~(a) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence;~~

~~(b) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section:~~

~~(i) Only if the funds applied under (b) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;~~

~~(ii) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty day period. Nothing in this section requires the claim to be paid by the end of the sixty day or thirty day period; and~~

~~(c) For any claim filed under (b) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:~~

~~(i) Knew or consented to actions of the tenant in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070; or~~

~~(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.~~

~~(13) The landlord's claim for damages under subsection (12) of this section may not include a claim for loss of business and is limited to:~~

~~(a) Damage to tangible property and clean up costs;~~

~~(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;~~

~~(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (9) of this section; and~~

~~(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (12) of this section.~~

~~(14) Subsections (12) and (13) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (12) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency~~)) are governed by chapter 7.--- RCW (the new chapter created in section 15 of this act).

Sec. 8. RCW 9A.83.030 and 2020 c 62 s 1 are each amended to read as follows:

(1) Proceeds traceable to or derived from specified unlawful activity or a violation of RCW 9A.83.020 are subject to seizure

and forfeiture. The attorney general or county prosecuting attorney may file a civil action for the forfeiture of proceeds. Unless otherwise provided for under this section, no property rights exist in these proceeds. All right, title, and interest in the proceeds shall vest in the governmental entity of which the seizing law enforcement agency is a part upon commission of the act or omission giving rise to forfeiture under this section.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by a superior court that has jurisdiction over the property. Any agency seizing real property shall file a lis pendens concerning the property. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later. Real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant issued pursuant to RCW 69.50.502; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter.

(3) A seizure under subsection (2) of this section commences proceedings for forfeiture pursuant to chapter 7.--- RCW (the new chapter created in section 15 of this act). ((~~The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized proceeds to be served within fifteen days after the seizure on the owner of the property seized and the person in charge thereof and any person who has a known right or interest therein, including a community property interest. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure.~~

~~(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the property seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.~~

~~(5) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The provisions of RCW 69.50.505(5) shall apply to any such hearing. The seizing law enforcement agency shall promptly return property to the claimant upon the direction of the administrative law judge or court.~~

~~(6) Disposition of forfeited property shall be made in the manner provided for in RCW 69.50.505 (8) through (10) and (14) or 9.46.231 (6) through (8) and (10).~~))

Sec. 9. RCW 10.105.010 and 2022 c 162 s 3 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. No property may be forfeited under this section until after there has been a superior court conviction of the owner of the property for the felony in connection with which the property was employed, furnished, or acquired.

A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if at the time the security interest was created, the secured party neither had knowledge of nor consented to the commission of the felony.

(2) Personal property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding;

(c) A law enforcement officer has probable cause to believe that the property is directly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in the commission of a felony.

(3) In the event of seizure pursuant to this section, proceedings for forfeiture ((~~shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. The notice of seizure may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.~~

~~(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.~~

~~(5) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law~~

~~enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. The seizing law enforcement agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.~~

~~(6) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:~~

~~(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the criminal law;~~

~~(b) Sell that which is not required to be destroyed by law and which is not harmful to the public.~~

~~(7) By January 31st of each year, each seizing agency shall remit to the state an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.~~

~~(a) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.~~

~~(b) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.~~

~~(c) Retained property and net proceeds not required to be remitted to the state, or otherwise required to be spent under this section, shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources~~)) are governed by chapter 7.--- RCW (the new chapter created in section 15 of this act).

(4) When property is seized under this chapter and forfeited pursuant to chapter 7.--- RCW (the new chapter created in section 15 of this act), the seizing agency must use or dispose of the property as permitted under section 4 of this act.

Sec. 10. RCW 19.290.230 and 2013 c 322 s 27 are each amended to read as follows:

(1) The following personal property is subject to seizure and forfeiture and no property right exists in them: All personal property including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which the seizing agency proves by ((~~a preponderance of the~~)) clear, cogent, and convincing evidence was used or intended to be used by its owner or the person in charge to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, or which the seizing agency proves by ((~~a preponderance of the~~)) clear, cogent, and convincing evidence was knowingly or intentionally furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, a crime involving theft, trafficking, or the unlawful possession of commercial metal property, or which the property owner acquired in whole or in part with proceeds traceable to a knowing or intentional commission of a crime involving the theft, trafficking, or unlawful possession of commercial metal property provided that such activity is not less than a class C felony; except that:

(a) No vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the seizing agency proves by ((~~a preponderance of the~~)) clear, cogent, and convincing evidence that the owner or other person in charge of the vehicle is a consenting party or is privy to any crime involving theft, trafficking, or the unlawful possession of commercial metal property;

(b) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had actual or constructive knowledge of nor consented to the commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property; and

(c) A property owner's property is not subject to seizure if an employee or agent of that property owner uses the property owner's property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent.

(2) The following real property is subject to seizure and forfeiture and no property right exists in them: All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements, that the seizing agency proves by ((~~a preponderance of the~~)) clear, cogent, and convincing evidence are being used with the knowledge of the owner for the intentional commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property, or which have been acquired in whole or in part with proceeds traceable to the commission of any crime involving the trafficking, theft, or unlawful possession of commercial metal, if such activity is not less than a class C felony and a substantial nexus exists between the commission of the violation or crime and the real property. However:

(a) No property may be forfeited pursuant to this subsection (2), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's actual or constructive knowledge; and further, a property owner's real

property is not subject to seizure if an employee or agent of that property owner uses the property owner's real property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent; and

(b) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, neither had actual or constructive knowledge, nor consented to the act or omission.

(3) Property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.

(4) In the event of seizure pursuant to this section, proceedings for forfeiture ((~~shall be~~)) are deemed commenced by the seizure and governed by chapter 7.--- RCW (the new chapter created in section 15 of this act). ((~~The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure of personal property may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.~~

~~(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.~~

~~(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property.~~

~~(7) At the hearing, the seizing agency has the burden of proof to establish by a preponderance of the evidence that seized property is subject to forfeiture, and that the use or intended use of the seized property in connection with a crime pursuant to this section occurred with the owner's actual or constructive knowledge or consent. The person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property has the burden of proof to establish by a preponderance of the evidence that the person owns or has a right to possess the seized property. The possession of bare legal title is not sufficient to establish ownership of seized property if the seizing agency proves by a preponderance of the evidence that the person claiming ownership or right to possession is a nominal owner and did not actually own or exert a controlling interest in the property.~~

~~The seizing law enforcement agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.~~

~~(8) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:~~

~~(a) Retain it for official use or, upon application by any law enforcement agency of this state, release such property to such agency; or~~

~~(b) Sell that which is not required to be destroyed by law and which is not harmful to the public.~~

~~(9)(a) Within one hundred twenty days after the entry of an order of forfeiture, each seizing agency shall remit to, if known, the victim of the crime involving the seized property, an amount equal to fifty percent of the net proceeds of any property forfeited.~~

~~(b) Retained property and net proceeds not required to be paid to victims shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.~~

~~(c) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages.~~

~~(d) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.~~

~~(10) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.~~))

(5)(a) When property is seized under this chapter and forfeited pursuant to chapter 7.--- RCW (the new chapter created in section 15 of this act), the seizing agency must use or dispose of the property as permitted under section 4 of this act.

(b) Within 120 days after the entry of an order of forfeiture, each seizing agency shall remit to, if known, the victim of the crime involving the seized property, an amount equal to 50 percent of the net proceeds of any property forfeited.

Sec. 11. RCW 46.61.5058 and 2022 c 162 s 2 are each amended to read as follows:

(1) Upon the arrest of a person or upon the filing of a complaint, citation, or information in a court of competent jurisdiction, based upon probable cause to believe that a person has violated RCW 46.20.740, 46.61.502, or 46.61.504 or any similar municipal ordinance, if such person has a prior offense within seven years as defined in RCW 46.61.5055, and where the person has been provided written notice that any transfer, sale, or encumbrance of such person's interest in the vehicle over which that person was actually driving or had physical control when the violation occurred, is unlawful pending either acquittal, dismissal, sixty days after conviction, or other termination of the charge, such person shall be prohibited from encumbering, selling, or transferring his or her interest in such vehicle, except as otherwise provided in (a), (b), and (c) of this subsection, until either acquittal, dismissal, sixty days after conviction, or other termination of the charge. The prohibition against transfer of title shall not be stayed pending the determination of an appeal from the conviction.

(a) A vehicle encumbered by a bona fide security interest may be transferred to the secured party or to a person designated by the secured party;

(b) A leased or rented vehicle may be transferred to the lessor, rental agency, or to a person designated by the lessor or rental agency; and

(c) A vehicle may be transferred to a third party or a vehicle dealer who is a bona fide purchaser or may be subject to a bona fide security interest in the vehicle unless it is established that (i) in the case of a purchase by a third party or vehicle dealer, such party or dealer had actual notice that the vehicle was subject to the prohibition prior to the purchase, or (ii) in the case of a security interest, the holder of the security interest had actual notice that the vehicle was subject to the prohibition prior to the encumbrance of title.

(2) On conviction for a violation of either RCW 46.20.740, 46.61.502, or 46.61.504 or any similar municipal ordinance where the person convicted has a prior offense within seven years as defined in RCW 46.61.5055, the motor vehicle the person was driving or over which the person had actual physical control at the time of the offense, if the person has a financial interest in the vehicle, the court shall consider at sentencing whether the vehicle shall be seized and forfeited pursuant to this section if a seizure or forfeiture has not yet occurred.

(3) A vehicle subject to forfeiture under this chapter may be seized by a law enforcement officer of this state upon process issued by a court of competent jurisdiction. Seizure of a vehicle may be made without process if the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) Seizure under subsection (3) of this section automatically commences proceedings for forfeiture, which proceedings are governed by chapter 7.--- RCW (the new chapter created in section 15 of this act). ((~~The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized vehicle to be served within fifteen days after the seizure on the owner of the vehicle seized, on the person in charge of the vehicle, and on any person having a known right or interest in the vehicle, including a community property interest. The notice of seizure may be served by any method authorized by law or court rule, including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected on a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.~~

~~(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the vehicle is deemed forfeited.~~

~~(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the vehicle is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the vehicle involved, the prevailing party shall be entitled to a judgment for costs and~~

~~reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the legal owner or the person claiming to have the lawful right to possession of the vehicle. The seizing law enforcement agency shall promptly return the vehicle to the claimant upon a determination by the administrative law judge or court that the claimant is the present legal owner under this title or is lawfully entitled to possession of the vehicle.~~

~~(7)~~)) (5) When a vehicle is forfeited under this chapter the seizing law enforcement agency may sell the vehicle, retain it for official use, or upon application by a law enforcement agency of this state release the vehicle to that agency for the exclusive use of enforcing this title; provided, however, that the agency shall first satisfy any bona fide security interest to which the vehicle is subject under subsection (1)(a) or (c) of this section.

(((~~(8)~~))) (6) When a vehicle is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the vehicle, the disposition of the vehicle, the value of the vehicle at the time of seizure, and the amount of proceeds realized from disposition of the vehicle.

(((~~(9)~~))) (7) Each seizing agency shall retain records of forfeited vehicles for at least seven years.

~~(((10) Each seizing agency shall file a report including a copy of the records of forfeited vehicles with the state treasurer each calendar quarter.~~

~~(11) The quarterly report need not include a record of a forfeited vehicle that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.~~

~~(12) By January 31st of each year, each seizing agency shall remit to the state an amount equal to ten percent of the net proceeds of vehicles forfeited during the preceding calendar year for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.~~

~~(13) The net proceeds of a forfeited vehicle is the value of the forfeitable interest in the vehicle after deducting the cost of satisfying a bona fide security interest to which the vehicle is subject at the time of seizure; and in the case of a sold vehicle, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.~~

~~(14) The value of a sold forfeited vehicle is the sale price. The value of a retained forfeited vehicle is the fair market value of the vehicle at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing. A seizing agency may, but need not, use an independent qualified appraiser to determine the value of retained vehicles. If an appraiser is used, the value of the vehicle appraised is net of the cost of the appraisal.~~))

Sec. 12. RCW 70.74.400 and 2002 c 370 s 3 are each amended to read as follows:

(1) Explosives, improvised devices, and components of explosives and improvised devices that are possessed, manufactured, delivered, imported, exported, stored, sold, purchased, transported, abandoned, detonated, or used, or intended to be used, in violation of a provision of this chapter are subject to seizure and forfeiture by a law enforcement agency and no property right exists in them.

(2) The law enforcement agency making the seizure shall notify the Washington state department of labor and industries of the seizure.

(3) Seizure of explosives, improvised devices, and components of explosives and improvised devices under subsection (1) of this section may be made if:

(a) The seizure is incident to arrest or a search under a search warrant;

(b) The explosives, improvised devices, or components have been the subject of a prior judgment in favor of the state in an injunction or forfeiture proceeding based upon this chapter;

(c) A law enforcement officer has probable cause to believe that the explosives, improvised devices, or components are directly or indirectly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the explosives, improvised devices, or components were used or were intended to be used in violation of this chapter.

(4) A law enforcement agency shall destroy explosives seized under this chapter when it is necessary to protect the public safety and welfare. When destruction is not necessary to protect the public safety and welfare, and the explosives are not being held for evidence, a seizure pursuant to this section commences proceedings for forfeiture, which proceedings are governed by chapter 7.--- RCW (the new chapter created in section 15 of this act).

(5) ((~~The law enforcement agency under whose authority the seizure was made shall issue a written notice of the seizure and commencement of the forfeiture proceedings to the person from whom the explosives were seized, to any known owner of the explosives, and to any person who has a known interest in the explosives. The notice shall be issued within fifteen days of the seizure. The notice of seizure and commencement of the forfeiture proceedings shall be served in the same manner as provided in RCW 4.28.080 for service of a summons. The law enforcement agency shall provide a form by which the person or persons may request a hearing before the law enforcement agency to contest the seizure.~~

~~(6) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the explosives, improvised devices, or components within thirty days of the date the notice was issued, the seized explosives, devices, or components shall be deemed forfeited.~~

~~(7) If, within thirty days of the issuance of the notice, any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items seized, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement or the officer's designee of the seizing agency, except that the person asserting the claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the items seized is more than five hundred dollars. The hearing and any appeal shall be conducted according to chapter 34.05 RCW. The seizing law enforcement agency shall bear the burden of proving that the person (a) has no lawful right of ownership or possession and (b) that the items seized were possessed, manufactured, stored, sold, purchased, transported, abandoned, detonated, or used in violation of a provision of this chapter with the person's knowledge or consent.~~

~~(8) The seizing law enforcement agency shall promptly return the items seized to the claimant upon a determination that the claimant is entitled to possession of the items seized.~~

~~(9)~~)) If the items seized are forfeited under this statute, the seizing agency shall dispose of the explosives by summary destruction. However, when explosives are destroyed either to protect public safety or because the explosives were forfeited, the person from whom the explosives were seized loses all rights of action against the law enforcement agency or its employees acting within the scope of their employment, or other governmental entity or employee involved with the seizure and destruction of explosives.

(((~~(10)~~))) (6) This section is not intended to change the seizure and forfeiture powers, enforcement, and penalties available to the department of labor and industries pursuant to chapter 49.17 RCW as provided in RCW 70.74.390.

Sec. 13. RCW 69.50.505 and 2022 c 162 s 1 and 2022 c 16 s 98 are each reenacted and amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission ((~~established by the owner thereof to have been~~)) committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of cannabis for which possession constitutes a misdemeanor under RCW 69.50.4014;

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(f) All drug paraphernalia other than paraphernalia possessed, sold, or used solely to facilitate cannabis-related activities that are not violations of this chapter;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission ((~~which that owner establishes was~~)) committed or omitted without the owner's knowledge or consent; and

(h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of cannabis shall not result in the forfeiture of real property unless the cannabis is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of cannabis, and a substantial nexus exists between the possession of cannabis and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of cannabis possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell cannabis, or was an employee of a licensed producer, processor, or retailer, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity;

(iv) The unlawful sale of cannabis or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of cannabis or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any commission inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A commission inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The commission inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(d), (g), or (h) of this section within ((~~forty-five~~)) 60 days of the service of notice from the seizing agency in the case of personal property and ((~~ninety~~)) 120 days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within ((~~forty-five~~)) 60 days of the service of notice from the seizing agency in the case of personal property and ((~~ninety~~)) 120 days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the ((~~forty-five~~)) 60-day period following service of the notice of seizure in the case of personal property and within the ((~~ninety-day~~)) 120-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court, or the municipal court for the jurisdiction in which the property was seized, when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by ((~~a preponderance of the~~)) clear, cogent, and convincing evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant, in a substantially similar condition as when seized, upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the commission or seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8)(((~~(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.~~

~~(b) Each seizing agency shall retain records of forfeited property for at least seven years.~~

~~(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.~~

~~(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.~~

~~(9)~~))(a) By January 31st of each year, each seizing agency shall remit to the state an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year for deposit into the behavioral health loan repayment and scholarship program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (((~~(15)~~))) (14) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(((~~(10)~~))) (9) Forfeited property and net proceeds not required to be remitted to the state shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. If the seizing agency is a port district operating an airport in a county with a population of more than one million, it may use the net proceeds not required to be remitted to the state for purposes related to controlled substances law enforcement, substance abuse education, human trafficking interdiction, and responsible gun ownership. Money retained under this section may not be used to supplant preexisting funding sources.

(((~~(11)~~))) (10) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the commission, the owners of which are unknown, are contraband and shall be summarily forfeited to the commission.

(((~~(12)~~))) (11) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the commission.

(((~~(13)~~))) (12) The failure, upon demand by a commission inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(((~~(14)~~))) (13) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(((~~(15)~~))) (14)(a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if:

(i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

(A) Only if the funds applied under (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

(b) For any claim filed under (a)(ii) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(((~~(16)~~))) (15) The landlord's claim for damages under subsection (((~~(15)~~))) (14) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7)(b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (((~~(9)~~))) (8)(b) of this section.

(((~~(17)~~))) (16) Subsections (((~~(15)~~))) (14) and (((~~(16)~~))) (15) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (((~~(15)~~))) (14) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

(17) The protections afforded by the service members' civil relief act, chapter 38.42 RCW, are applicable to proceedings under this section.

Sec. 14. RCW 38.42.020 and 2014 c 65 s 2 are each amended to read as follows:

(1) Any service member who is ordered to report for military service and his or her dependents are entitled to the rights and protections of this chapter during the period beginning on the date on which the service member receives the order and ending one hundred eighty days after termination of or release from military service.

(2) This chapter applies to any judicial or administrative proceeding commenced in any court or agency in Washington state in which a service member or his or her dependent is a party. This chapter applies to civil asset forfeiture proceedings. This chapter does not apply to criminal proceedings.

(3) This chapter shall be construed liberally so as to provide fairness and do substantial justice to service members and their dependents.

NEW SECTION. **Sec. 15.** Sections 1 through 5 of this act constitute a new chapter in Title 7 RCW.

NEW SECTION. **Sec. 16.** This act applies to seizures occurring on or after the effective date of this section.

NEW SECTION. **Sec. 17.** This act takes effect January 1, 2026."

On page 1, line 2 of the title, after "reporting;" strike the remainder of the title and insert "amending RCW 9.68A.120, 9A.88.150, 9A.83.030, 10.105.010, 19.290.230, 46.61.5058, 70.74.400, and 38.42.020; reenacting and amending RCW

69.50.505; adding a new chapter to Title 7 RCW; creating a new section; prescribing penalties; and providing an effective date."

Senator Dhingra spoke in favor of adoption of the striking amendment.

Senator Holy spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 0470 by Senator Dhingra to Engrossed Second Substitute House Bill No. 1440.

The motion by Senator Dhingra carried and striking floor amendment no. 0470 was adopted by voice vote.

MOTION

On motion of Senator Dhingra, the rules were suspended, Engrossed Second Substitute House Bill No. 1440 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Dhingra spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1440.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1440 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Cleveland, Cortes, Dhingra, Frame, Hansen, Hasegawa, Kauffman, Krishnadasan, Liias, Lovelett, Lovick, MacEwen, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Chapman, Christian, Conway, Dozier, Fortunato, Gildon, Goehner, Harris, Holy, King, McCune, Muzzall, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, J.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1440, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 21, 2025

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1232 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Wilson, C. moved that the Senate recede from its position on Engrossed Second Substitute House Bill No. 1232 and pass the bill without the Senate amendment(s).

Senator Wilson, C. spoke in favor of the motion.

Senator Christian spoke against the motion.

The President declared the question before the Senate to be motion by Senator Wilson, C. that the Senate recede from its position on Engrossed Second Substitute House Bill No. 1232 and pass the bill without Senate amendment(s).

The motion by Senator Wilson, C. carried and the Senate receded from its position on Engrossed Second Substitute House Bill No. 1232 and passed the bill without the Senate amendment(s) by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1232 without the Senate amendment(s).

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1232, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Cortes, Dhingra, Frame, Hansen, Hasegawa, Kauffman, Krishnadasan, Liias, Lovelett, Lovick, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Dozier, Fortunato, Gildon, Goehner, Harris, Holy, King, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, J.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1232, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Riccelli, the Senate advanced to the sixth order of business.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1958, by House Committee on Transportation (originally sponsored by Fey, Wylie, and Zahn)

Concerning the interstate bridge replacement toll bond authority.

The measure was read the second time.

MOTION

On motion of Senator Liias, the rules were suspended, Substitute House Bill No. 1958 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Liias, King, Harris, Cortes and Cleveland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1958.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1958 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Chapman,

Cleveland, Conway, Cortes, Dhingra, Fortunato, Frame, Goehner, Hansen, Harris, Hasegawa, Holy, Kauffman, King, Krishnadasan, Liias, Lovelett, Lovick, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wagoner, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Dozier, Gildon, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Warnick and Wilson, J.

SUBSTITUTE HOUSE BILL NO. 1958, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SUBSTITUTE HOUSE BILL NO. 1079,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1102,
ENGROSSED HOUSE BILL NO. 1106,
HOUSE BILL NO. 1109,
HOUSE BILL NO. 1130,
SECOND SUBSTITUTE HOUSE BILL NO. 1154,
HOUSE BILL NO. 1167,
SUBSTITUTE HOUSE BILL NO. 1186,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1213,
ENGROSSED HOUSE BILL NO. 1219,
SUBSTITUTE HOUSE BILL NO. 1253,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1258,
SUBSTITUTE HOUSE BILL NO. 1264,
SUBSTITUTE HOUSE BILL NO. 1271,
ENGROSSED HOUSE BILL NO. 1382,
SUBSTITUTE HOUSE BILL NO. 1392,
SECOND SUBSTITUTE HOUSE BILL NO. 1409,
SUBSTITUTE HOUSE BILL NO. 1418,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1562,
and HOUSE BILL NO. 1573.

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Warnick announced there would be no meeting of the Republican Caucus.

MOTION

At 12:05 p.m., on motion of Senator Riccelli, the Senate adjourned until 10 o'clock a.m. Thursday, April 24, 2025.

DENNY HECK, President of the Senate

SARAH BANNISTER, Secretary of the Senate