

EIGHTY NINTH DAY

MORNING SESSION

Senate Chamber, Olympia
Friday, April 9, 2021

The Senate was called to order at 11:03 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 Washington State Patrol Honor Guard presented the Colors.

Mr. Marcus and Miss Ariana Weber led the Senate in the Pledge of Allegiance. The Webers are the children of Ms. Nichole Weber, Session Aide to Senator Brown.

The prayer was offered by Senator Phil Fortunato, 31st Legislative District, Auburn.

MOTIONS

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

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

On motion of Senator Liias, 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.

MOTION

On motion of Senator Liias, Senate Emergency Rule K was suspended for the rest of the day.

EDITOR'S NOTE: Senate Emergency Rule K establishes rules for the consideration of bills and amendments.

MOTION TO LIMIT DEBATE

Pursuant to Rule 29, on motion of Senator Liias and without objection, senators were limited to speaking but once and for no more than three minutes on each question under debate for the remainder of the day by voice vote.

MOTION

At 11:11 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Rivers announced a meeting of the Republican Caucus.

AFTERNOON SESSION

The Senate was called to order at 12:02 p.m. by President Heck.

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. 1001,
- HOUSE BILL NO. 1009,
- HOUSE BILL NO. 1023,
- HOUSE BILL NO. 1031,
- HOUSE BILL NO. 1063,
- HOUSE BILL NO. 1072,
- HOUSE BILL NO. 1087,
- HOUSE BILL NO. 1096,
- SECOND SUBSTITUTE HOUSE BILL NO. 1148,
- ENGROSSED HOUSE BILL NO. 1192,
- SUBSTITUTE HOUSE BILL NO. 1209,
- SUBSTITUTE HOUSE BILL NO. 1221,
- SUBSTITUTE HOUSE BILL NO. 1276,
- SUBSTITUTE HOUSE BILL NO. 1331,
- ENGROSSED HOUSE BILL NO. 1342,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1372,
- SUBSTITUTE HOUSE BILL NO. 1424,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1426,
- SUBSTITUTE HOUSE BILL NO. 1445,
- SUBSTITUTE HOUSE BILL NO. 1446,
- HOUSE BILL NO. 1469,
- SUBSTITUTE HOUSE BILL NO. 1493,
- and ENGROSSED SUBSTITUTE HOUSE BILL NO. 1521.

MOTION

Senator Robinson moved adoption of the following resolution:

**SENATE RESOLUTION
8623**

By Senators Robinson

WHEREAS, John McCoy was first elected to the Washington State House of Representatives in 2003 and was elected to the State Senate in 2013; and

WHEREAS, John McCoy was a dedicated public servant, faithfully and tirelessly representing the people of the 38th legislative district for 17 years before retiring in 2020; and

WHEREAS, John McCoy began his honorable service with a 20-year career in the Air Force, gaining experience that would inform his deep dedication to serving the good of the people; and

WHEREAS, John McCoy was a leader in the community through his work to diversify the economy of the Tulalip Tribes by establishing and managing Quil Ceda Village; and, was a leader in the Senate as Chair of the Senate Democratic Caucus, never wavering in his inclusive and supportive approach to leadership; and

WHEREAS, John McCoy worked on a wide breadth of issues, including advocating for disenfranchised communities, lifting the voices of sovereign tribes, and expanding access to quality education and health care, as well as internet access for every Washingtonian; and

WHEREAS, John McCoy was an unrelenting force for those with the least financial resources and political power in the state, giving a voice to those who did not have one in our political process; and

WHEREAS John McCoy championed the passage of the Native American Voting Rights Act that expanded voting rights access in tribal communities; and

WHEREAS, John McCoy passed legislation that ensured Native American history, culture, and government would be taught in all school districts; and

WHEREAS, John McCoy worked persistently for 12 years to pass legislation that would allow dental therapists to provide care on reservations; and

WHEREAS, John McCoy was a strong advocate for the environment, pushing for tougher rules on oil transportation and water quality, as well as expanding production of alternative energy; and

WHEREAS, John McCoy faced challenges that seemed insurmountable with tenacity and perseverance, offering the advice of "It's okay to make a mistake as long as you learn from it... and are sure not to make the same mistake again!"; and

WHEREAS, John McCoy will be missed for his steady leadership, strong moral compass, and his ability to find the perfect bolo tie for every occasion; and

WHEREAS, John McCoy is a loving husband to his wife Jeannie, a father to three daughters, and a grandfather of 10 grandchildren and two great grandchildren;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize Senator John McCoy and the contributions he made to the state and the people during his 17 years of service in the legislature.

Senators Robinson, Billig, Braun, Wellman, Rivers, Hasegawa, Warnick, Saldaña, Rolfes, Hunt, Darneille, Carlyle and Conway spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8623.

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

REMARKS BY THE PRESIDENT

President Heck: "Senator McCoy, it is an honor to be recognized for your considerable contribution and service through resolution by this esteemed body. It is a particular honor that you be able to address it while no longer an active member of this chamber. But, as we have heard repeatedly, when John McCoy speaks, people listen. So perhaps the greatest honor is the President introducing you and giving you the floor for some remarks, Senator McCoy."

REMARKS BY FORMER SENATOR MCCOY

Former Senator McCoy: "Thank you Mr. President. Mr. President you and I have worked together a lot in the past before you went to Congress. And you've given me a lot of food for thought and in how to behave as a legislator. And as for all my friends in the legislature, I want to thank you for your kind words. I miss you all. And I was I was really sorry I had to leave so abruptly, but I was having some health challenges that I kept going in and out of the hospital and so consequently I couldn't do my work to the legislature in the manner that I felt it should be accomplished. So, so, I felt it necessary to resign. I'm feeling a lot better right now. I still have some challenges but I'm working through them. A number of you made remarks about what happened yesterday. I didn't, I didn't see what happened yesterday, so I need to find out what happened. It's great to hear all your remarks. You brought back a lot of memories. I thought Judy would have brought up the first day, her first day in the Legislature when she remarked that she was going to change water law and she happened to look in my direction on the other side of the room and I had a big smile on my face. And she wondered what that was all about. Now she knows. But anyway,

it was great working with you all. You know we were all right that we had different points of view and we just figured out a way to work together no matter what side of the aisle we were on. So that's, a couple of you mentioned, that's the function of the legislature. Is that you have numerous ideas and you work them out. And a couple of you mentioned that my mode is to listen and then figure out a path to work on that. So, I want you all to keep up the good work. You're down there for that. And for the staff up there on the dais, thank you for all the help you've given me over the years. You did a great job. Well you're still doing a great job. Then with that Mr. President, thank you very much."

MOTION

On motion of Senator Liias, members were given 24 hours to sign on to Senate Resolution No. 8623.

MOTION

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

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1216, by House Committee on Appropriations (originally sponsored by Ramos, Callan, Lekanoff, Fitzgibbon, Kloba, Ortiz-Self, Ormsby, Hackney and Ramel)

Concerning urban and community forestry.

The measure was read the second time.

MOTION

Senator Van De Wege moved that the following committee striking amendment by the Committee on Agriculture, Water, Natural Resources & Parks be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that preservation and enhancement of city trees and urban forests contributes multiple benefits, including stormwater management, carbon sequestration, local air and water quality enhancements, and fish and wildlife habitat, and is a cost-effective way to meet these objectives. The legislature further finds that climate change is impacting our state in numerous ways, including summer heat waves, heavier winter rains, and lower air quality, all of which can be improved by increased tree canopy. The legislature further finds that modern and well-crafted urban forestry programs can have significant additional benefits related to human health, especially when delivered in highly impacted communities with higher health disparities and that also have lower existing tree canopy. Significant research exists demonstrating health benefits of trees and green spaces, including air and water quality improvements, positive emotional responses to being in nature, physical activity, and social cohesion through interacting in public green spaces. Furthermore, the legislature finds that Washington state faces continued urgency in adequately protecting essential salmon habitat, which is necessary to promote salmon recovery and thus help protect our endangered southern resident killer whale population. It is the intent of the legislature to enhance urban forestry programs that maximize cobenefits related to human health and salmon recovery.

(2) The legislature further recognizes that the existing

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evergreen communities act, in chapter 76.15 RCW and related programs in state law, established a successful framework for supporting urban forestry in Washington state. That act established the need for tools including canopy assessment and regional tree canopy analysis, and targeted technical assistance to support cities and counties seeking to deliver impactful urban forestry programs. The legislature intends to modernize and add capacity to the evergreen communities act by utilizing information and analysis around environmental health disparities and salmon recovery plans, and increasing capacity for the delivery of an urban forestry program in order to strengthen and enhance the impacts of this act and to expand participation to include federally recognized tribes and other community-based organizations.

Sec. 2. RCW 76.15.005 and 1991 c 179 s 1 are each amended to read as follows:

(1) Trees and other woody vegetation are a necessary and important part of community (~~and urban~~) environments. (~~Community and urban~~) Urban and community forests have many values and uses including conserving energy, reducing air and water pollution and soil erosion, contributing to property values, attracting business, reducing glare and noise, providing aesthetic and historical values, providing wood products, and affording comfort and protection for humans and wildlife.

(2) (~~As urban and community areas in Washington state grow, the need to plan for and protect community and urban forests increases. Cities and communities benefit from assistance in developing and maintaining community and urban forestry programs that also address future growth.~~

(3) ~~Assistance and encouragement in establishment, retention, and enhancement of these forests and trees by local governments, citizens, organizations, and professionals are in the interest of the state based on the contributions these forests make in preserving and enhancing the quality of life of Washington's municipalities and counties while providing opportunities for economic development.)~~ As urban and community areas in Washington state grow, the need to plan for, promote, and manage urban and community forests increases. Cities and communities benefit from assistance in developing and maintaining urban and community forestry programs that also address future growth.

(3) Assistance and encouragement in the establishment, retention, and enhancement of these forests and trees by local governments, residents, organizations, and professionals are in the interest of the state based on the contributions these forests make in preserving and enhancing the quality of life of Washington's cities, counties, and tribal lands while providing opportunities for economic development.

(4) Well-maintained urban forests deliver local air and water quality benefits that can have positive impacts on human health.

(5) Increased tree canopy in urban areas can positively impact salmon populations through stormwater management and reduction of stream temperatures, thereby improving critical salmon habitat.

Sec. 3. RCW 76.15.007 and 1991 c 179 s 2 are each amended to read as follows:

The purpose of this chapter is to:

(1) ~~Encourage (planting and maintenance and management of trees in the state's municipalities and counties and maximize the potential of tree and vegetative cover in improving the quality of the environment.~~

(2) ~~Encourage the coordination of state and local agency activities and maximize citizen participation in the development and implementation of community and urban forestry related programs.~~

(3) ~~Foster healthy economic activity for the state's community~~

~~and urban forestry related businesses through cooperative and supportive contracts with the private business sector.~~

(4) ~~Facilitate the creation of employment opportunities related to community and urban forestry activities including opportunities for inner city youth to learn teamwork, resource conservation, environmental appreciation, and job skills.~~

(5) ~~Provide meaningful voluntary opportunities for the state's citizens and organizations interested in community and urban forestry activities))~~ planning for, planting, maintaining, and managing of trees in the state's cities, counties, and tribal lands and maximize the potential of tree and vegetative cover in improving the quality of the environment;

(2) Encourage the coordination of activities by state, local agency, and federally recognized tribes, and maximize resident participation in the development and implementation of urban and community forestry-related programs, including through capacity building to facilitate participation from new partners;

(3) Foster healthy economic activity for the state's urban and community forestry-related businesses through cooperative and supportive contracts with the private business sector;

(4) Facilitate the creation of employment opportunities related to urban and community forestry activities, including opportunities for youth, especially in urban areas, to learn teamwork, resource conservation, environmental appreciation, and job skills;

(5) Provide meaningful voluntary opportunities for the state's residents and organizations interested in urban and community forestry activities;

(6) Contribute to improved human health through targeted delivery of programs and activities in highly impacted communities with greater health disparities;

(7) Contribute to salmon and orca recovery through targeted delivery of programs and activities in regions that include important salmon habitat identified by regional salmon recovery plans.

Sec. 4. RCW 76.15.010 and 2008 c 299 s 23 are each amended to read as follows:

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

(1) (~~"Community and urban forest" is that land in and around human settlements ranging from small communities to metropolitan areas, occupied or potentially occupied by trees and associated vegetation. Community and urban forestland may be planted or unplanted, used or unused, and includes public and private lands, lands along transportation and utility corridors, and forested watershed lands within populated areas.~~

(2) ~~"Community and urban forest assessment" has the same meaning as defined in RCW 35.105.010.~~

(3) ~~"Community and urban forest inventory" has the same meaning as defined in RCW 35.105.010.~~

(4) ~~"Community and urban forestry" means the planning, establishment, protection, care, and management of trees and associated plants individually, in small groups, or under forest conditions within municipalities and counties.~~

(5) ~~"Department" means the department of natural resources.~~

(6) ~~"Municipality" means a city, town, port district, public school district, community college district, irrigation district, weed control district, park district, or other political subdivision of the state.~~

(7) ~~"Person" means an individual, partnership, private or public municipal corporation, Indian tribe, state entity, county or local governmental entity, or association of individuals of whatever nature.)~~

(2) "Evergreen community" means a city, town, or county

designated as such under RCW 76.15.090.

(3) "Highly impacted community" has the same meaning as defined in RCW 19.405.020 or an equivalent cumulative impacts analysis that identifies the environmental health conditions of communities as a factor of both environmental health hazards and vulnerable populations as defined in RCW 19.405.020.

(4) "Management plan" means an urban forest management plan developed pursuant to this chapter.

(5) "Tree canopy" means the layer of leaves, branches, and stems of trees that cover the ground when viewed from above and that can be measured as a percentage of a land area shaded by trees.

(6) "Tribes" means any federally recognized Indian tribes whose traditional lands and territories include parts of the state.

(7) "Urban and community forest" or "urban forest" is that land in and around human settlements ranging from small communities to metropolitan areas, occupied or potentially occupied by trees and associated vegetation. Urban and community forestland may be planted or unplanted, used or unused, and includes public and private lands, lands along transportation and utility corridors, and forested watershed lands within populated areas. Nothing in this chapter may be construed to apply to lands subject to or designated under chapter 76.09, 79.70, 79.71, 84.33, or 84.34 RCW.

(8) "Urban and community forest assessment" or "urban forest assessment" means an analysis of the urban and community forest inventory to: Establish the scope and scale of forest-related benefits and services; determine the economic valuation of such benefits, highlight trends, and issues of concern; identify high priority areas to be addressed; outline strategies for addressing the critical issues and urban landscapes; and identify opportunities for retaining trees, expanding forest canopy, and planting additional trees to sustain Washington's urban and community forests.

(9) "Urban and community forest inventory" or "urban forest inventory" means a management tool designed to gauge the condition, management status, health, and diversity of an urban and community forest. An inventory may evaluate individual trees or groups of trees or canopy cover within urban and community forests, and will be periodically updated by the department.

(10) "Urban and community forestry" or "urban forestry" means the planning, establishment, protection, care, and management of trees and associated plants individually, in small groups, or under more naturally forested conditions within cities, counties, and tribal lands.

(11) "Urban and community forestry ordinance" or "urban forestry ordinance" is an ordinance developed by a city, county, or tribe that promotes urban forestry management and care of trees.

(12) "Vulnerable populations" has the same meaning as defined in RCW 19.405.020.

Sec. 5. RCW 76.15.020 and 2008 c 299 s 3 are each amended to read as follows:

(1) The department may establish and maintain a program in ~~((community and urban forestry to accomplish the purpose stated in RCW 76.15.007. The department may assist municipalities and counties in establishing and maintaining community and urban forestry programs and encourage persons to engage in appropriate and improved tree management and care.~~

(2) The department may advise, encourage, and assist municipalities, counties, and other public and private entities in the development and coordination of policies, programs, and activities for the promotion of community and urban forestry.

(3) The department may appoint a committee or council, in addition to the technical advisory committee created in RCW 76.15.080 to advise the department in establishing and carrying

~~out a program in community and urban forestry.~~

(4) ~~The department may assist municipal and county tree maintenance programs by making surplus equipment available on loan where feasible for community and urban)) urban and community forestry to accomplish the purpose stated in RCW 76.15.007. The department may assist cities, counties, and federally recognized tribes in establishing and maintaining urban and community forestry programs and encourage appropriate and improved tree management and care.~~

(2) The department may advise, encourage, and assist cities, counties, tribes, and other public and private entities in the development and coordination of policies, programs, and activities for the promotion of urban and community forestry.

(3) The department may appoint a committee or council to advise the department in establishing and carrying out a program in urban and community forestry.

(4) The department may assist municipal and county tree maintenance programs by making surplus equipment available on loan where feasible for urban and community forestry programs and cooperative projects.

(5) An owner of private property may opt out of a voluntary urban and community forestry program established by a city, county, or federally recognized tribe pursuant to this chapter. The property owner opting out must provide notice to the city, county, or federally recognized tribe in either written or electronic form.

Sec. 6. RCW 76.15.030 and 1991 c 179 s 5 are each amended to read as follows:

The department may:

(1) Receive and disburse any and all moneys contributed, allotted, or paid by the United States under authority of any act of congress for the purposes of this chapter.

(2) Receive such gifts, grants, bequests, and endowments and donations of labor, material, seedlings, and equipment from public or private sources as may be made for the purpose of carrying out the provisions of this chapter, and may spend the gifts, grants, bequests, endowments, and donations as well as other moneys from public or private sources.

(3) Charge fees for attendance at workshops and conferences, and for various publications and other materials that the department may prepare.

(4) Enter into agreements and contracts with ~~((persons having community and urban)) cities, counties, tribes, nonprofit organizations, and others having urban and community forestry-related responsibilities.~~

Sec. 7. RCW 76.15.050 and 1993 c 204 s 10 are each amended to read as follows:

The department may enter into agreements with one or more nonprofit organizations whose primary purpose is urban tree planting. The agreements ~~((shall be to further public education about and support for urban tree planting, and for obtaining voluntary activities by the local community organizations in tree planting programs. The agreements shall ensure that such programs are consistent with the purposes of the community and urban)) must be directed at furthering public education about and support for urban tree planning, planting, establishment, care, and long-term maintenance, and for obtaining voluntary activities by the local community organizations in tree planting programs. The agreements must ensure these programs are consistent with the purposes of the urban and community forestry program under this chapter.~~

Sec. 8. RCW 76.15.060 and 1993 c 204 s 11 are each amended to read as follows:

The department ~~((shall encourage urban planting of tree varieties that are site appropriate and provide the best combination of energy and water conservation, fire safety and other safety, wildlife habitat)) must encourage urban planting and~~

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care through establishment and long-term management of trees, encouraging varieties that are site-appropriate and provide the best combination of energy and water conservation, fire safety and other safety, wildlife habitat, stormwater management, and aesthetic value. The department may provide technical assistance in developing programs in tree planting for energy conservation in areas of the state where such programs are most cost-effective. The department must conduct analyses and prioritize target regions for delivery of programs, policies, and activities that include criteria related to human health and salmon recovery data as provided in section 9 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 76.15 RCW to read as follows:

(1) The department must conduct analyses of the needs and opportunities related to urban forestry in Washington by assessing tree canopy cover and urban forestry inventory data.

(a) The department must utilize existing recent tree canopy study and inventory data when available.

(b) The department may add additional canopy analysis in regions where adequate data is not available through internal analysis and the use of research consultants as needed.

(c) In collaboration with local governments, the department may conduct prioritized inventories of urban forests where adequate data is not available.

(2) The department must identify priority regions for the implementation of urban forestry programs. Priority must be determined through the use and review of analyses and tools including, but not limited to, the following:

(a) Canopy analysis and inventory of urban and community forestry data as determined in subsection (1)(a) of this section;

(b) Health disparity mapping tools that identify highly impacted communities such as the department of health's Washington tracking network. Communities should be identified at the census tract level;

(c) Salmon and orca recovery data including, but not limited to, the Puget Sound partnership action agenda and other regional and statewide salmon and orca recovery plans and efforts, to target program delivery in areas where there are significant opportunities related to salmon and orca habitat and health; and

(d) The department's 20-year forest health strategic plan.

(3) The department may consult with external experts as part of the review and analysis that will determine priority regions for the purposes of this chapter. Consultation may be conducted with experts such as: Other state agencies; a statewide organization representing urban and community forestry programs; health experts; salmon recovery experts; and other technical experts as needed.

(4) The department must consult with the appropriate tribes in watersheds where urban forestry work is taking place.

(5) The department shall, through its analysis and consultation, seek to identify areas where urban forestry will generate the greatest confluence of benefits in relation to canopy needs, health disparities, and salmon habitat.

(6) The department must ensure a minimum of 50 percent of the resources used in delivering the policies, programs, and activities of this chapter are benefiting vulnerable populations and are delivered in or within one-quarter mile of highly impacted communities as identified by the tools described in subsection (2)(b) of this section, and scale these resources so the most resources are allocated to the highest impacted communities within these areas. This includes resources for establishing and maintaining new trees as well as maintenance of existing tree canopy.

(7) The department shall conduct a statewide inventory of urban and community forests using urban forest inventory and

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assessment protocols established by the United States forest service to produce statistically relevant estimates of the quantity, health, composition, and benefits of urban trees and forests. Inventory data must be maintained and periodically updated.

NEW SECTION. Sec. 10. A new section is added to chapter 76.15 RCW to read as follows:

(1) The department must provide technical assistance and capacity building resources and opportunities to cities, counties, federally recognized tribes, and other public and private entities in the development and coordination of policies, programs, and activities for the promotion of urban and community forestry.

(2) The department may use existing urban and community forestry inventory tools or develop additional tools to assist cities, counties, federally recognized tribes, and other public and private entities to collect urban and community forest tree data that informs urban and community forestry management, planning, and policy development.

(3) The department shall strive to enable Washington cities' urban forest managers to access carbon markets by working to ensure tools developed under this section are compatible with existing and developing urban forest carbon market reporting protocols.

(4) The department may use existing tools to assist communities to develop urban forestry management plans. Management plans may include, but not be limited to, the following elements:

(a) Inventory and assessment of the jurisdiction's urban and community forests utilized as a dynamic management tool to set goals, implement programs, and monitor outcomes that may be adjusted over time;

(b) Canopy cover goals;

(c) Reforestation and tree canopy expansion goals within the city's, town's, and county's boundaries;

(d) Restoration of public forests;

(e) Achieving forest stand and diversity goals;

(f) Maximizing vegetated stormwater management with trees and other vegetation that reduces runoff, increases soil infiltration, and reduces stormwater pollution;

(g) Environmental health goals specific to air quality, habitat for wildlife, and energy conservation;

(h) Vegetation management practices and programs to prevent vegetation from interfering with or damaging utilities and public facilities;

(i) Prioritizing planting sites;

(j) Standards for tree selection, siting, planting, and pruning;

(k) Scheduling maintenance and stewardship for new and established trees;

(l) Staff and volunteer training requirements emphasizing appropriate expertise and professionalism;

(m) Guidelines for protecting existing trees from construction-related damage and damage related to preserving territorial views;

(n) Integrating disease and pest management;

(o) Wood waste utilization;

(p) Community outreach, participation, education programs, and partnerships with nongovernment organizations;

(q) Time frames for achieving plan goals, objectives, and tasks;

(r) Monitoring and measuring progress toward those benchmarks and goals;

(s) Consistency with the urban wildland interface codes developed by the state building code council;

(t) Emphasizing landscape and revegetation plans in residential and commercial development areas where tree retention objectives are challenging to achieve; and

(u) Maximizing building heating and cooling energy efficiency through appropriate siting of trees for summer shading, passive

solar heating in winter, and for wind breaks.

(5) The department may use existing tools to assist communities to develop urban forestry ordinances. Ordinances may include, but not be limited to, the following elements:

- (a) Tree canopy cover, density, and spacing;
- (b) Tree conservation and retention;
- (c) Vegetated stormwater runoff management using native trees and appropriate nonnative, nonnaturalized vegetation;
- (d) Clearing, grading, protection of soils, reductions in soil compaction, and use of appropriate soils with low runoff potential and high infiltration rates;
- (e) Appropriate tree siting and maintenance for vegetation management practices and programs to prevent vegetation from interfering with or damaging utilities and public facilities;
- (f) Native species and nonnative, nonnaturalized species diversity selection to reduce disease and pests in urban forests;
- (g) Tree maintenance;
- (h) Street tree installation and maintenance;
- (i) Tree and vegetation buffers for riparian areas, critical areas, transportation and utility corridors, and commercial and residential areas;
- (j) Tree assessments for new construction permitting;
- (k) Recommended forest conditions for different land use types;
 - (l) Variances for hardship and safety;
 - (m) Variances to avoid conflicts with renewable solar energy infrastructure, passive solar building design, and locally grown produce; and
 - (n) Permits and appeals.

(6) The department may consult with the department of commerce in the process of providing technical assistance, on issues including, but not limited to, intersections between urban forestry programs and growth management act planning.

(7) The department may use existing and develop additional innovative tools to facilitate successful implementation of urban forestry programs including, but not limited to, comprehensive tool kit packages (tree kits) that can easily be shared, locally adapted, and used by cities, counties, tribes, and community stakeholders.

(8) The department must encourage communities to include participation and input by vulnerable populations through community organizations and members of the public for urban and community forestry plans in the regions where they are based.

(9) Delivery of resources must be targeted based on the analysis and prioritization provided in section 9 of this act.

Sec. 11. RCW 76.15.090 and 2008 c 299 s 8 are each amended to read as follows:

(1) The department shall manage the application and evaluation of candidates for evergreen community designation ((under RCW 35.105.030, and forward its recommendations to the department of community, trade, and economic development)).

(2) The department shall develop the criteria for an evergreen community designation program. Under this program, the state may recognize as an evergreen community a city, county, or area of tribal land that has developed an excellent urban forest management program.

(3) Designation as an evergreen community must include no fewer than two graduated steps. The department may require additional graduated steps and establish the minimum requirements for each recognized step.

(a) The first graduated step of designation as an evergreen community includes satisfaction of the following requirements:

(i) The development and implementation of a tree board or tree department;

(ii) The development of a tree care ordinance;

(iii) The implementation of an urban forestry program with an

annual budget of at least \$2.00 for every city resident;

(iv) Official recognition of arbor day; and

(v) The completion of or update to an existing urban forest inventory for the city, county, or tribal land, or the formal adoption of an inventory developed for the city, county, or tribe by the department.

(b) The second graduated step of designation as an evergreen community includes the adoption of an urban forestry management plan. The management plan must:

(i) Exceed the minimum standards determined by the department; and

(ii) Incorporate meaningful community engagement from vulnerable populations located in the area so needs and priorities of these communities inform implementation of the plan.

(4) The department shall develop gateway signage and logos for an evergreen community.

(5) The department may consult with the department of commerce in carrying out the requirements of this section.

Sec. 12. RCW 35.92.390 and 2008 c 299 s 19 are each amended to read as follows:

(1) Municipal utilities under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Municipal utilities under this chapter are encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of request for a voluntary donation.

(b) Voluntary donations collected by municipal utilities under this section may be used by the municipal utility to:

(i) Support the development and implementation of ~~((evergreen community))~~ urban forestry ordinances, as that term is defined in RCW ~~((35.105.010))~~ 76.15.010, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the ~~((model evergreen community))~~ urban forestry management plans and ordinances developed under RCW ~~((35.105.050))~~ 76.15.090.

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

Sec. 13. RCW 35A.80.040 and 2008 c 299 s 20 are each amended to read as follows:

(1) Code cities providing utility services under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Code cities providing utility services under this chapter are encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(b) Voluntary donations collected by code cities under this section may be used by the code city to:

(i) Support the development and implementation of ~~((evergreen community))~~ urban forestry ordinances, as that term is defined in RCW ~~((35.105.010))~~ 76.15.010, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the ~~((model evergreen community))~~ urban forestry management plans and ordinances developed under RCW ~~((35.105.050))~~ 76.15.090.

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

Sec. 14. RCW 80.28.300 and 2008 c 299 s 21 are each amended to read as follows:

(1) Gas companies and electrical companies under this chapter are encouraged to provide information to their customers

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regarding landscaping that includes tree planting for energy conservation.

(2)(a) Gas companies and electrical companies under this chapter may request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(b) Voluntary donations collected by gas companies and electrical companies under this section may be used by the gas companies and electrical companies to:

(i) Support the development and implementation of ~~((evergreen community)) urban forestry~~ ordinances, as that term is defined in RCW ~~((35.105.010)) 76.15.010~~, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the ~~((model evergreen community)) urban forestry~~ management plans and ordinances developed under RCW ~~((35.105.050)) 76.15.090~~.

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

Sec. 15. RCW 89.08.520 and 2008 c 299 s 27 are each amended to read as follows:

(1) In administering grant programs to improve water quality and protect habitat, the commission shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) In its grant prioritization and selection process, consider:

(i) The statement of environmental benefits;

(ii) Whether, except as conditioned by RCW 89.08.580, the applicant is a Puget Sound partner, as defined in RCW 90.71.010, and except as otherwise provided in RCW 89.08.590, and effective one calendar year following the development and statewide availability of ~~((model evergreen community)) urban forestry~~ management plans and ordinances under RCW ~~((35.105.050)) 76.15.090~~, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community ~~((recognition)) designation~~ program created in RCW ~~((35.105.030)) 76.15.090~~; and

(iii) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310; and

(c) Not provide funding, after January 1, 2010, for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(2)(a) The commission shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program.

(b) The commission shall work with the districts to develop uniform performance measures across participating districts and, to the extent possible, the commission should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The commission shall consult with affected interest groups in implementing this section.

Sec. 16. RCW 79.105.150 and 2019 c 415 s 986 are each amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes;

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for providing and improving access to the lands; and for volunteer cooperative fish and game projects. During the 2017-2019 and 2019-2021 fiscal biennia, the aquatic lands enhancement account may be used to support the shellfish program, the ballast water program, hatcheries, the Puget Sound toxic sampling program and steelhead mortality research at the department of fish and wildlife, the knotweed program at the department of agriculture, actions at the University of Washington for reducing ocean acidification, which may include the creation of a center on ocean acidification, the Puget SoundCorps program, and support of the marine resource advisory council and the Washington coastal marine advisory council. During the 2017-2019 and 2019-2021 fiscal biennia, the legislature may transfer from the aquatic lands enhancement account to the geoduck aquaculture research account for research related to shellfish aquaculture. During the 2015-2017 fiscal biennium, the legislature may transfer moneys from the aquatic lands enhancement account to the marine resources stewardship trust account.

(2) In providing grants for aquatic lands enhancement projects, the recreation and conservation funding board shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) Utilize the statement of environmental benefits, consideration, except as provided in RCW 79.105.610, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, whether a project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, and except as otherwise provided in RCW 79.105.630, and effective one calendar year following the development and statewide availability of ~~((model evergreen community)) urban forestry~~ management plans and ordinances under RCW ~~((35.105.050)) 76.15.090~~, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community ~~((recognition)) designation~~ program created in RCW ~~((35.105.030)) 76.15.090~~ in its prioritization and selection process; and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

(5) Any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 17. RCW 43.155.120 and 2008 c 299 s 30 are each amended to read as follows:

When administering funds under this chapter, the board shall give preference only to an evergreen community recognized under RCW ~~((35.105.030)) 76.15.090~~ in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

Sec. 18. RCW 70A.135.070 and 2020 c 20 s 1380 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and

compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) Except as otherwise conditioned by RCW 70A.135.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(g) Except as otherwise provided in RCW 70A.135.120, and effective one calendar year following the development and statewide availability of ~~((model evergreen community))~~ urban forestry management plans and ordinances under RCW ~~((35.105.050))~~ 76.15.090, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community ~~((recognition))~~ designation program created in RCW ~~((35.105.030))~~ 76.15.090;

(h) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(i) The recommendations of the Puget Sound partnership, created in RCW 90.71.210, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. A county, city, or town that has adopted a comprehensive plan and development regulations as provided in RCW 36.70A.040 may request a grant or loan for water pollution control facilities. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before the department executes a contractual agreement for the grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 19. RCW 79A.15.040 and 2016 c 149 s 4 are each amended to read as follows:

(1) Moneys appropriated for this chapter prior to July 1, 2016, to the habitat conservation account shall be distributed in the following way:

(a) Not less than forty percent through June 30, 2011, at which time the amount shall become forty-five percent, for the acquisition and development of critical habitat;

(b) Not less than thirty percent for the acquisition and development of natural areas;

(c) Not less than twenty percent for the acquisition and development of urban wildlife habitat; and

(d) Not less than ten percent through June 30, 2011, at which time the amount shall become five percent, shall be used by the board to fund restoration and enhancement projects on state lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on existing habitat and natural area lands.

(2) Moneys appropriated beginning July 1, 2016, for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than thirty-five percent for the acquisition and development of critical habitat;

(b) Not less than twenty-five percent for the acquisition and development of natural areas;

(c) Not less than fifteen percent for the acquisition or enhancement or restoration of riparian habitat;

(d) Not less than fifteen percent for the acquisition and development of urban wildlife habitat; and

(e) Not less than ten percent or three million dollars, whichever is less, for the board to fund restoration and enhancement projects on state lands. Any amount above three million dollars must be distributed for the purposes of (c) of this subsection.

(3)(a) In distributing these funds, the board retains discretion to meet the most pressing needs for critical habitat, natural areas, riparian protection, and urban wildlife habitat, and is not required to meet the percentages described in subsections (1) and (2) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the habitat conservation account to meet the percentages described in subsections (1) and (2) of this section in any biennium, the board retains discretion to distribute any remaining funds to the other categories within the account.

(4) State agencies and nonprofit nature conservancies may apply for acquisition and development funds for natural areas projects under subsection (1)(b) of this section.

(5) State and local agencies and nonprofit nature conservancies may apply for acquisition and development funds for critical habitat, urban wildlife habitat, and riparian protection projects under this section. Other state agencies not defined in RCW 79A.15.010, such as the department of transportation and the department of corrections, may enter into interagency agreements with state agencies to apply in partnership for riparian protection funds under this section.

(6) The department of natural resources, the department of fish and wildlife, and the state parks and recreation commission may apply for restoration and enhancement funds to be used on existing state-owned lands.

(7)(a) Any lands that have been acquired with grants under this section by the department of fish and wildlife are subject to an amount in lieu of real property taxes and an additional amount for control of noxious weeds as determined by RCW 77.12.203.

(b) Any lands that have been acquired with grants under this section by the department of natural resources are subject to payments in the amounts required under the provisions of RCW 79.70.130 and 79.71.130.

(8) Except as otherwise conditioned by RCW 79A.15.140 or 79A.15.150, the board in its evaluating process shall consider the following in determining distribution priority:

(a) Whether the entity applying for funding is a Puget Sound partner, as defined in RCW 90.71.010;

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(b) Effective one calendar year following the development and statewide availability of ~~((model evergreen community))~~ urban forestry management plans and ordinances under RCW ~~((35.105.050))~~ 76.15.090, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community ~~((recognition))~~ designation program created in RCW ~~((35.105.030))~~ 76.15.090; and

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(9) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 20. RCW 36.01.260 and 2008 c 299 s 15 are each amended to read as follows:

(1) Any county may adopt ~~((evergreen community))~~ urban forestry ordinances, as that term is defined in RCW ~~((35.105.010))~~ 76.15.010, which the county must apply to new building or land development in the unincorporated portions of the county's urban growth areas, as that term is defined in RCW 36.70A.030, and may apply to other areas of the county as deemed appropriate by the county.

(2) As an alternative to subsection (1) of this section, a city or town may request that the county in which it is located apply to any new building or land development permit in the unincorporated portions of the urban growth areas, as defined in RCW 36.70A.030, the ~~((evergreen community))~~ urban forestry ordinances standards adopted under RCW ~~((35.105.090))~~ 76.15.090 by the city or town in the county located closest to the proposed building or development.

Sec. 21. RCW 54.16.400 and 2008 c 299 s 22 are each amended to read as follows:

(1) Public utility districts may request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(2) Voluntary donations collected by public utility districts under this section may be used by the public utility district to:

(a) Support the development and implementation of ~~((evergreen community))~~ urban forestry ordinances, as that term is defined in RCW ~~((35.105.010))~~ 76.15.010, for cities, towns, or counties within their service areas; or

(b) Complete projects consistent with the ~~((model evergreen community))~~ urban forestry management plans and ordinances developed under RCW ~~((35.105.050))~~ 76.15.090.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

Sec. 22. RCW 89.08.590 and 2008 c 299 s 32 are each amended to read as follows:

When administering funds under this chapter, the commission shall give preference only to an evergreen community recognized under RCW ~~((35.105.030))~~ 76.15.090 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

Sec. 23. RCW 79.105.630 and 2008 c 299 s 33 are each amended to read as follows:

When administering funds under this chapter, the recreation and conservation funding board shall give preference only to an evergreen community recognized under RCW ~~((35.105.030))~~ 76.15.090 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less

preferential treatment than an evergreen community.

Sec. 24. RCW 79A.15.150 and 2008 c 299 s 34 are each amended to read as follows:

When administering funds under this chapter, the recreation and conservation funding board shall give preference only to an evergreen community recognized under RCW ~~((35.105.030))~~ 76.15.090 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

NEW SECTION. Sec. 25. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 26. The following acts or parts of acts are each repealed:

(1)RCW 35.105.010 (Definitions) and 2009 c 565 s 21 & 2008 c 299 s 2;

(2)RCW 35.105.020 (Coordination with department of natural resources) and 2008 c 299 s 6;

(3)RCW 35.105.030 (Evergreen community recognition program) and 2008 c 299 s 7;

(4)RCW 35.105.040 (Evergreen community grant and competitive awards program) and 2008 c 299 s 9;

(5)RCW 35.105.050 (Development of model evergreen community management plans and ordinances) and 2008 c 299 s 10;

(6)RCW 35.105.060 (Report to the legislature) and 2008 c 299 s 11;

(7)RCW 35.105.070 (Model evergreen community management plans—Elements to consider) and 2008 c 299 s 12;

(8)RCW 35.105.080 (Model evergreen community ordinances—Elements to consider) and 2008 c 299 s 13;

(9)RCW 35.105.090 (Evergreen community management plans and ordinances—Local jurisdictions may adopt) and 2008 c 299 s 14;

(10)RCW 35.105.100 (Submission and review of management plans and evergreen community ordinances) and 2008 c 299 s 16;

(11)RCW 35.105.110 (Evergreen communities partnership task force) and 2008 c 299 s 17;

(12)RCW 35.105.120 (Limitations of chapter) and 2008 c 299 s 18;

(13)RCW 76.15.070 (Prioritized statewide inventory of community and urban forests—Community and urban forest assessment—Criteria and implementation plan) and 2008 c 299 s 4; and

(14)RCW 76.15.080 (Technical advisory committee) and 2008 c 299 s 5."

On page 1, line 1 of the title, after "forestry;" strike the remainder of the title and insert "amending RCW 76.15.005, 76.15.007, 76.15.010, 76.15.020, 76.15.030, 76.15.050, 76.15.060, 76.15.090, 35.92.390, 35A.80.040, 80.28.300, 89.08.520, 79.105.150, 43.155.120, 70A.135.070, 79A.15.040, 36.01.260, 54.16.400, 89.08.590, 79.105.630, and 79A.15.150; adding new sections to chapter 76.15 RCW; creating new sections; and repealing RCW 35.105.010, 35.105.020, 35.105.030, 35.105.040, 35.105.050, 35.105.060, 35.105.070, 35.105.080, 35.105.090, 35.105.100, 35.105.110, 35.105.120, 76.15.070, and 76.15.080."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture, Water, Natural Resources & Parks to Engrossed Second Substitute House Bill No. 1213.

The motion by Senator Van De Wege carried and the

committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Van De Wege, the rules were suspended, Engrossed Second Substitute House Bill No. 1216, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Van De Wege, Warnick, Short and Rivers spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1216 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1216, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 1; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, L.

Voting nay: Senators Honeyford, Padden and Wilson, J.

Absent: Senator Sheldon

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1216, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Wagoner, Senator Sheldon was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1016, by House Committee on Appropriations (originally sponsored by Morgan, Lovick, Ryu, Wicks, Ortiz-Self, Berry, Leavitt, J. Johnson, Kloba, Shewmake, Simmons, Bateman, Lekanoff, Duerr, Fitzgibbon, Chopp, Slatter, Ramos, Ramel, Peterson, Gregerson, Valdez, Callan, Young, Hackney, Cody, Ormsby, Riccelli, Rude, Stonier, Fey, Frame, Santos, Macri, Taylor, Davis, Pollet, Bergquist and Harris-Talley)

Making Juneteenth a legal holiday.

The measure was read the second time.

MOTION

On motion of Senator Kuderer, the rules were suspended, Substitute House Bill No. 1016 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kuderer, Nobles and Wagoner 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. 1016.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1016 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senator Padden

Excused: Senator Sheldon

SUBSTITUTE HOUSE BILL NO. 1016, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1251, by Representatives Orcutt, Dent, Eslick and Robertson

Concerning the authorization of wheeled all-terrain vehicles on state highways.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed House Bill No. 1251 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs, King and McCune spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1251.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1251 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Darneille, Hasegawa and Liias

ENGROSSED HOUSE BILL NO. 1251, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

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SENATE BILL NO. 5478, by Senators Keiser, Mullet, Billig, Cleveland, Conway, Das, Hunt, King, Kuderer, Liias, Lovelett, Nguyen, Randall, Rolfes, Saldaña, Stanford, Van De Wege, and Wilson, C.

Concerning unemployment insurance relief for certain employers.

MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 5478 was substituted for Senate Bill No. 5478 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Keiser moved that the following floor amendment no. 716 by Senator Keiser be adopted:

On page 3, line 12, after ""512,"" insert ""561,""

On page 3, line 12, after ""722,"" strike "and"

On page 3, line 12, after ""812" strike ";" and insert "," and "814;"

On page 3, line 18, after "(c)" insert

""Amount available for approved category 1 employers" means 50 percent of the total amount of money in the unemployment insurance relief account.

(d)"

Reletter the remaining subsections consecutively and correct any internal references accordingly.

On page 3, beginning on line 20, after "dividing" strike all material through "account" on line 21 and insert "the amount available for approved category 1 employers"

On page 4, line 24, after "(c)" insert ""Amount available for approved category 2 employers" means:

(i) Fifty percent of the total amount of money in the unemployment insurance relief account; and

(ii) The difference between the amount available for approved category 1 employers and the forgiven benefits for approved category 1 employers, as defined in section 3 of this act.

(d)"

Reletter the remaining subsections consecutively and correct any internal references accordingly.

On page 4, beginning on line 26, after "dividing" strike all material through "account" on line 27 and insert "the amount available for approved category 2 employers"

Senators Keiser and King spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 716 by Senator Keiser on page 3, line 12 to Substitute Senate Bill No. 5478.

The motion by Senator Keiser carried and floor amendment no. 716 was adopted by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5478 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, King, Mullet and Wilson, L. spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5478.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5478 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5478, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 1:28 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Rivers announced a meeting of the Republican Caucus.

The Senate was called to order at 3:23 p.m. by President Heck.

SECOND READING

HOUSE BILL NO. 1119, by Representatives Jacobsen, Simmons, Young, Graham, Pollet, Leavitt, Dolan and Rule

Notifying students of courses with low-cost instructional materials and open educational resources at the four-year institutions of higher education.

The measure was read the second time.

MOTION

Senator Randall moved that the following committee striking amendment by the Committee on Higher Education & Workforce Development be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.10.590 and 2009 c 241 s 1 are each amended to read as follows:

(1) The boards of regents of the state universities, the boards of trustees of the regional universities and The Evergreen State College, and the boards of trustees of each community and technical college district, in collaboration with affiliated bookstores and student and faculty representatives, shall adopt rules requiring that:

(a) Affiliated bookstores:

(i) Provide students the option of purchasing materials that are unbundled when possible, disclose to faculty and staff the costs to students of purchasing materials, and disclose publicly how new editions vary from previous editions;

(ii) Actively promote and publicize book buy-back programs;
 (iii) Disclose retail costs for course materials on a per course basis to faculty and staff and make this information publicly available; and

(iv) Disclose information to students on required course materials including but not limited to title, authors, edition, price, and International Standard Book Number (ISBN) at least four weeks before the start of the class for which the materials are required. The chief academic officer may waive the disclosure requirement provided in this subsection (1)(a)(iv), on a case-by-case basis, if students may reasonably expect that nearly all information regarding course materials is available four weeks before the start of the class for which the materials are required. The requirement provided in this subsection (1)(a)(iv) does not apply if the faculty member using the course materials is hired four weeks or less before the start of class; and

(b) Faculty and staff members consider the least costly practices in assigning course materials, such as adopting the least expensive edition available, adopting free, open textbooks when available, and working with college librarians to put together collections of free online web and library resources, when educational content is comparable as determined by the faculty.

(2) The state universities, the regional universities, and The Evergreen State College shall each designate in their online course descriptions used by students for registration purposes whether a course uses open educational resources or low-cost required instructional materials. If a course's required textbooks and course materials are not determined prior to registration due to an unassigned faculty member, the textbooks' and course materials' low-cost or open educational resource designation must be provided as soon as feasible after a faculty member is assigned.

(3) As used in this section:

(a) "Materials" means any supplies or texts required or recommended by faculty or staff for a given course.

(b) "Bundled" means a group of objects joined together by packaging or required to be purchased as an indivisible unit.

(c) "Low-cost" means the entire course's required instructional materials equal \$50 or less in 2021 dollars. The institutions of higher education shall adjust the dollar value of low-cost course materials at least once every five years to reflect the percentage change in the consumer price index over the preceding five years."

On page 1, line 3 of the title, after "education;" strike the remainder of the title and insert "and amending RCW 28B.10.590."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Higher Education & Workforce Development to House Bill No. 1119.

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

MOTION

On motion of Senator Randall, the rules were suspended, House Bill No. 1119, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 1119 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1119, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Absent: Senator Ericksen

HOUSE BILL NO. 1119, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1208, by House Committee on Education (originally sponsored by Santos, Steele, Lekanoff, Paul, Callan, Ortiz-Self, Bergquist and Harris-Talley)

Modifying the learning assistance program.

The measure was read the second time.

MOTION

On motion of Senator Wagoner, Senator Ericksen was excused.

PERSONAL PRIVILEGE

Senator Wagoner: "Thank you Mr. President. I have been bothered for the last couple of weeks on an issue and I thought that it would be best to address it here before our friends and colleagues to clear the air. And my intent is that this be done in a very instructional and reconciliatory manner and I trust that you will keep me within those boundaries. Mr. President, yesterday we recognized the people in the country of Taiwan, and I did not mention my family and my wife. And the reason I didn't is I was self-censoring, and the reason I was self-censoring was because of a tweet that went out a few weeks ago that called into question whether or not members on my side of the aisle ought to be referencing their Asian relatives specifically Asian wives during floor debate on certain issues. And that left a bit of a, it stung, it left a bit of a mark on this side of the aisle. Many of us have Asian relatives and we often mention them when we feel it's appropriate. But I thought back to I went through a lot of emotions. I was frustrated, a little angry, insulted and then I thought back to some very appropriate words that you started this session with Mr. President, to treat each other with grace and patience. So I gave myself some time and I reached out to the member who authored that tweet, my good friend Senator Nguyen, and Senator Nguyen, to his great credit, graciously spent time with me in a one on one conversation so that we could understand each other's perspectives. And I want to thank him for that. It was very valuable. He got to share his perspectives. I got to share my perspectives. While we may not have convinced each other, I thought that's how we do it here in the Senate when these types of issues come up. Because we have to discuss issues that are complicated and controversial. And it would have ended there if it had just been a remark in the hallway or in an office that was

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confined to a few people. But because it went out as a text, I felt there was this pall of uncertainty over the next person who mentioned that on the floor that they had relatives because we often do. Many of us do on this side. So, I thought it would be instructional to the rest of the body to explain why I think it's not only appropriate but beneficial, done properly. And there's basically three reasons Mr. President. First of all, we're all proud of and love our families. We like to talk about them. But that's kind of a giveaway because that's everybody on this floor. But that's the first reason. And the second reason and probably the most important is it brings context to what we consider and how we consider legislation and it's part of our backstory. Our families are inextricably woven into our own life experiences and the things we consider, and I think about all the members on this side of the floor who, I'm aware of, and there may be more. Senator Brown's lovely daughters; Senator Warnick's wonderful grandson; Senator Jeff Wilson's charming wife; and Senator Padden's new in-laws and family; and my own family. When we stand up on the floor, we look like we look, we can't help that. If we tell our back story in the things that we consider you get, Mr. President, a more in-depth idea of who we are, what we stand for, and what we are considering. The context is very important and I'm reminded in particular, Senator Warnick's grandson, since bullying has been a topic that we've dealt with down here, who has experienced that and those types of thoughts go through our heads and affect our votes in the things we say down here. A love for our family number one, context number two, and thirdly it's an open door to people who might not approach me or other members if we didn't mention that. It's an open door. I mentioned yesterday that I was on or to be invited to help Secretary Wyman accept the gift of tens of thousands of masks from the government of Taiwan. I wouldn't have been part of that had they not known my background and my family's background. And it's been effective. Asian Americans come to me when they want bill sponsored, when they have questions about amendments, when they just want to talk because we have that in common. I mean I don't want to trivialize it but it's a conversation starter and it makes me a friendly face that they can come to. So, for those three reasons I think it's most appropriate and very beneficial that people know our back story and I just wanted to get that out there so that the next time one of us stood up and mentioned our families, who we all care so much about, that there's not a trap out there in Twitterland. I don't know how many people saw that, waiting for us to say 'Aha, there they go again'. So, I hope Mr. President, I'm going to close now, that that is a satisfactory explanation of how we feel on this side and I don't pretend to represent the entire caucus but I think that's a pretty fair representation of how we feel about our families and why we talk about them. Thank you, Mr. President."

PERSONAL PRIVILEGE

Senator Nguyen: "Thank you, Mr. President. If you don't mind, I'd like to read a short passage from President Obama's most recent book *A Promised Land*.

President Heck: "Please proceed."

Senator Nguyen: "We were all accustomed to running the obstacle course necessary to be effective inside of a predominantly white institution. We've grown skilled at suppressing our reactions to minor slights, ever ready to give white colleagues the benefit of the doubt, remaining mindful that all but the most careful discussions of race risked triggering in them a mild panic.' Mr. President, this is how he felt while being

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the President of the United States. Arguably one of the most powerful people in the world and this is how many of us feel here in the legislature as well, not nearly as powerful but the experiences are similar. And we've had some tough debates this year, Mr. President, on issues around racial equity, but these are important conversations and oftentimes uncomfortable conversations and despite coming to different conclusions on some areas, I am thankful for the good senator from the 39th and others that I've had the opportunity to speak with because I feel I believe it is this dialogue that will bring us forward and if this had been the other Washington we may not have had the positive and constructive dialogue that we were able to have and I hope that this actually does inspire more dialogue and opportunities for us to learn more about each other in our experiences that we bring to the Legislature so that we can better serve the people of Washington state. So, thank you Mr. President for the opportunity and thank you to the members on the other side for the opportunity to speak with them as well."

REMARKS BY THE PRESIDENT

President Heck: "The President would like to observe that the issue and difficulty of discussing race is as old as this republic. There is a reason why it is called the Great Stain. We struggle with this mightily. Today is not the beginning nor the end of this conversation but I trust that both of these gentlemen have advanced that conversation forward and I thank them both."

WITHDRAWAL OF AMENDMENT

On motion of Senator Wellman and without objection, striking floor amendment no. 538 by Senator Wellman to Substitute House Bill No. 1208 was withdrawn.

MOTION

Senator Billig moved that the following striking floor amendment no. 738 by Senator Billig be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature acknowledges that the learning assistance program was developed to provide supplemental instruction and services for public school students who are not meeting academic standards. Initially, school districts were allowed to use learning assistance program funds in a flexible manner to support students participating in the program. Over time, the legislature restricted, and established priorities for, the use of learning assistance program funds. The legislature finds that it is time to restore flexibility to the use of learning assistance program funds; however, local control must be balanced with accountability for improvement in the academic achievement of students participating in the program.

(2)(a) The legislature expects that the learning assistance program will continue to be used to fund supplemental instruction and service to eligible students who are not meeting academic standards.

(b) However, the legislature intends to immediately remove restrictions on the use of learning assistance program funds so that school districts can flexibly use these funds to identify and address the academic and nonacademic needs of students resulting from and exacerbated by the COVID-19 pandemic. Removal of the restrictions does not mean that learning assistance programs cannot continue to use the best practices and strategies included on the state menus or the services and activities listed in RCW 28A.165.035, as repealed by this act.

(3)(a) Beginning September 1, 2025, or following the end of the state of emergency declared by the governor due to COVID-19, whichever is later, the legislature intends to continue the flexible use of learning assistance program funds but require that budgeting and expenditure of these funds occur through the framework of the Washington integrated student supports protocol, established by the legislature in 2016.

(b) To ease the transition, the legislature recommends that school district boards of directors begin budgeting and expending learning assistance program funds using the Washington integrated student supports protocol as soon as possible.

(c) Under the protocol, before engaging in the process of budgeting and expending learning assistance program funds, the legislature expects school district boards of directors to perform needs assessments and use data to map the resources of the school district, each school, and the community. School boards are expected to identify gaps in the coordination and integration of academic and nonacademic supports and to engage community partners in strategic planning that prioritizes the needs of students. Each school in the district is also expected to use needs assessments and data to determine how to best engage community partners to address the academic and nonacademic needs of its students in an integrated and coordinated manner. Finally, the legislature expects that schools and school districts will use data in an iterative process to drive decisions about how learning assistance program funds continue to be used, and to determine whether decisions about the use of program funds resulted in improvement in students' academic achievement.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.165 RCW to be codified between RCW 28A.165.005 and 28A.165.065 to read as follows:

(1) Immediately upon the effective date of this section and through the later of: (a) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or (b) September 1, 2025, school districts must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, to identify and address the academic and nonacademic needs of students resulting from and exacerbated by the COVID-19 pandemic.

(2) During the time period described in subsection (1) of this section, school districts are encouraged to budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

(3) If a school district elects to budget and expend learning assistance program funds using the framework of the Washington integrated student supports protocol, a district may use up to 15 percent of the district's learning assistance program allocation to deliver academic, nonacademic, and social-emotional supports and services to students through partnerships with community-based or other out-of-school organizations in accordance with RCW 28A.300.139. Any agreement entered into by a school district and a community partner in accordance with RCW 28A.300.139 must:

(a) Specify that learning assistance program funds may be used only to provide direct supports and services to students;

(b) Clearly identify the academic, nonacademic, or social-emotional supports and services that will be made available to students by the community partner and how those supports and services align to the needs of the students as identified in the student-level needs assessment required by RCW 28A.300.139; and

(c) Identify the in-school supports that will be reinforced by the

supports and services provided by the community partner to promote student progress towards meeting academic standards.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.165 RCW to be codified between RCW 28A.165.005 and 28A.165.065 to read as follows:

(1) While the state allocations for the learning assistance program under this chapter are intended to be flexible dollars within the control of the public school and school district, this local control must be balanced with local accountability for improvement in student achievement.

(2) School district boards of directors must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

(3) A district may use up to 15 percent of the district's learning assistance program allocation to deliver academic, nonacademic, and social-emotional supports and services to students through partnerships with community-based or other out-of-school organizations in accordance with RCW 28A.300.139. Any agreement entered into by a school district and a community partner in accordance with RCW 28A.300.139 must:

(a) Specify that learning assistance program funds may be used only to provide direct supports and services to students;

(b) Clearly identify the academic, nonacademic, or social-emotional supports and services that will be made available to students by the community partner and how those supports and services align to the needs of the students as identified in the student-level needs assessment required by RCW 28A.300.139; and

(c) Identify the in-school supports that will be reinforced by the supports and services provided by the community partner to promote student progress towards meeting academic standards.

Sec. 4. RCW 28A.300.139 and 2016 c 72 s 801 are each amended to read as follows:

(1) ~~((Subject to the availability of amounts appropriated for this specific purpose, the))~~ The Washington integrated student supports protocol is established. The protocol shall be developed by the center for the improvement of student learning, established in RCW 28A.300.130, based on the framework described in this section. The purposes of the protocol include:

(a) Supporting a school-based approach to promoting the success of all students by coordinating academic and nonacademic supports to reduce barriers to academic achievement and educational attainment;

(b) Fulfilling a vision of public education where educators focus on education, students focus on learning, and auxiliary supports enable teaching and learning to occur unimpeded;

(c) Encouraging the creation, expansion, and quality improvement of community-based supports that can be integrated into the academic environment of schools and school districts;

(d) Increasing public awareness of the evidence showing that academic outcomes are a result of both academic and nonacademic factors; and

(e) Supporting statewide and local organizations in their efforts to provide leadership, coordination, technical assistance, professional development, and advocacy to implement high-quality, evidence-based, student-centered, coordinated approaches throughout the state.

(2)(a) The Washington integrated student supports protocol must be sufficiently flexible to adapt to the unique needs of schools and districts across the state, yet sufficiently structured to provide all students with the individual support they need for academic success.

(b) The essential framework of the Washington integrated student supports protocol includes:

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(i) Needs assessments: A system-level needs assessment with resource mapping must be conducted in order to identify academic and nonacademic supports that are currently available or lacking in schools, school districts, and the community. A student-level needs assessment must be conducted for all at-risk students in order to develop or identify the needed academic and nonacademic supports within the students' school and community. These supports must be coordinated to provide students with a package of mutually reinforcing supports designed to meet the individual needs of each student.

(ii) Integration and coordination: The school and district leadership and staff must ~~((develop close relationships))~~ establish clear, cooperative policies and procedures with community-based and other out-of-school providers of academic and nonacademic supports to enhance the effectiveness of the protocol.

(iii) Community partnerships: Community partners must be engaged to provide academic, nonacademic, and social-emotional supports to reduce barriers to students' academic success, including supports to students' families.

(iv) Data driven: Students' needs and outcomes must be tracked over time to determine student progress and evolving needs.

(c) The framework must facilitate the ability of any academic or nonacademic provider to support the needs of at-risk students, including, but not limited to: Out-of-school providers, social workers, mental health counselors, physicians, dentists, speech therapists, and audiologists.

Sec. 5. RCW 28A.165.005 and 2017 3rd sp.s. c 13 s 403 are each amended to read as follows:

~~((4))~~ This chapter is designed to: ~~((a))~~ (1) Promote the use of data when developing programs to assist students who are not meeting academic standards ~~((and reduce disruptive behaviors in the classroom))~~; and ~~((b))~~ (2) guide school districts in providing the most effective and efficient practices when implementing supplemental instruction and services to assist students who are not meeting academic standards ~~((and reduce disruptive behaviors in the classroom))~~.

~~((2))~~ School districts implementing a learning assistance program shall focus first on addressing the needs of students in grades kindergarten through four who are deficient in reading or reading readiness skills to improve reading literacy.)

Sec. 6. RCW 28A.165.015 and 2017 3rd sp.s. c 13 s 404 are each amended to read as follows:

Unless the context clearly indicates otherwise the definitions in this section apply throughout this chapter.

(1) "Basic skills areas" means reading, writing, and mathematics as well as readiness associated with these skills.

(2) ~~("Participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level using multiple measures of performance, including on the statewide student assessments or other assessments and performance measurement tools administered by the school or district and who is identified by the district to receive services.~~

~~(3))~~ "Statewide student assessments" means one or more of the assessments administered by school districts as required under RCW 28A.655.070.

~~((4))~~ (3) "Students who are not meeting academic standards" means students with the greatest academic deficits in basic skills as identified by statewide, school, or district assessments or other performance measurement tools.

Sec. 7. RCW 28A.165.065 and 2013 2nd sp.s. c 18 s 206 are each amended to read as follows:

To ensure that school districts are meeting the requirements of this chapter, the superintendent of public instruction shall monitor learning assistance programs using, at minimum, data reported as required under RCW 28A.165.100, no less than once every four

years. The primary purpose of program monitoring is to evaluate the effectiveness of a school district's allocation and expenditure of resources and monitor school district fidelity in implementing best practices using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139. The office of the superintendent of public instruction may provide technical assistance to school districts to improve the effectiveness of a learning assistance program.

Sec. 8. RCW 28A.165.100 and 2019 c 208 s 1 are each amended to read as follows:

(1) School districts shall record in the statewide individual student data system annual entrance and exit performance data for each student participating in the learning assistance program according to specifications established by the office of the superintendent of public instruction.

~~((By August 1, 2014, and each))~~ Annually September 30th ~~((thereafter))~~, school districts shall report to the office of the superintendent of public instruction, using a common format prepared by the office:

(a) The amount of academic growth gained by students participating in the learning assistance program;

(b) The number of students who gain at least one year of academic growth;

(c) The specific practices, activities, and programs used by each school building that received learning assistance program funding; ~~((and))~~

(d) The percentage of learning assistance program funding used to engage community partners, the number of students receiving direct supports and services from those community partners, and the types of supports and services; and

(e) Other data if required by the office of the superintendent of public instruction to demonstrate the efficacy of the learning assistance program expenditures to show student academic growth gains including indicators aligned with the accountability framework for schools receiving support under RCW 28A.657.110.

(3) By January 1, 2020, and each January 1st thereafter, the office of the superintendent of public instruction shall compile the school district data reported as required by subsection (2) of this section, and report, in compliance with RCW 43.01.036, to the appropriate committees of the legislature with the annual and longitudinal gains for the specific practices, activities, and programs used by the school districts and schools to show which are the most effective. The data must be disaggregated by student subgroups as described in RCW 28A.300.042(1) for student-level data.

Sec. 9. RCW 28A.300.130 and 2016 c 72 s 804 are each amended to read as follows:

Provisions in subsections (1) through (5) of this section are subject to the availability of amounts appropriated for these specific purposes.

(1) To facilitate access to information and materials on educational improvement and research, the superintendent of public instruction ~~((, subject to the availability of amounts appropriated for this specific purpose,))~~ shall establish the center for the improvement of student learning. The center shall work in conjunction with parents, educational service districts, institutions of higher education, and education, parent, community, and business organizations.

(2) The center, ~~((subject to the availability of amounts appropriated for this specific purpose, and))~~ in conjunction with other staff in the office of the superintendent of public instruction, shall:

(a) Serve as a clearinghouse for information regarding successful educational improvement and parental involvement

programs in schools and districts, and information about efforts within institutions of higher education in the state to support educational improvement initiatives in Washington schools and districts;

(b) Provide best practices research that can be used to help schools develop and implement: Programs and practices to improve instruction; systems to analyze student assessment data, with an emphasis on systems that will combine the use of state and local data to monitor the academic progress of each and every student in the school district; comprehensive, school-wide improvement plans; school-based shared decision-making models; programs to promote lifelong learning and community involvement in education; school-to-work transition programs; programs to meet the needs of highly capable students; programs and practices to meet the needs of students with disabilities; programs and practices to meet the diverse needs of students based on gender, racial, ethnic, economic, and special needs status; research, information, and technology systems; and other programs and practices that will assist educators in helping students learn the essential academic learning requirements;

~~(c) Periodically review the efficacy of programs and practices designed to meet the needs of students who are not meeting academic standards as defined in RCW 28A.165.015, starting with the best practices and strategies included on the state menu developed under RCW 28A.165.035, as repealed by this act, and RCW 28A.655.235, and the services and activities listed in RCW 28A.165.035, as repealed by this act;~~

(d) Develop and maintain an internet web site to increase the availability of information, research, and other materials;

~~((d))~~ (e) Work with appropriate organizations to inform teachers, district and school administrators, and school directors about the waivers available and the broadened school board powers under RCW 28A.320.015;

~~((e))~~ (f) Provide training and consultation services, including conducting regional summer institutes;

~~((f))~~ (g) Identify strategies for improving the success rates of ethnic and racial student groups and students with disabilities, with disproportionate academic achievement;

~~((g))~~ (h) Work with parents, teachers, and school districts in establishing a model absentee notification procedure that will properly notify parents when their student has not attended a class or has missed a school day. The office of the superintendent of public instruction shall consider various types of communication with parents including, but not limited to, email, phone, and postal mail; ~~and~~

~~((h))~~ (i) By December 1, 2026, and by December 1st annually thereafter: (i) Review the learning assistance program information submitted as required by RCW 28A.165.100; and (ii) report to the appropriate committees of the legislature with a summary of the innovations made by school districts to reduce barriers to the academic achievement of students participating in the learning assistance program; and

(j) Perform other functions consistent with the purpose of the center as prescribed in subsection (1) of this section.

(3) The superintendent of public instruction shall select and employ a director for the center.

(4) The superintendent may enter into contracts with individuals or organizations including but not limited to: School districts; educational service districts; educational organizations; teachers; higher education faculty; institutions of higher education; state agencies; business or community-based organizations; and other individuals and organizations to accomplish the duties and responsibilities of the center. In carrying out the duties and responsibilities of the center, the superintendent, whenever possible, shall use practitioners to assist agency staff as well as assist educators and others in schools

and districts.

(5) The office of the superintendent of public instruction shall report to the legislature by September 1, 2007, and thereafter biennially, regarding the effectiveness of the center for the improvement of student learning, how the services provided by the center for the improvement of student learning have been used and by whom, and recommendations to improve the accessibility and application of knowledge and information that leads to improved student learning and greater family and community involvement in the public education system.

Sec. 10. RCW 28A.305.130 and 2019 c 252 s 112 are each amended to read as follows:

The purpose of the state board of education is to provide advocacy and strategic oversight of public education; implement a standards-based accountability framework that creates a unified system of increasing levels of support for schools in order to improve student academic achievement; provide leadership in the creation of a system that personalizes education for each student and respects diverse cultures, abilities, and learning styles; and promote achievement of the goals of RCW 28A.150.210. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold special meetings as may be deemed necessary for the transaction of public business;

(2) Form committees as necessary to effectively and efficiently conduct the work of the board;

(3) Seek advice from the public and interested parties regarding the work of the board;

(4) For purposes of statewide accountability:

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, or the requirements of the Carl D. Perkins vocational education act of 1998, each as amended. The goals may be established for all students, economically disadvantaged students, limited English proficient students, students with disabilities, and students ~~((from disproportionately academically underachieving racial and ethnic backgrounds))~~ who are not meeting academic standards as defined in RCW 28A.165.015, disaggregated as described in RCW 28A.300.042(1) for student-level data. The board may establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. The board shall adopt the goals by rule. However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b)(i)(A) Identify the scores students must achieve in order to meet the standard on the statewide student assessment, and the SAT or the ACT if used to demonstrate career and college readiness under RCW 28A.655.250. The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory

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committees that may be established for this purpose;

(B) To permit the legislature to take any statutory action it deems warranted before modified or newly established scores are implemented, the board shall notify the education committees of the house of representatives and the senate of any scores that are modified or established under (b)(i)(A) of this subsection on or after July 28, 2019. The notifications required by this subsection (4)(b)(i)(B) must be provided by November 30th of the year proceeding the beginning of the school year in which the modified or established scores will take effect;

(ii) The legislature intends to continue the implementation of chapter 22, Laws of 2013 2nd sp. sess. when the legislature expressed the intent for the state board of education to identify the student performance standard that demonstrates a student's career and college readiness for the eleventh grade consortium-developed assessments. Therefore, by December 1, 2018, the state board of education, in consultation with the superintendent of public instruction, must identify and report to the governor and the education policy and fiscal committees of the legislature on the equivalent student performance standard that a tenth grade student would need to achieve on the state assessments to be on track to be career and college ready at the end of the student's high school experience;

(iii) The legislature shall be advised of the initial performance standards and any changes made to the elementary, middle, and high school level performance standards. The board must provide an explanation of and rationale for all initial performance standards and any changes, for all grade levels of the statewide student assessment. If the board changes the performance standards for any grade level or subject, the superintendent of public instruction must recalculate the results from the previous ten years of administering that assessment regarding students below, meeting, and beyond the state standard, to the extent that this data is available, and post a comparison of the original and recalculated results on the superintendent's web site;

(c) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system; and

(d) Include in the biennial report required under RCW 28A.305.035, information on the progress that has been made in achieving goals adopted by the board;

(5) Accredite, subject to such accreditation standards and procedures as may be established by the state board of education, all private schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve. However, no private school may be approved that operates a kindergarten program only and no private school shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials;

(6) Articulate with the institutions of higher education, workforce representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system;

(7) Hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW 28A.300.020. The board may delegate to the executive director by resolution such duties as deemed necessary to efficiently carry on the business of the board including, but not limited to, the authority to employ necessary

personnel and the authority to enter into, amend, and terminate contracts on behalf of the board. The executive director, administrative assistant, and all but one of the other personnel of the board are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW; and

(8) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

Sec. 11. RCW 28A.320.190 and 2019 c 252 s 113 are each amended to read as follows:

(1) The extended learning opportunities program is created for eligible (~~eleventh and~~) ninth through twelfth grade students who are not on track to meet local or state graduation requirements as well as eighth grade students who need additional assistance in order to have the opportunity for a successful entry into high school. The program shall provide early notification of graduation status and information on education opportunities including preapprenticeship programs that are available.

(2) Under the extended learning opportunities program and to the extent funds are available for that purpose, districts shall make available to students in grade twelve who have failed to meet one or more local or state graduation requirements the option of continuing enrollment in the school district in accordance with RCW 28A.225.160. Districts are authorized to use basic education program funding to provide instruction to eligible students under RCW 28A.150.220(5).

(3) Under the extended learning opportunities program, instructional services for eligible students can occur during the regular school day, evenings, on weekends, or at a time and location deemed appropriate by the school district, including the educational service district, in order to meet the needs of these students. Instructional services provided under this section do not include services offered at private schools. Instructional services can include, but are not limited to, the following:

(a) Individual or small group instruction;

(b) Attendance in a public high school or public alternative school classes or at a skill center;

(c) Inclusion in remediation programs, including summer school;

(d) Language development instruction for English language learners;

(e) Online curriculum and instructional support, including programs for credit retrieval and statewide student assessment preparatory classes; and

(f) Reading improvement specialists available at the educational service districts to serve eighth(~~eleventh and~~) through twelfth grade educators through professional development in accordance with RCW 28A.415.350. The reading improvement specialist may also provide direct services to eligible students and those students electing to continue a fifth year in a high school program who are still struggling with basic reading skills.

Sec. 12. RCW 28A.710.280 and 2018 c 266 s 403 are each amended to read as follows:

(1) The legislature intends that state funding for charter schools be distributed equitably with state funding provided for other public schools.

(2) For eligible students enrolled in a charter school established and operating in accordance with this chapter, the superintendent of public instruction shall transmit to each charter school an amount calculated as provided in this section and based on the statewide average salaries set forth in RCW 28A.150.410 for certificated instructional staff adjusted by the regionalization factor that applies to the school district in which the charter school is geographically located, including any enrichment to those

statutory formulae that is specified in the omnibus appropriations act. The amount must be the sum of (a) and (b) of this subsection.

(a) The superintendent shall, for purposes of making distributions under this section, separately calculate and distribute to charter schools moneys appropriated for general apportionment under the same ratios as in RCW 28A.150.260.

(b) The superintendent also shall, for purposes of making distributions under this section, and in accordance with the applicable formulae for categorical programs specified in (b)(i) through (v) of this subsection (2) and any enrichment to those statutory formulae that is specified in the omnibus appropriations act, separately calculate and distribute moneys appropriated by the legislature to charter schools for:

(i) Supplemental instruction and services for (~~underachieving~~) students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(ii) Supplemental instruction and services for eligible and enrolled students and exited students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(iii) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020;

(iv) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030; and

(v) Pupil transportation services to and from school in accordance with RCW 28A.160.150 through 28A.160.180. Distributions for pupil transportation must be calculated on a per eligible student basis based on the allocation for the previous school year to the school district in which the charter school is located.

(3) The superintendent of public instruction must adopt rules necessary for the distribution of funding required by this section and to comply with federal reporting requirements.

NEW SECTION. Sec. 13. RCW 28A.165.035 (Program activities—Partnerships with local entities—Development and use of state menus of best practices and strategies) and 2018 c 75 s 7, 2016 c 72 s 803, 2013 2nd sp.s. c 18 s 203, 2008 c 321 s 4, & 2004 c 20 s 4 are each repealed.

NEW SECTION. Sec. 14. Section 2 of this act expires at the later of either: (1) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or (2) September 1, 2025.

NEW SECTION. Sec. 15. Section 3 of this act takes effect at the later of either: (1) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or (2) September 1, 2025.

NEW SECTION. Sec. 16. The office of the governor must provide written notice of the expiration date of section 2 of this act and the effective date of section 3 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the office of the governor.

NEW SECTION. Sec. 17. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 7 of the title, after "protocol;" strike the remainder of the title and insert "amending RCW 28A.300.139, 28A.165.005, 28A.165.015, 28A.165.065, 28A.165.100, 28A.300.130, 28A.305.130, 28A.320.190, and 28A.710.280;

adding new sections to chapter 28A.165 RCW; creating new sections; repealing RCW 28A.165.035; providing a contingent effective date; providing a contingent expiration date; and declaring an emergency."

Senators Billig and Hawkins spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 738 by Senator Billig to Substitute House Bill No. 1208.

The motion by Senator Billig carried and striking floor amendment no. 738 was adopted by voice vote.

MOTION

On motion of Senator Wellman, the rules were suspended, Substitute House Bill No. 1208, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Wellman spoke in favor of passage of the bill.

Senators Hawkins, Rivers and Braun spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1208 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1208, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Ericksen

SUBSTITUTE HOUSE BILL NO. 1208, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1044, by House Committee on Appropriations (originally sponsored by Leavitt, Simmons, J. Johnson, Eslick, Lovick, Kloba, Lekanoff, Wylie, Bateman, Senn, Goodman, Bronoske, Valdez, Callan, Ramos, Hackney, Morgan, Ormsby, Fey, Frame, Santos, Davis, Pollet and Bergquist)

Creating prison to postsecondary education pathways.

The measure was read the second time.

MOTION

Senator Darneille moved that the following committee striking amendment by the Committee on Human Services, Reentry &

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Rehabilitation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** 2019 c 397 s 1 (uncodified) is amended to read as follows:

(1) The legislature finds that incarceration is both a rural and urban issue in the state. According to one recent report, the highest rates of prison admissions are in rural counties. In addition, since 1980, the number of women in prison has increased more than eight hundred percent. Additionally, people of color are overrepresented in the prison system. The legislature finds that studies clearly and consistently demonstrate that postsecondary education in prisons improves safety in facilities, and incarcerated adults who obtain postsecondary education and training are more likely to be employed following release, which leads to a ((dramatic)) significant reduction in recidivism rates, ((significant)) improvements in public safety, and a major return on investment. The legislature finds that reducing recidivism ((would)) decreases the financial burden to taxpayers and the emotional burden of victims.

(2) The legislature finds that research indicates that postsecondary education and training is an effective evidence-based practice for reducing recidivism. An analysis commissioned by the United States department of justice determined that adults who received ((such)) an education while incarcerated were forty-three percent less likely to recidivate.

(3) Ninety-five percent of incarcerated adults ultimately return to their communities to obtain employment and contribute to society. The legislature finds that according to the bureau of labor statistics, unemployment rates for people with only a high school education are twice that of those with an associate degree. Research has shown that adults who participated in ((such)) education programs while incarcerated were thirteen percent more likely to be employed.

(4) The legislature further finds that correctional education is cost-effective. A 2014 study by the Washington state institute for public policy estimated that ((the state received)), based on a review of national research literature and cost-benefit analysis, there is a return on investment of twenty dollars for every dollar invested in correctional education.

(5) It is the intent of the legislature to enhance public safety, including the safety of prison workers as findings show that violence rates are reduced in institutions where there are educational programs, to reduce crime, and to increase employment rates in a cost-effective manner by exploring benefits and costs associated with providing postsecondary education degree opportunities and training to incarcerated adults through expanded partnerships between ((the community and technical colleges)) postsecondary institutions, nonprofit entities and community-based postsecondary education programs, and the department of corrections.

(6) It is the intent of the legislature to support exploring the use of secure internet connections expressly for the purposes of furthering postsecondary education degree opportunities and training of incarcerated adults, including providing assistance to incarcerated adults with completing financial aid materials. The legislature intends for the department to be able to provide complete assurance that all ((offender used)) internet connections used by incarcerated individuals are secure.

(7) It is the intent of the legislature to support expanded access and opportunities to postsecondary degree and certificate education programs for persons of color by setting goals and partnering with nonprofit entities and community-based postsecondary education programs with historical evidence of

providing education programs for people of color.

(8) It is also the intent of the legislature, by requiring the study under section 2 of this act, to examine the effects of providing postsecondary education while incarcerated on enrollment in the postsecondary education system postrelease.

NEW SECTION. Sec. 2. (1)(a) Subject to the availability of amounts appropriated for this specific purpose, the Washington state institute for public policy shall study enrollment, completion, and recidivism rates of incarcerated individuals in the postsecondary education system postrelease.

(b) The goal of the study is to understand whether participation in postsecondary education while incarcerated contributes to greater enrollment and completion of postsecondary education and reduced recidivism postrelease. The scope of the study shall focus on postrelease enrollment and completion trends in the community and technical college sector for formerly incarcerated individuals of all ages. The timeline of the study may include data from 2015 to the present, to the extent possible. The study's findings shall be divided into a preliminary and final report. The reports shall complement similar studies conducted at the University of Washington or elsewhere. To the extent that it is not duplicative of other studies, the Washington state institute for public policy shall study the following:

(i) For the preliminary report, which is due October 1, 2024:

(A) Patterns and any effects on postrelease enrollment and participation in the community and technical college system by individuals who, while incarcerated, participated in postsecondary education programs, including those individuals that completed some coursework but did not earn a degree or certificate; and

(B) Differential outcomes for individuals participating in different types of postsecondary education courses, certificate programs, and degree programs.

(ii) For the final report, which is due October 1, 2027, a continuation of the preliminary report in addition to:

(A) Changes in enrollment and completion of postsecondary education courses, certificate programs, and degree programs due to the changes and expansion of educational programming in this act, to the extent possible; and

(B) Recidivism outcomes beyond incarceration for those incarcerated individuals that participated in postsecondary certificate and degree programs while incarcerated, including arrests, charges, and convictions.

(iii) The preliminary and final reports shall be submitted to the appropriate committees of the legislature and in accordance with RCW 43.01.036.

(iv) The department of corrections, the student achievement council, the state board for community and technical colleges, and the education research and data center shall provide data necessary to conduct the study.

(2) This section expires January 1, 2029.

Sec. 3. RCW 72.09.270 and 2008 c 231 s 48 are each amended to read as follows:

(1) The department of corrections shall develop an individual reentry plan as defined in RCW 72.09.015 for every ((offender)) incarcerated individual who is committed to the jurisdiction of the department except:

(a) ((Offenders)) Incarcerated individuals who are sentenced to life without the possibility of release or sentenced to death under chapter 10.95 RCW; and

(b) ((Offenders)) Incarcerated individuals who are subject to the provisions of 8 U.S.C. Sec. 1227.

(2) The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements of this section.

(3) In developing individual reentry plans, the department shall assess all ~~((offenders))~~ incarcerated individuals using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, and educational and vocational skill levels for each ~~((offender))~~ incarcerated individual. The assessment tool should take into account demographic biases, such as culture, age, and gender, as well as the needs of the ~~((offender))~~ incarcerated individual, including any learning disabilities, substance abuse or mental health issues, and social or behavior ~~((deficits))~~ challenges.

(4)(a) The initial assessment shall be conducted as early as sentencing, but, whenever possible, no later than forty-five days of being sentenced to the jurisdiction of the department of corrections.

(b) The ~~((offender's))~~ incarcerated individual's individual reentry plan shall be developed as soon as possible after the initial assessment is conducted, but, whenever possible, no later than sixty days after completion of the assessment, and shall be periodically reviewed and updated as appropriate.

(5) The individual reentry plan shall, at a minimum, include:

(a) A plan to maintain contact with the ~~((inmate's))~~ incarcerated individual's children and family, if appropriate. The plan should determine whether parenting classes, or other services, are appropriate to facilitate successful reunification with the ~~((offender's))~~ incarcerated individual's children and family;

(b) An individualized portfolio for each ~~((offender))~~ incarcerated individual that includes the ~~((offender's))~~ incarcerated individual's education achievements, certifications, employment, work experience, skills, and any training received prior to and during incarceration; and

(c) A plan for the ~~((offender))~~ incarcerated individual during the period of incarceration through reentry into the community that addresses the needs of the ~~((offender))~~ incarcerated individual including education, employment, substance abuse treatment, mental health treatment, family reunification, and other areas which are needed to facilitate a successful reintegration into the community.

(6)(a) Prior to discharge of any ~~((offender))~~ incarcerated individual, the department shall:

(i) Evaluate the ~~((offender's))~~ incarcerated individual's needs and, to the extent possible, connect the ~~((offender))~~ incarcerated individual with existing services and resources that meet those needs; and

(ii) Connect the ~~((offender))~~ incarcerated individual with a community justice center and/or community transition coordination network in the area in which the ~~((offender))~~ incarcerated individual will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in an ~~((offender's))~~ incarcerated individual's individual reentry plan, the department shall maximize the period of partial confinement for the ~~((offender))~~ incarcerated individual as allowed pursuant to RCW 9.94A.728 to facilitate the ~~((offender's))~~ incarcerated individual's transition to the community.

(7) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the ~~((offender's))~~ incarcerated individual's treatment, programming, and reentry, when deemed appropriate. When feasible, this information shall be shared electronically.

(8)(a) In determining the county of discharge for an ~~((offender))~~ incarcerated individual released to community custody, the department may ~~((not))~~ approve a residence location that is not in the ~~((offender's))~~ incarcerated individual's county of origin ~~((unless it is determined by))~~ if the department determines that the ~~((offender's return to his or her county of origin would be inappropriate considering))~~ residence location would be

appropriate based on any court-ordered condition of the ~~((offender's))~~ incarcerated individual's sentence, victim safety concerns, ~~((negative influences on the offender in the community, or the))~~ and factors that increase opportunities for successful reentry and long-term support including, but not limited to, location of family or other sponsoring persons or organizations that will support the ~~((offender))~~ incarcerated individual, ability to complete an educational program that the incarcerated individual is enrolled in, availability of appropriate programming or treatment, and access to housing, employment, and prosocial influences on the person in the community.

(b) In implementing the provisions of this subsection, the department shall approve residence locations in a manner that will not cause any one county to be disproportionately impacted.

(c) If the ~~((offender))~~ incarcerated individual is not returned to his or her county of origin, the department shall provide the law and justice council of the county in which the ~~((offender))~~ incarcerated individual residence at the time of the incarcerated individual's is placed with a written explanation.

~~((=))~~ (d)(i) For purposes of this section, except as provided in (d)(ii) of this subsection, the ~~((offender's))~~ incarcerated individual's county of origin means the county of the ~~((offender's))~~ incarcerated individual's residence at the time of the incarcerated individual's first felony conviction in Washington state.

(ii) If the incarcerated individual is a homeless person as defined in RCW 43.185C.010, or the incarcerated individual's residence is unknown, then the incarcerated individual's county of origin means the county of the incarcerated individual's first felony conviction in Washington state.

(9) Nothing in this section creates a vested right in programming, education, or other services.

Sec. 4. RCW 72.09.460 and 2017 c 120 s 3 are each amended to read as follows:

(1) Recognizing that there is a positive correlation between education opportunities and reduced recidivism, it is the intent of the legislature to offer appropriate ~~((associate))~~ postsecondary degree or certificate opportunities to ~~((inmates designed to prepare the inmate to enter the workforce))~~ incarcerated individuals.

(2) The legislature intends that all ~~((inmates))~~ incarcerated individuals be required to participate in department-approved education programs, work programs, or both, unless exempted as specifically provided in this section. Eligible ~~((inmates))~~ incarcerated individuals who refuse to participate in available education or work programs available at no charge to the ~~((inmates))~~ incarcerated individuals shall lose privileges according to the system established under RCW 72.09.130. Eligible ~~((inmates))~~ incarcerated individuals who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(3) The legislature recognizes more ~~((inmates))~~ incarcerated individuals may agree to participate in education and work programs than are available. The department must make every effort to achieve maximum public benefit by placing ~~((inmates))~~ incarcerated individuals in available and appropriate education and work programs.

(4)(a) The department shall, to the extent possible and considering all available funds, prioritize its resources to meet the following goals for ~~((inmates))~~ incarcerated individuals in the order listed:

(i) Achievement of basic academic skills through obtaining a high school diploma or a high school equivalency certificate as provided in RCW 28B.50.536, including achievement by those incarcerated individuals eligible for special education services

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pursuant to state or federal law;

(ii) Achievement of vocational skills necessary for purposes of work programs and for an ~~((inmate))~~ incarcerated individual to qualify for work upon release;

(iii) Additional work and education programs necessary for compliance with an ~~((offender's))~~ incarcerated individual's individual reentry plan under RCW 72.09.270, including special education services and postsecondary degree or certificate education programs; and

(iv) Other appropriate vocational, work, or education programs that are not necessary for compliance with an ~~((offender's))~~ incarcerated individual's individual reentry plan under RCW 72.09.270 including ~~((associate))~~ postsecondary degree or certificate education programs.

(b) If programming is provided pursuant to (a)(i) through (iii) of this subsection, the department shall pay the cost of such programming, including but not limited to books, materials, and supplies.

(c) If programming is provided pursuant to (a)(iv) of this subsection, ~~((inmates))~~ incarcerated individuals shall be required to pay all or a portion of the costs, including books, fees, and tuition, for participation in any vocational, work, or education program as provided in department policies. Department policies shall include a formula for determining how much an ~~((offender))~~ incarcerated individual shall be required to pay. The formula shall include steps which correlate to an ~~((offender))~~ incarcerated individual's average monthly income or average available balance in a personal ~~((inmate))~~ savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary educational costs. The formula shall be reviewed every two years. A third party, including but not limited to nonprofit entities or community-based postsecondary education programs, may pay directly to the department all or a portion of costs and tuition for any programming provided pursuant to (a)(iv) of this subsection on behalf of an ~~((inmate))~~ incarcerated individual. Such payments shall not be subject to any of the deductions as provided in this chapter.

(d) The department may accept any and all donations and grants of money, equipment, supplies, materials, and services from any third party, including but not limited to nonprofit entities and community-based postsecondary education programs, and may receive, utilize, and dispose of same to complete the purposes of this section.

(e) Any funds collected by the department under (c) and (d) of this subsection and subsections ~~((9) and (10))~~ (11) and (12) of this section shall be used solely for the creation, maintenance, or expansion of ~~((inmate))~~ incarcerated individual educational and vocational programs.

(5) The department shall provide access to a program of education to all ~~((offenders))~~ incarcerated individuals who are under the age of eighteen and who have not met high school graduation requirements or requirements to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with chapter 28A.193 RCW. The program of education established by the department and education provider under RCW 28A.193.020 for ~~((offenders))~~ incarcerated individuals under the age of eighteen must provide each ~~((offender))~~ incarcerated individual a choice of curriculum that will assist the ~~((inmate))~~ incarcerated individual in achieving a high school diploma or high school equivalency certificate. The program of education may include but not be limited to basic education, prevocational training, work ethic skills, conflict resolution counseling, substance abuse intervention, and anger management counseling. The curriculum may balance these and other rehabilitation, work, and training components.

(6)(a) In addition to the policies set forth in this section, the department shall consider the following factors in establishing criteria for assessing the inclusion of education and work programs in an ~~((inmate's))~~ incarcerated individual's individual reentry plan and in placing ~~((inmates))~~ incarcerated individuals in education and work programs:

(i) An ~~((inmate's))~~ incarcerated individual's release date and custody level. An ~~((inmate))~~ incarcerated individual shall not be precluded from participating in an education or work program solely on the basis of his or her release date, except that ~~((inmates))~~ incarcerated individuals with a release date of more than one hundred twenty months in the future shall not comprise more than ten percent of ~~((inmates))~~ incarcerated individuals participating in a new class I correctional industry not in existence on June 10, 2004;

(ii) An ~~((inmate's))~~ incarcerated individual's education history and basic academic skills;

(iii) An ~~((inmate's))~~ incarcerated individual's work history and vocational or work skills;

(iv) An ~~((inmate's))~~ incarcerated individual's economic circumstances, including but not limited to an ~~((inmate's))~~ incarcerated individual's family support obligations; and

(v) Where applicable, an ~~((inmate's))~~ incarcerated individual's prior performance in department-approved education or work programs;

(b) The department shall establish, and periodically review, ~~((inmate))~~ incarcerated individual behavior standards and program ~~((goals))~~ outcomes for all education and work programs. ~~((inmates))~~ incarcerated individuals shall be notified of applicable behavior standards and program goals prior to placement in an education or work program and shall be removed from the education or work program if they consistently fail to meet the standards or ~~((goals))~~ outcomes.

(7) Eligible ~~((inmates))~~ incarcerated individuals who refuse to participate in available education or work programs available at no charge to the ~~((inmates))~~ incarcerated individuals shall lose privileges according to the system established under RCW 72.09.130. Eligible ~~((inmates))~~ incarcerated individuals who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(8) The department shall establish, by rule, a process for identifying and assessing incarcerated individuals with learning disabilities, traumatic brain injuries, and other cognitive impairments to determine whether the person requires accommodations in order to effectively participate in educational programming, including general educational development tests and postsecondary education. The department shall establish a process to provide such accommodations to eligible incarcerated individuals.

(9) The department shall establish, and periodically review, goals for expanding access to postsecondary degree and certificate education programs and program completion for all incarcerated individuals, including persons of color. The department may contract and partner with any accredited educational program sponsored by a nonprofit entity, community-based postsecondary education program, or institution with historical evidence of providing education programs to people of color.

(10) The department shall establish, by rule, objective medical standards to determine when an ((inmate)) incarcerated individual is physically or mentally unable to participate in available education or work programs. When the department determines an ((inmate)) incarcerated individual is permanently unable to

participate in any available education or work program due to a health condition, the ~~((inmate))~~ incarcerated individual is exempt from the requirement under subsection (2) of this section. When the department determines an ~~((inmate))~~ incarcerated individual is temporarily unable to participate in an education or work program due to a medical condition, the ~~((inmate))~~ incarcerated individual is exempt from the requirement of subsection (2) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all ~~((inmates))~~ incarcerated individuals with temporary disabilities to ensure the earliest possible entry or reentry by ~~((inmates))~~ incarcerated individuals into available programming.

~~((9))~~ (11) The department shall establish policies requiring an ~~((offender))~~ incarcerated individual to pay all or a portion of the costs and tuition for any vocational training or postsecondary education program if the ~~((offender))~~ incarcerated individual previously abandoned coursework related to ~~((associate))~~ postsecondary degree or certificate education or vocational training without excuse as defined in rule by the department. Department policies shall include a formula for determining how much an ~~((offender))~~ incarcerated individual shall be required to pay. The formula shall include steps which correlate to an ~~((offender))~~ incarcerated individual's average monthly income or average available balance in a personal ~~((inmate))~~ savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary costs. The formula shall be reviewed every two years. A third party may pay directly to the department all or a portion of costs and tuition for any program on behalf of an ~~((inmate))~~ incarcerated individual under this subsection. Such payments shall not be subject to any of the deductions as provided in this chapter.

~~((10))~~ (12) Notwithstanding any other provision in this section, an ~~((inmate sentenced to life without the possibility of release))~~ incarcerated individual sentenced to death under chapter 10.95 RCW~~((;))~~ or subject to the provisions of 8 U.S.C. Sec. 1227:

(a) Shall not be required to participate in education programming except as may be necessary for the maintenance of discipline and security;

(b) May not participate in ~~((an associate))~~ a postsecondary degree education program offered by the department or its contracted providers, unless the incarcerated individual's participation in the program is paid for by a third party;

(c) May participate in prevocational or vocational training that may be necessary to participate in a work program;

(d) Shall be subject to the applicable provisions of this chapter relating to ~~((inmate))~~ incarcerated individual financial responsibility for programming.

(13) If an incarcerated individual has participated in postsecondary education programs, the department shall provide the incarcerated individual with a copy of the incarcerated individual's unofficial transcripts, at no cost to the individual, upon the incarcerated individual's release or transfer to a different facility. Upon the incarcerated individual's completion of a postsecondary education program, the department shall provide to the incarcerated individual, at no cost to the individual, a copy of the incarcerated individual's unofficial transcripts. This requirement applies regardless of whether the incarcerated individual became ineligible to participate in or abandoned a postsecondary education program.

(14) For the purposes of this section, "third party" includes a nonprofit entity or community-based postsecondary education program that partners with the department to provide accredited postsecondary education degree and certificate programs at state correctional facilities.

Sec. 5. RCW 72.09.465 and 2017 c 120 s 4 are each amended to read as follows:

(1)(a) The department may implement ~~((associate))~~ postsecondary degree or certificate education programs at state correctional institutions. ~~((During the 2015-2017 fiscal biennium, the department may implement postsecondary degree programs within state institutions, including the state correctional institution with the largest population of females, within its existing funds and under the limitations in this section, to include any funding provided under subsection (3) of this section.))~~

(b) The department may consider for inclusion in any ~~((associate))~~ postsecondary degree or certificate education program, any education program from an accredited community or technical college, college, or university that is ~~((part of an associate workforce degree program designed to prepare the inmate to enter the workforce))~~ limited to no more than a bachelor's degree. Washington state-recognized preapprenticeship programs may also be included as appropriate postsecondary education programs.

(2) ~~((Inmates))~~ Incarcerated individuals not meeting the department's priority criteria for the state-funded ~~((associate))~~ postsecondary degree education program shall be required to pay the costs for participation in a postsecondary education degree program if he or she elects to participate through self-pay, including costs of books, fees, tuition, or any other appropriate ancillary costs, by one or more of the following means:

(a) The ~~((inmate))~~ incarcerated individual who is participating in the postsecondary education degree program may, during confinement, provide the required payment or payments to the department; or

(b) A third party shall provide the required payment or payments directly to the department on behalf of an ~~((inmate))~~ incarcerated individual, and such payments shall not be subject to any of the deductions as provided in this chapter.

(3) The department may accept any and all donations and grants of money, equipment, supplies, materials, and services from any third party, including but not limited to nonprofit entities, and may receive, utilize, and dispose of same to provide postsecondary education to ~~((inmates))~~ incarcerated individuals.

(4) An ~~((inmate))~~ incarcerated individual may be selected to participate in a state-funded ~~((associate))~~ postsecondary degree or certificate education program, based on priority criteria determined by the department, in which the following conditions may be considered:

(a) Priority should be given to ~~((inmates within five years of less of release;~~

~~((b) The inmate does))~~ incarcerated individuals who do not already possess a postsecondary education degree; and

~~((e) The inmate's))~~ (b) Incarcerated individuals with individual reentry ((plan includes)) plans that include participation in ((an associate)) a postsecondary degree or certificate education program that is:

(i) Offered at the ~~((inmate's))~~ incarcerated individual's state correctional institution;

(ii) Approved by the department as an eligible and effective postsecondary education degree program; and

(iii) Limited to ~~((an associate workforce))~~ a postsecondary degree or certificate program.

(5) ~~((During the 2015-2017 fiscal biennium, an inmate may be selected to participate in a state-funded postsecondary education degree program, based on priority criteria determined by the department, in which the following conditions may be considered:~~

~~((a) Priority should be given to inmates within five years of release;~~

~~((b) The inmate does not already possess a postsecondary~~

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education degree; and

~~(c) The inmate's individual reentry plan includes participation in a postsecondary education degree program that is:~~

~~(i) Offered at the inmate's state correctional institution; and~~

~~(ii) Approved by the department as an eligible and effective postsecondary education degree program.)~~ The department shall work with the college board as defined in RCW 28B.50.030 to develop a plan to assist incarcerated individuals selected to participate in postsecondary degree or certificate programs with filing a free application for federal student aid or the Washington application for state financial aid.

(6) Any funds collected by the department under this section shall be used solely for the creation, maintenance, or expansion of ~~((inmate))~~ postsecondary education degree programs for incarcerated individuals.

NEW SECTION. Sec. 6. A new section is added to chapter 72.68 RCW to read as follows:

(1) In determining whether to transfer an incarcerated individual to a different facility in the state, the department shall consider whether the incarcerated individual is enrolled in a vocational or educational program, including those operated by approved outside providers, which cannot be continued at the receiving facility. The department shall work with the incarcerated individual's case manager, counselor, education navigator, or other appropriate person to attempt to meet the needs of the department and the incarcerated individual regarding transfer.

(2) Nothing in this section creates a vested right in programming, education, or other services.

Sec. 7. RCW 72.68.010 and 2020 c 318 s 4 are each amended to read as follows:

(1) Whenever in its judgment the best interests of the state or the welfare of any ~~((prisoner))~~ incarcerated individual confined in any penal institution will be better served by his or her transfer to another institution or to a foreign country of which the ~~((prisoner))~~ incarcerated individual is a citizen or national, the secretary may effect such transfer consistent with applicable federal laws and treaties. The secretary has the authority to transfer ~~((offenders))~~ incarcerated individuals between in-state correctional facilities or to out-of-state governmental institutions if the secretary determines that transfer is in the best interest of the state or the ~~((offender))~~ incarcerated individual. The determination of what is in the best interest of the state or ~~((offender))~~ incarcerated individual may include but is not limited to considerations of overcrowding, emergency conditions, or hardship to the ~~((offender))~~ incarcerated individual. In determining whether the transfer will impose a hardship on the ~~((offender))~~ incarcerated individual, the secretary shall consider: (a) The location of the ~~((offender's))~~ incarcerated individual's family and whether the ~~((offender))~~ incarcerated individual has maintained contact with members of his or her family; (b) whether, if the ~~((offender))~~ incarcerated individual has maintained contact, the contact will be significantly disrupted by the transfer due to the family's inability to maintain the contact as a result of the transfer; and (c) whether the ~~((offender))~~ incarcerated individual is enrolled in a vocational or educational program that cannot reasonably be resumed or completed if the ~~((offender))~~ incarcerated individual is transferred to another correctional institution or returned to the state.

(2)(a) The secretary has the authority to transfer ~~((offenders))~~ incarcerated individuals to an out-of-state private correctional entity only if:

(i) The governor finds that an emergency exists such that the population of a state correctional facility exceeds its reasonable, maximum capacity, resulting in safety and security concerns;

(ii) The governor has considered all other legal options to address capacity, including those pursuant to RCW 9.94A.870;

(iii) The secretary determines that transfer is in the best interest of the state or the ~~((offender))~~ incarcerated individual; and

(iv) The contract with the out-of-state private correctional entity includes requirements for access to public records to the same extent as if the facility were operated by the department, ~~((inmate))~~ incarcerated individual access to the office of the corrections ombuds, and inspections and visits without notice.

(b) Should any of these requirements in this subsection not be met, the contract with the private correctional entity shall be terminated.

(3) If directed by the governor, the secretary shall, in carrying out this section and RCW 43.06.350, adopt rules under chapter 34.05 RCW to effect the transfer of ~~((prisoners))~~ incarcerated individuals requesting transfer to foreign countries.

NEW SECTION. Sec. 8. A new section is added to chapter 72.09 RCW to read as follows:

(1) The department, the state board for community and technical colleges, the student achievement council, and the Washington statewide reentry council, in collaboration with an organization representing the presidents of the public four-year institutions of higher education, shall submit a combined report, pursuant to RCW 43.01.036, by December 1, 2021, and annually thereafter, to the appropriate committees of the legislature having oversight over higher education issues and correctional matters. The state agencies shall consult and engage with nonprofit and community-based postsecondary education providers during the development of the annual report.

(2) At a minimum, the combined report must include:

(a) The number of incarcerated individuals served in the department's postsecondary education system, the number of individuals not served, the number of individuals leaving the department's custody without a high school equivalency who were in the department's custody longer than one year, and the number of individuals released without any postsecondary education, each disaggregated by demographics;

(b) A review of the department's identification and assessment of incarcerated individuals with learning disabilities, traumatic brain injuries, and other cognitive impairments or disabilities that may limit their ability to participate in educational programming, including general educational development testing and postsecondary education. The report shall identify barriers to the identification and assessment of these individuals and include recommendations that will further facilitate access to educational programming for these individuals;

(c) An identification of issues related to ensuring that credits earned in credit-bearing courses are transferable. The report must also include the number of transferable credits awarded and the number of credits awarded that are not transferable;

(d) A review of policies on transfer, in order to create recommendations to institutions and the legislature that to ensure postsecondary education credits earned while incarcerated transfer seamlessly upon postrelease enrollment in a postsecondary education institution. The review must identify barriers or challenges on transferring credits experienced by individuals and the number of credits earned while incarcerated that transferred to the receiving colleges postrelease;

(e) The number of individuals participating in correspondence courses and completion rates of correspondence courses, disaggregated by demographics;

(f) An examination of the collaboration between correctional facilities, the educational programs, nonprofit and community-based postsecondary education providers, and the institutions, with the goal of ensuring that roles and responsibilities are clearly

defined, including the roles and responsibilities of each entity in relation to ensuring incarcerated individual access to, and accommodations in, educational programming; and

(g) A review of the partnerships with nonprofit and community-based postsecondary education organizations at state correctional facilities that provide accredited certificate and degree-granting programs and those that provide reentry services in support of educational programs and goals, including a list of the programs and services offered and recommendations to improve program delivery and access.

(3) The report shall strive to include, where possible, the voices and experiences of current or formerly incarcerated individuals.

Sec. 9. RCW 28B.15.067 and 2020 c 114 s 4 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Tuition operating fees for resident undergraduates at institutions of higher education as defined in RCW 28B.10.016, excluding applied baccalaureate degrees as defined in RCW 28B.50.030, may increase by no more than the average annual percentage growth rate in the median hourly wage for Washington for the previous fourteen years as the wage is determined by the federal bureau of labor statistics.

(3) The governing boards of the state universities, regional universities, and The Evergreen State College; and the state board for community and technical colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including nonresident students, summer school students, and students in other self-supporting degree programs. Percentage increases in full-time tuition may exceed the fiscal growth factor. Except during the 2013-2015 fiscal biennium, the state board for community and technical colleges may pilot or institute differential tuition models. The board may define scale, scope, and rationale for the models.

(4) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.

(5)(a) The tuition fees established under this chapter shall not apply to eligible students enrolling in a dropout reengagement program through an interlocal agreement between a school district and a community or technical college under RCW 28A.175.100 through 28A.175.110.

(b) The tuition fees established under this chapter shall not apply to students incarcerated with the department of corrections who are participating in credit-eligible postsecondary education courses and degree programs when the program expenses are funded by nontuition resources such as, but not limited to, grants, contracts, and donations.

(6) As a result of any changes in tuition under section 3, chapter 36, Laws of 2015 3rd sp. sess., the governing boards of the state universities, the regional universities, and The Evergreen State College shall not reduce resident undergraduate enrollment below the 2014-15 academic year levels.

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "pathways;" strike the remainder of the title and insert "amending RCW 72.09.270, 72.09.460, 72.09.465, 72.68.010, and 28B.15.067; amending 2019 c 397 s 1 (uncodified); adding a new section to chapter 72.68 RCW; adding a new section to chapter 72.09 RCW; creating new sections; and providing an expiration date."

MOTION

Senator Darneille moved that the following floor amendment no. 646 by Senator Darneille be adopted:

On page 6, beginning on line 14, after "individual" strike all material through "individual's" on line 15

On page 11, line 25, after "party" insert "or by the individual"

Senator Darneille spoke in favor of adoption of the amendment to the striking amendment.

Senator Gildon spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 646 by Senator Darneille on page 6, line 14 to the committee striking amendment.

The motion by Senator Darneille carried and floor amendment no. 646 was adopted by voice vote.

MOTION

Senator Padden moved that the following floor amendment no. 705 by Senator Padden be adopted:

On page 7, line 28, after "and" strike "postsecondary" and insert "associate"

On page 12, beginning on line 27, after "state-funded" strike "~~((associate))~~ postsecondary" and insert "associate"

On page 13, line 9, after "state-funded" strike "~~((associate))~~ postsecondary" and insert "associate"

On page 13, beginning on line 18, after "in" strike "~~((an associate))~~ a postsecondary" and insert "an associate"

On page 13, line 25, after "to" strike all material through "postsecondary" and insert "an associate (~~((workforce))~~)"

Senator Padden spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Darneille spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 705 by Senator Padden on page 7, line 28 to the committee striking amendment.

The motion by Senator Padden failed and floor amendment no. 705 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following floor amendment no. 718 by Senator Rivers be adopted:

On page 7, line 38, after "supplies." insert "Costs associated with postsecondary degree education programs beyond an associate degree must be paid from the postsecondary degree education account created in section 6 of this act."

On page 8, line 20, after "entities" strike all material through "section" on line 22 and insert "~~((and may receive, utilize, and dispose of same to complete the purposes of this section))~~ and community-based postsecondary education programs. The department must deposit all donations and grants of money received into the postsecondary degree education account created in section 6 of this act"

On page 13, line 5, after "entities" strike all material through "individuals" on line 7 and insert "~~((and may receive, utilize, and dispose of same to provide postsecondary education to inmates))~~ The department must deposit all donations and grants of money received into the postsecondary degree education account created

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in section 6 of this act"

On page 14, after line 8, insert the following:

"NEW SECTION. Sec. 6. A new section is added to chapter 72.09 RCW to read as follows:

(1) The postsecondary degree education account is created in the state treasury. Moneys in the account may be spent only after appropriation.

(2) Moneys in this account may be expended solely for costs of books, fees, tuition, and other ancillary costs associated with postsecondary degree education programs that would result in a bachelor's degree.

(3) If the account balance in the postsecondary degree education account is less than \$10,000,000 on June 30th, the treasurer shall transfer an amount equal to the amount of grants and donations deposited into the account for that year from the general fund in the following fiscal year."

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

On page 18, beginning on line 30, after "72.68 RCW;" strike "adding a new section" and insert "adding new sections"

Senator Rivers spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Darneille spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 718 by Senator Rivers on page 7, line 38 to the committee striking amendment.

The motion by Senator Rivers failed and floor amendment no. 718 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following floor amendment no. 719 by Senator Rivers be adopted:

On page 12, line 3, after "(14)" insert "If an incarcerated individual participates in any vocational, work, or educational program while incarcerated, the victim of the incarcerated individual shall be entitled to the same number of education program credits or the same vocational, work, or educational program that the incarcerated individual received or participated in. The program credits or vocational, work, or educational programming shall be provided to the victim by the state, at no cost to the victim. If education program credits are not transferable, the victim of the incarcerated individual is entitled to a tuition amount no less than the cost of the incarcerated individual's programming or credits.

(15)"

On page 14, after line 8, insert the following:

"(7) If an incarcerated individual participates in any vocational, work, or educational program while incarcerated, the victim of the incarcerated individual shall be entitled to the same number of education program credits or the same vocational, work, or educational program that the incarcerated individual received or participated in. The program credits or vocational, work, or educational programming shall be provided to the victim by the state, at no cost to the victim. If education program credits are not transferable, the victim of the incarcerated individual is entitled to a tuition amount no less than the cost of the incarcerated individual's programming or credits."

Senators Rivers and Wagoner spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Darneille spoke against adoption of the amendment to

the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 719 by Senator Rivers on page 12, line 3 to the committee striking amendment.

The motion by Senator Rivers failed and floor amendment no. 719 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following floor amendment no. 714 by Senator Wagoner be adopted:

On page 12, line 3, after "section," strike "third" and insert "the following terms have the following meanings:

(a) "High demand career field" means a career field where demand from business exceeds output by institutions of higher education by 10 percent.

(b) "Postsecondary education program" includes associate workforce degree and certificate education programs. "Postsecondary education programs" does not include a bachelor's degree unless the bachelor's degree program is in a high demand career field.

(c) "Third"

On page 12, line 23, after "workforce")) insert "designed to prepare the individual to enter the workforce and"

On page 12, line 23, after "degree" insert "in a high demand career field"

On page 14, after line 8, insert the following:

"(7) For the purposes of this section, the following terms have the following meanings:

(a) "High demand career field" means a career field where demand from business exceeds output by institutions of higher education by 10 percent.

(b) "Postsecondary degree or certificate education program" includes associate workforce degree programs and certificate education programs. "Postsecondary degree or certificate education programs" does not include a bachelor's degree unless the program is in a high demand career field."

Senator Wagoner spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 714 by Senator Wagoner on page 12, line 3 to the committee striking amendment.

The motion by Senator Wagoner failed and floor amendment no. 714 was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services, Reentry & Rehabilitation as amended to Second Substitute House Bill No. 1044.

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

MOTION

On motion of Senator Darneille, the rules were suspended, Second Substitute House Bill No. 1044, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Darneille spoke in favor of passage of the bill.

Senators Gildon, Wagoner and Holy spoke against passage of the bill.

The President declared the question before the Senate to be the

final passage of Second Substitute House Bill No. 1044 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1044, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Ericksen

SECOND SUBSTITUTE HOUSE BILL NO. 1044, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1168, by House Committee on Appropriations (originally sponsored by Springer, Kretz, Fitzgibbon, Griffey, Riccelli, Lekanoff, Ramos, Callan, Harris-Talley, Dent and Klicker)

Concerning long-term forest health and the reduction of wildfire dangers.

The measure was read the second time.

MOTION

Senator Van De Wege moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1. FINDINGS AND DETERMINATIONS.** (1) Over the last decade, forestland and rangeland wildfires have grown larger and increased in intensity and destructiveness throughout Washington state. The annual acres burned in our state illustrates this alarming trend. In the 1990s, an average of 86,000 acres burned annually. In the 2000s, the average annual acres burned increased to 189,000. In the last five years, the annual average grew to more than 488,000 acres burned. This trajectory of escalation continued last year, with wildfires burning more than 812,000 acres.

(2) Recent wildfires have devastated state, federal, tribal, and private lands, destroyed homes and property, and taken lives. These fires have also released greenhouse gases, destroyed critical fish and wildlife habitat, filled our skies with harmful smoke, polluted our waters, damaged our economy, increased the risk of flooding and landslides, created a critical need for reforestation, and threatened the natural resources needed for essential industries and rural economies.

(3) Catastrophic wildfires have significant negative impacts on fish and wildlife habitat, including the loss and degradation of

places to shelter and feed, water quality and quantity, and soil nutrients. Washington's fish and wildlife are part of a fire-adapted landscape, but catastrophic wildfires threaten their health and recovery.

(4) The increase in these uncharacteristic wildfires are the result of a combination of climate change-driven drought, hotter temperature, and windstorms; human development patterns and land use planning and activities; and where uncharacteristic fires occur in forests, by past fire suppression and departures from native ecosystem structure and function. Uncharacteristic wildfire risk is addressed through scientifically informed landscape-level treatments designed to restore forest ecosystem and watershed resilience.

(5) Wildfires result in significant greenhouse gas emissions. Wildfires have become one of the largest sources of black carbon in the last five years. From 2014-2018, wildfires in Washington state generated 39.2 million metric tons of carbon, the equivalent of more than 8.5 million cars on the road a year. In 2015, when 1.13 million acres burned in Washington, wildfires were the second largest source of greenhouse gas emissions, second only to transportation.

(6) The legislature has recognized our forests, as well as the manufacturing and utilization of wood products, as a natural carbon solution and critical component of our state's carbon reduction strategy pursuant to chapter 120, Laws of 2020. Uncharacteristic wildfires threaten the ability of our forests to sequester carbon, and they threaten the stability and long-term viability of our forest products industry.

(7) The Washington state department of natural resources' 20-year forest health strategic plan and climate risk assessment finds that carbon emissions from wildfires are anticipated to increase if there is no change in forest management practices. Unless the state significantly increases active forest management across land ownerships to reduce the risk and intensity of wildfires, wildfire emissions will erode efforts to achieve our state's greenhouse gas emissions reduction goals. In addition to reducing fuel loads, many effective forest health treatments retain and restore older, large fire-resilient trees across the landscape that play an important role in carbon sequestration, enhancing climate resilience and ecosystem services, and mitigating climate change.

(8) Wildfires inflict huge costs to the state budget, the budgets of partner agencies, and our economy. From 2014-2019, agencies in Washington annually spent nearly \$150 million fighting wildfires. In 2015, firefighting costs were more than \$342 million. In 2019, firefighting costs were more than \$172 million. And suppression costs are only a small portion of the full economic impact. According to a 2018 report by the nonprofit headwater's economics, suppression costs account for only nine percent of the total cost of wildfires when factoring in disaster recovery, lost business, lost infrastructure, and timber damage, and public health impacts.

(9) Over one-half of Washington is forested, providing significant environmental and economic value. Over \$4,900,000,000 in wages and \$200,000,000 in taxes are paid by the forest products' sector each year. Opportunities exist to boost our rural economies through wildfire preparation and preparedness that maintain and attract private sector investments and employment in rural communities.

(10) Wildfires are significant threats to life and property. Over the last five years, wildfires in Washington have taken five lives, including four firefighters and the life of a one-year old boy. In 2020 alone, 298 homes were destroyed by wildfires in our state. More than 1,100 homes have been destroyed this decade. Communities in every corner of Washington have felt the impact and devastation of flames and smoke. In 2020, the town of Malden, Washington was forever scarred by rangeland wildfire.

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Approximately 80 percent of the town's structures burned down in the Babb Road fire, including the city hall, post office, and fire station.

(11) Wildfire smoke has significant negative impacts on public health. For the second time in the last three years, Washington state had the worst air quality in the world due to wildfires. Communities in every corner of the state felt the impact. Exposure to particulate matter in wildfire smoke has been associated with a wide range of damaging health effects. The particulates in this smoke make those breathing the air wheeze, cough, shorten their breath, and experience sore eyes and throats, diminishing health and quality of life. Other adverse health outcomes are more severe, including increases in asthma-related hospitalizations, chronic and acute respiratory and cardiovascular health problems, and premature death.

(12) Historical forest management, legacy wildfire suppression responses, and a rapidly changing climate have increased the risk of catastrophic wildfires throughout the state. It is the policy of the state to encourage prudent and responsible forest resource management to maintain the health of forests and ecosystems in Washington state. Increasing the pace and scale of forest restoration through fuel reduction, thinning, and the use of prescribed fire on federal, state, tribal, and private lands pursuant to the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, and RCW 79.10.520 will reduce the risk of catastrophic wildfires.

(13) In 2020, more than 1,300,000 acres of national forest system land in eastern Washington were considered in need of treatments to restore forest health and reduce the risk of wildfire hazard potential. Many of these lands are adjacent to populated communities, private lands, and state trust lands.

(14) In 2020, 166,000 acres of department of natural resources' land and 74,000 acres of other state-owned lands in eastern Washington were in need of forest health treatment. These forestlands provide critical fish and wildlife habitat, natural and cultural resources, recreation, raw materials for the forest industry, and funding for counties and schools. From 2011-2020, 102,700 forested acres of department of natural resources' managed trust lands have burned.

(15) Tribal lands and communities have been significantly impacted by wildfires and unhealthy forests. Approximately 494,000 acres of tribal lands in eastern Washington need forest health treatments. These forestlands provide critical fish and wildlife habitat, natural and cultural resources, and economic opportunities.

(16) Washington state has nearly eight million acres of private forestlands. Forested acres are declining statewide with a loss of 394,000 acres between 2007 and 2019. Small forestland owners account for 15 percent of total forest acres. Small forestland owner forested acres declined 3.7 percent from 2,990,000 acres in 2007 to 2,880,000 million acres in 2019. The number of small forestland owners increased 8.5 percent from 201,000 in 2007 to 218,000 in 2019. The number of small forestland owner parcels increased 2.1 percent from 256,500 to 261,800. This rapid land use change creates significant challenges for implementing forest health and wildfire response actions in the wildland urban interface. In eastern Washington alone, approximately 288,000 acres owned by small forestland owners are in need of immediate forest health treatment. These forestlands provide critical raw materials for the forest industry, rural economic opportunities, fish and wildlife habitat, cultural resources, and recreation. A coordinated interagency response is needed to address the multifaceted challenge posed by increasing parcelization, forest fragmentation, loss of economic viability, and changes in landowner assistance needs.

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(17) The legislature finds that increasing the pace and scale of science-based forest health activities to reduce hazardous fuels and restore fire resilient forests, including through mechanical thinning and prescribed burning, on federal, state, tribal, and private lands, will reduce the risk and severity of wildfires, protect cultural and archaeological resources, improve fish and wildlife habitat, expand recreational opportunities, protect air and water quality, create rural economic opportunities, provide critical wood products, and increase long-term carbon sequestration on our natural resource lands.

(18) Increased development in the wildland urban interface has also increased the number of people living in areas that are at risk of wildfire. In Washington, over 2,000,000 homes are currently at risk of wildfire. Communities and homeowners can take actions that reduce the risk of loss in the event of wildfire including, but not limited to, home hardening, creating defensible space, and building potential control lines or strategic fuel breaks.

(19) Long-term, sustainable investment in wildfire response, forest restoration, and community resilience is of utmost importance to the health and safety of our environment, our economy, our communities, and the well-being of every resident.

(20) It is the intent of the legislature to take immediate action to fully fund the wildland fire protection 10-year strategic plan. Strategies to accomplish these goals include, but are not limited to:

(a) Upgrading our capability to attack wildfires with critical air and ground resources;

(b) Providing needed wildfire resources to state wildfire response and local fire service districts;

(c) Working with each state utility, local publicly owned electric utility, and electrical cooperative to reduce wildfire risk and develop consistent approaches and shared data related to fire prevention, safety, vegetation management, and energy distribution systems; and

(d) Improving wildfire detection in areas at risk of wildfire through new technologies and equipment.

(21) Furthermore, it is the intent of the legislature to take immediate action to increase the pace and scale of forest management across different land ownerships and fully fund the 20-year forest health strategic plan and activities developed to facilitate implementation of the Washington state forest action plan. Strategies to accomplish these goals include, but are not limited to:

(a) Restoring to health a minimum of 1,250,000 acres of forestland in need of immediate action to become more resilient and improve watershed health;

(b) Increasing prescribed fire and other fuel reduction projects through proven forestry practices and the operation of prescribed fire crews;

(c) Establishing potential control lines and strategic fuel breaks around communities with high wildfire risk;

(d) Increasing funding for the small forestland owner office for technical assistance and support for small forestland owners and funding an integrated small forestland owner forest health program in support of extending management and control of wildfire from homes through the wildland urban interface to small forestland owner holdings; and

(e) Monitoring forest health conditions and effectiveness of treatments throughout the state, including ecological function and reducing catastrophic wildfires.

(22) Furthermore, it is the intent of the legislature to take immediate action to help communities become more resilient to wildfire. Strategies to accomplish these goals include, but are not limited to:

(a) Increasing funding for cost share programs for home

hardening, fuels reduction, and community resilience programs in communities at risk of wildfire;

(b) Reducing wildfire risk to wildland urban interfaces; and

(c) Ensuring our state's most vulnerable populations are not disproportionately burdened by the impact and consequences of wildfire.

(23) The legislature intends to provide \$125,000,000 per biennium over the next four biennia for a total of \$500,000,000 and that these investments will help protect the state's people, environment, and economy.

NEW SECTION. Sec. 2. WILDFIRE RESPONSE, FOREST RESTORATION, AND COMMUNITY RESILIENCE ACCOUNT.

(1) The wildfire response, forest restoration, and community resilience account is created in the state treasury. All receipts from moneys directed to the account must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for carrying out the purposes of this act and for no other purposes.

(2) Expenditures from the account may be made to state agencies, federally recognized tribes, local governments, fire and conservation districts, nonprofit organizations, forest collaboratives, and small forestland owners, consistent with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, and the Washington state forest action plan.

(3) The wildfire response, forest restoration, and community resilience account may only be used to monitor, track, and implement the following purposes:

(a) Fire preparedness activities consistent with the goals contained in the state's wildland fire protection 10-year strategic plan including, but not limited to, funding for firefighting capacity and investments in ground and aerial firefighting resources, equipment, and technology, and the development and implementation of a wildland fire aviation support plan in order to expand and improve the effectiveness and cost-efficiency of the department's wildland fire aviation program;

(b) Fire prevention activities to restore and improve forest health and reduce vulnerability to drought, insect infestation, disease, and other threats to healthy forests including, but not limited to, silvicultural treatments, seedling development, thinning and prescribed fire, and postfire recovery activities to stabilize and prevent unacceptable degradation to natural and cultural resources and minimize threats to life and property resulting from the effects of a wildfire. Funding priority under this subsection must be given to programs, activities, or projects aligned with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, and the Washington state forest action plan across any combination of local, state, federal, tribal, and private ownerships;

(c) Fire protection activities for homes, properties, communities, and values at risk including, but not limited to: Potential control lines or strategic fuel breaks in forests and rangelands near communities; improved warning and communications systems to prepare for wildfires; increased engagement with non-English speaking communities in their home language for community preparedness; and the national fire protection association's fire wise USA and the fire-adapted communities network programs to help communities take action before wildfires.

(4) Appropriations for forest health activities funded by the wildfire response, forest restoration, and community resilience account shall not be less than 25 percent of the biennial appropriated funding.

(5) Appropriations for community resilience activities funded by the wildfire response, forest restoration, and community resilience account shall not be less than 15 percent of the biennial

appropriated funding.

(6) Funding may not be used for emergency fire costs or suppression costs as defined in RCW 76.04.005.

(7) To the maximum extent possible, workforce development investments from the wildfire response, forest restoration, and community resilience account should prioritize historically marginalized, underrepresented, rural, and low-income communities.

(8) Any expenditures from the wildfire response, forest restoration, and community resilience account for forest health treatments on federal lands must be additive to the baseline accomplishments and outputs already funded through the federal government and outlined in the annual work plans of the United States forest service, bureau of land management, the national park service, and/or the United States fish and wildlife service.

(9) The department may solicit the forest health advisory committee established in RCW 76.06.200 and wildland fire advisory committee established in RCW 76.04.179 to provide recommendations for investments under this section. In assessing investments and developing recommendations for communities that will be impacted based on ecological, public infrastructure, and life safety needs as set forth in the 20-year forest health strategic plan and the wildland fire protection 10-year strategic plan, the forest health advisory committee and wildland fire advisory committee must use environmental justice or equity focused tools, such as the Washington tracking network's environmental health disparities tool to identify highly impacted communities. This identification must be used as a factor in determining recommendations for investments under this section. "Highly impacted communities" has the same meaning as defined in RCW 19.405.020.

(10) To the maximum extent practicable and where consistent with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, or the Washington state forest action plan and landowner objectives, forest health treatments funded through the wildfire response, forest restoration, and community resilience account shall seek to utilize the value of any merchantable materials to help offset treatment costs.

NEW SECTION. Sec. 3. TRANSPARENCY AND ACCOUNTABILITY. (1) By December 1st of each even-numbered year, and in compliance with RCW 43.01.036, the department must report to the governor and legislature on the following:

(a) The type and amount of the expenditures made, by fiscal year, and for what purpose, from the wildfire response, forest restoration, and community resilience account created in section 2 of this act;

(b) The amount of unexpended and unobligated funds in the wildfire response, forest restoration, and community resilience account and recommendations for the disbursement to local districts;

(c) Progress on implementation of the wildland fire protection 10-year strategic plan including, but not limited to, how investments are reducing human-caused wildfire starts, lowering the size and scale and geography of catastrophic wildfires, reducing the communities, landscapes, and population at risk, and creating resilient landscapes and communities;

(d) Progress on implementation of the 20-year forest health strategic plan as established through the forest health assessment and treatment framework pursuant to RCW 76.06.200 including, but not limited to: Assessment of fire prone lands and communities that are in need of forest health treatments; forest health treatments prioritized and conducted by landowner type, geography, and risk level; estimated value of any merchantable materials from forest health treatments; and number of acres treated by treatment type, including the use of prescribed fire;

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(e) Progress on developing markets for forest residuals and biomass generated from forest health treatments.

(2) The department must include recommendations on any adjustments that may be necessary or advisable to the mechanism of funding dispensation as created under this act.

(3) The report required in this section should support existing department assessments pursuant to RCW 79.10.530 and 76.06.200.

Sec. 4. RCW 76.06.200 and 2019 c 305 s 1 are each amended to read as follows:

(1) The department must establish a forest health assessment and treatment framework designed to proactively and systematically address the forest health issues facing the state. Specifically, the framework must endeavor to achieve an initial goal of assessing and treating one million acres of land by 2033.

(2) The department must utilize the framework to assess and treat acreage in an incremental fashion each biennium. The framework consists of three elements: Assessment; treatment; and progress review and reporting.

(a) Assessment. Each biennium, the department must identify and assess two hundred thousand acres of fire prone lands and communities that are in need of forest health treatment, including the use of prescribed fire or mechanical treatment(~~(, such as thinning)~~).

(i) The scope of the assessment must include lands protected by the department as well as lands outside of the department's fire protection responsibilities that could pose a high risk to department protected lands during a fire.

(ii) The assessment must identify areas in need of treatment, the type or types of treatment recommended, spatial optimization of forest treatments across landscapes, data and planning needs to carry out recommended treatment, and the estimated cost of recommended treatment.

(iii) The department shall develop a mapping tool to identify small forestland owners within wildfire risk areas and use this tool to evaluate and optimize forest health work at a landscape scale to move high risk wildfire areas to lower risk and to leverage funding and the small forestland owner forest health program and landowner assistance program in section 7 of this act with the greatest impact for wildfire prevention, preparedness, and response.

(b) Treatment. Each biennium, the department must review previously completed assessments and prioritize and conduct as many identified treatments as possible using appropriations provided for that specific purpose.

(c) Progress review and reporting. By December 1st of each even-numbered year, the department must provide the appropriate committees of the legislature and the office of financial management with:

(i) A request for appropriations designed to implement the framework in the following biennium, including assessment work and conducting treatments identified in previously completed assessments;

(ii) A prioritized list and brief summary of treatments planned to be conducted under the framework with the requested appropriations, including relevant information from the assessment; and

(iii) A list and brief summary of treatments carried out under the framework in the preceding biennium, including total funding available, costs for completed treatment, and treatment outcomes. The summary must include any barriers to framework implementation and legislative or administrative recommendations to address those barriers.

(3) In developing and implementing the framework, the department must:

(a) Utilize and build on the forest health strategic planning initiated under section 308(11), chapter 36, Laws of 2016 sp. sess., to the maximum extent practicable, to promote the efficient use of resources;

(b) Prioritize, to the maximum extent practicable consistent with this section, forest health treatments that are strategically planned to serve the dual benefits of forest health maximization while providing geographically planned tools for wildfire response; (~~and~~)

(c) Where possible, partner with federally recognized tribes to expand use of the tribal forest protection act on federal lands managed by the United States forest service and the bureau of land management;

(d) When entering into good neighbor agreements, as that term is defined in RCW 79.02.010, prioritize, to the maximum extent practicable consistent with this section, forest health treatments adjacent to or nearby state lands so as to increase the speed, efficiency, and impact on the landscape; and

(e) Establish a forest health advisory committee to assist in developing and implementing the framework. The committee may: (i) Include representation from large and small forestland owners, wildland fire response organizations, milling and log transportation industries, forest collaboratives that may exist in the affected areas, highly affected communities and community preparedness organizations, conservation groups, and other interested parties deemed appropriate by the commissioner; and (ii) consult with relevant local, state, and federal agencies, and tribes.

(4) In implementing subsection (3)(b) of this section, the department shall attempt to locate and design forest health treatments in such a way as to provide wildfire response personnel with strategically located treated areas to assist with managing fire response. These areas must attempt to maximize the firefighting benefits of natural and artificial geographic features and be located in areas that prioritize the protection of commercially managed lands from fires originating on public land.

(5) The department must establish and implement the forest health assessment and treatment framework within the appropriations specifically provided for this purpose.

(6) The department must explore opportunities and developing markets for the utilization of woody biomass residuals from forest treatments, including biochar. When exploring opportunities and developing markets, the department must consult with the department of commerce, relevant federal agencies, representatives of the forest products sector, environmental organizations, and other stakeholders with a working knowledge of woody biomass technology.

NEW SECTION. Sec. 5. WORKFORCE DEVELOPMENT.

(1) The legislature finds that satisfying the goals identified in section 1 of this act to increase the pace and scale of forest health treatments and improve wildfire prevention and response requires increasing the workforce that is needed to perform this critical work. This need creates an opportunity to develop employment and career pathways across the state, including in rural communities throughout Washington. Investments to support and further develop the forest sector workforce are recommended in both the department's 2019 "plan for climate resilience" and the department of commerce's 2020 report "Washington's green economy."

(2) The department and the department of commerce shall jointly develop and implement, as appropriate and in consultation with centers of excellence, higher education, secondary education, and workforce development centers, initiatives to develop a forest health workforce necessary to implement the

goals of this section. Initiatives may include, but are not limited to:

(a) Creating a new or making an existing grant program available to nonprofits, labor organizations, state agencies, community and technical colleges, institutions of higher education, private sector employers, skills centers, or other training and education institutions that have qualifications and experience in the development of training programs, such as secondary and postsecondary courses, relevant to the workforce needs of the forest sector. Grants must be awarded on a competitive basis with priority funding for programs that meet urgent forest health and wildfire suppression skills gaps and demonstrate a lack of available workforce in underserved communities. Grants awarded may be used for activities such as internships, Washington state registered apprenticeship programs, recognized preapprenticeships, career launch, and other relevant career connect Washington activities, and postsecondary bridge programs for forest sector or skill relevant trades that provide:

(i) On the job training;

(ii) Hard and soft skills development;

(iii) Test preparation for trade apprenticeship;

(iv) Advanced training in the forest sector relating to jobs such as: Hand crews; wildland firefighters; fire safety; equipment operators; timber operators; mill workers; mill or forestry technicians; mechanics; loggers; timber fallers; commercial truck drivers; foresters; ecologists; biologists; or other workforce needs in support of forest restoration and wildfire response;

(b) Developing education programs for elementary, secondary, and higher education students that: (i) Inform people about the role of forestry, fire, vegetation management, and ecological restoration; (ii) increase the awareness of opportunities for careers in the forest sector and exposure of students to those careers through various work-based learning opportunities inside and outside the classroom; (iii) connect students in pathways to careers in the forest sector; and (iv) incorporate opportunities for secondary students to earn industry recognized credentials and dual credit in career and technical education courses;

(c) Developing regional education, industry, and workforce development collaborations, including recruiting and building industry awareness and coordinating candidate development particularly in areas that are traditionally underrepresented in natural resource industries and specifically in forestry;

(d) Building additional statewide response. The department shall develop a recruiting and outreach program across the state to encourage people to volunteer with their local fire departments. The department shall expand existing training programs to meet increased interest and need in wildfire response and forest health work; and

(e) Developing a program to train local building and construction trade members and contractors to be deployed during periods requiring surge capacity for wildland fire suppression including:

(i) As wildland firefighters who meet the requirements of being utilized by the department; and

(ii) As heavy equipment operators who meet the requirements to be utilized by the department as required by RCW 76.04.181.

(3) The commissioner and the director of the department of commerce must direct their staff to develop a plan for tracking, maintaining, and publicly reporting on the following:

(a) A working definition of the forest sector workforce, including the job skills, certifications, and experience required;

(b) Recommendations for the training, recruitment, and retention of the current and anticipated forest sector workforce necessary to implement the goals of this act;

(c) The identification of gaps and barriers to a full forest sector

workforce pool, including:

(i) Estimates of forest sector workforce jobs created and retained as well as any reductions in the forest sector workforce;

(ii) An estimate of the number of needed private contractors to implement the goals of this act, an inventory of local and regional private contractors trained to carry out wildfire response and forest health work, and a list of local private contractors utilized annually for wildfire response and forest health work; and

(iii) An inventory of existing training facilities and programs that support ongoing and anticipated forest sector, or related sectors, as identified in subsection (2)(a)(iv) of this section;

(d) Recommendations for addressing identified barriers or other needs to otherwise continue the development of a forest workforce necessary to implement the goals of this act.

(4) The department and the department of corrections shall jointly develop opportunities to expand existing programs to provide the additional wildfire, forest health, and silvicultural capacity necessary to implement the goals of this act, including a postrelease program that helps formerly incarcerated individuals who served on state fire response crews obtain employment in wildfire suppression and forest management.

(5) The department shall utilize existing programs such as the Washington conservation corps, Washington veterans corps, Washington service corps, customized and on-the-job training, or similar programs to expand opportunities and promote family wage careers in the forest sector workforce.

(6) To the maximum extent possible, workforce development programs and policies should prioritize historically marginalized, underrepresented, rural, and low-income communities.

(7) The department and the department of commerce, working with the forest health advisory committee, must assist forestland owners and forest products companies grow existing and develop new market opportunities for the utilization of material produced as a result of forest health treatments funded through the wildfire response, forest restoration, and community resilience account to improve the economic benefit of the treatments while increasing the speed, efficiency, and impact of forest restoration on the landscape.

Sec. 6. RCW 76.06.150 and 2009 c 163 s 5 are each amended to read as follows:

(1) The commissioner (~~(of public lands)~~) is designated as the state of Washington's lead for all forest health issues.

(2) The commissioner (~~(of public lands)~~) shall strive to promote communications between the state, tribes, and the federal government regarding forestland management decisions that potentially affect the health of forests in Washington and will allow the state to have an influence on the management of federally owned land in Washington. Such government-to-government cooperation is vital if the condition of the state's public and private forestlands are to be protected. These activities may include, when deemed by the commissioner to be in the best interest of the state:

(a) Representing the state's interest before all appropriate local, state, and federal agencies and tribes;

(b) Assuming the lead state role for developing formal comments on federal forest management plans that may have an impact on the health of forests in Washington;

(c) Pursuing in an expedited manner any available and appropriate cooperative agreements, including cooperating agency status designation, with the United States forest service and the United States bureau of land management that allow for meaningful participation in any federal land management plans that could affect the department's strategic plan for healthy forests and effective fire prevention and suppression, including the pursuit of any options available for giving effect to the cooperative philosophy contained within the national

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environmental policy act of 1969 (42 U.S.C. Sec. 4331)(~~and~~

~~(d) Pursuing~~).

(3) The commissioner shall regularly meet and coordinate with the regional leadership of the United States forest service, in order to:

(a) Identify strategies to improve the delivery and increase the pace and scale of forest health and resiliency, and fuels mitigation treatments, on federal lands;

(b) Document the resources needed to increase the capacity available to the United States forest service, on national forests in Washington;

(c) Identify supplemental planning and implementation support to the United States forest service, through the use of cooperative agreements and good neighbor agreements, as that term is defined in RCW 79.02.010;

(d) Maximize the utilization of available efficiencies for compliance with the national environmental policy act, as it applies to actions of the United States forest service in Washington, such as tools to increase the pace and scale of forest health treatments including, but not limited to, categorical exclusions, shared stewardship, and tribal forest protection act for forest health, fuels mitigation, and restoration activities;

(e) Accelerate national environmental policy act completion for forest health and resiliency projects, including through increased staffing and the use of partners, contractors, and department expertise to complete national environmental policy act requirements analysis; and

(f) Pursue agreements with federal agencies in the service of forest biomass energy partnerships and cooperatives authorized under RCW 43.30.835 through 43.30.840.

~~((3) The))~~ (4) Every two years, the commissioner ((of public lands)) shall report to the ((chairs of the appropriate standing committees of the)) legislature ((every year)) on progress under this section, including ((the));

(a) The identification, if deemed appropriate by the commissioner, of any needed state or federal statutory changes, policy issues, or funding needs; and

(b) An estimate of the acres of at-risk forests on each national forest and the number of acres treated.

NEW SECTION. Sec. 7. A new section is added to chapter 76.13 RCW to read as follows:

SMALL FORESTLAND OWNER FOREST HEALTH PROGRAM.

(1) There is established an integrated small forestland owner forest health program that promotes the coordination and delivery of services with federal, state, and local agencies, including local fire districts, conservation districts, and community wildfire resilience coalitions, forest landowner associations, colleges and universities, landowner assistance organizations, consultants, forest resource-related industries, and environmental organizations to nonindustrial forests and woodland owners, hereafter referred to as small forestland owners.

(2) Under the state forester's direction, the program must:

(a) Integrate existing landowner assistance forest health programs consistent with the recommendations of "Washington's Small Forest Landowners in 2020, Status, Trends and Recommendations after 20 years of Forests & Fish, January 2021" (the report required by chapter 457, Laws of 2019), to more efficiently and effectively reach the diversity of small forestland owner audiences to take forest health action;

(b) Identify and remove barriers to technical assistance, funding, and forest health management planning;

(c) Increase education and outreach to small forestland owners; and

(d) Distribute funding effectively to move high wildfire risk

areas to lower risk.

(3) Priority areas for forest health treatment under the Washington state forest action plan, the 10-year forest health strategic plan, and the wildland fire protection 10-year strategic plan may not prohibit technical support or stewardship plan support for small forestland owner lands outside the designated emphasis areas.

NEW SECTION. Sec. 8. WILDFIRE AVIATION RESPONSE. The department must develop and implement a wildland fire aviation support plan, as recommended by the wildland fire protection 10-year strategic plan, in order to expand and improve the effectiveness and cost-efficiency of the department's wildland fire aviation program. The wildland fire aviation support plan must include:

(1) Recommendations for the addition of air assets in order for the department to increase its initial attack capability and maintain and improve on the department's ability to manage fires to meet 10-year wildland fire protection and 20-year forest health strategic plan goals;

(2) Development of a next-generation rotor wing platform strategy to ensure the availability and use of the latest firefighting aviation technology and provide a path for either the upgrade or replacement, or both, of the department's legacy aircraft;

(3) Evaluation of opportunities to increase the use of contract air assets;

(4) Evaluation of costs and benefits to increase dedicated air resources during peak fire season when there may be limited available supply due to wildfire activity in other states; and

(5) Strategies to upgrade retardant loading and processing infrastructure to improve tanker turnaround time, including support for development of infrastructure to accommodate very large air tankers, at a port with an international airport within a county east of the crest of the Cascade mountains that does not share a border with another state.

Sec. 9. RCW 72.64.160 and 1991 c 131 s 2 are each amended to read as follows:

(1) For the purposes of RCW 72.64.150, inmate forest fire suppression crews may be considered a class I free venture industry, as defined in RCW 72.09.100, when fighting fires on federal lands.

(2) For the purposes of RCW 72.64.050, inmate forest fire suppression and support crews when fighting fires must receive a gratuity no less than the minimum wage per hour paid in the locality in which the industry is located.

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 11. SHORT TITLE. This act may be known and cited as the wildfire response, forest restoration, and community resilience act.

NEW SECTION. Sec. 12. Sections 1 through 3, 5, and 8 of this act are each added to chapter 76.04 RCW and codified with the subchapter heading of "wildfire response, forest restoration, and community resilience."

On page 1, line 2 of the title, after "dangers;" strike the remainder of the title and insert "amending RCW 76.06.200, 76.06.150, and 72.64.160; adding new sections to chapter 76.04 RCW; adding a new section to chapter 76.13 RCW; and creating new sections."

MOTION

Senator Van De Wege moved that the following floor amendment no. 727 by Senator Van De Wege be adopted:

On page 9, after line 32, insert the following:

"(4)(a)(i) Prior to the determination of the 2025-2034 sustainable harvest calculation as required by RCW 79.10.320, the department must hire an independent third-party contractor to assist it in updating its forest inventory by increasing the intensity of forest sample plots on all forestlands over the next two biennium. The department's sustainable harvest calculation technical advisory committee must be involved in the design, development, and implementation of this forest inventory update.

(ii) For purposes of this subsection, "forest inventory" means the collection of sample data to estimate a range of forest attributes including, but not limited to, standing volume, stored carbon, habitat attributes, age classes, tree species, and other inventory attributes, including information needed to estimate rates of tree growth and associated carbon sequestration on department lands.

(iii) The department's sustainable harvest calculation technical advisory committee must bring forward recommendations for regular maintenance and updates to the forest inventory on a ten-year basis.

(b) Prior to the determination of the 2025-2034 sustainable harvest calculation as required by RCW 79.10.320, the department must hire a third-party contractor to review, analyze, and advise the department's forest growth and yield modeling, specific to all types of forested acres managed by the department. The department's sustainable harvest calculation technical advisory committee must be involved in the design, review, and analysis of the department's forest growth and yield modeling.

(c) Prior to the determination of the 2025-2034 sustainable harvest calculation as required by RCW 79.10.320 and in the absence of any litigation, pending or in progress, against the department's sustainable harvest calculation, the joint legislative audit and review committee established in chapter 44.28 RCW must oversee and conduct an independent review of the methodologies and data being utilized by the department in the development of the sustainable harvest calculation, including the associated forest inventory, forest growth, harvest and yield data, and modeling techniques that impact harvest levels. In carrying out the review, the joint legislative audit and review committee shall:

(i) Retain one or more contractors with expertise in forest inventories, forest growth and yield modeling, and operational research modeling in forest harvest scheduling to conduct the technical review;

(ii) Be a member of department's sustainable harvest calculation technical advisory committee, along with one of its contractors selected in (c)(i) of this subsection; and

(iii) Prior to the department's determination of the sustainable harvest under RCW 79.10.320, ensure that a completed independent review and report with findings and recommendations is submitted to the board of natural resources and the legislature.

(d) Upon receiving the report from the joint legislative audit and review committee required under (c)(iii) of this subsection, the board of natural resources shall determine whether modifications are necessary to the sustainable harvest calculation prior to approving harvest level under RCW 79.10.320."

Senators Van De Wege and Warnick spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 727 by Senator Van De Wege on page 9, line 32 to the committee striking amendment.

The motion by Senator Van De Wege carried and floor amendment no. 727 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Substitute House Bill No. 1168.

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

MOTION

On motion of Senator Van De Wege, the rules were suspended, Second Substitute House Bill No. 1168, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Van De Wege, Warnick, Short, Hawkins and Wagoner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1168 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1168, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

SECOND SUBSTITUTE HOUSE BILL NO. 1168, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1113, by House Committee on Education (originally sponsored by Ortiz-Self, Kloba and Pollet)

Concerning school attendance.

The measure was read the second time.

MOTION

On motion of Senator Liias, the rules were suspended, Engrossed Substitute House Bill No. 1113 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1113.

ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1113 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, J.

Voting nay: Senators Brown, Dozier, Ericksen, Fortunato, Gildon, Honeyford, McCune, Muzzall, Padden, Rivers, Schoesler, Short and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1113, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1250, by House Committee on State Government & Tribal Relations (originally sponsored by Orcutt, Ryu, Boehnke, Dufault and Riccelli)

Designating Washington a purple heart state.

The measure was read the second time.

MOTION

On motion of Senator Wilson, J., the rules were suspended, Substitute House Bill No. 1250 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wilson, J., Hunt and Gildon 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. 1250.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1250 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1250, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1267, by House Committee on Public Safety (originally sponsored by Entenman, Hackney, Senn, Dolan, Leavitt, Berry, Fitzgibbon, Valdez, Simmons, Ramel, Ortiz-Self, Ramos, Chopp, Davis, Thai, Bergquist, Peterson, Kloba, Callan, Lekanoff, Macri,

Goodman, Gregerson, J. Johnson, Lovick, Slatter, Ryu, Berg, Harris-Talley, Sells, Tharinger, Orwall, Pollet, Santos and Ormsby)

Concerning investigation of potential criminal conduct arising from police use of force, including custodial injuries, and other officer-involved incidents.

The measure was read the second time.

MOTION

Senator Pedersen moved that the following committee striking amendment by the Committee on Agriculture, Water, Natural Resources & Parks be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 101.** INTENT. The legislature finds that there has been an outpouring of frustration, anger, and demand for change from many members of the public over the deaths of people of color resulting from encounters with police. The most recent deaths in the United States and within Washington are a call to lead our state to a new system for investigating deaths and other serious incidents involving law enforcement officers.

The legislature intends that the office of independent investigations be created to conduct investigations of use of force and other cases under its jurisdiction in a manner that is competent, unbiased, and thorough. The office will be transparent and accountable for its work. The office should ensure that it treats all people with dignity and respect. The director and staff must be qualified and trained to conduct the investigations, including training to understand the impact and effect of racism in the investigation and use of an antiracist lens to conduct their work.

It is intended that this office will assume responsibility for investigations of serious use of force incidents and refer the reports on the investigation to the prosecutorial entity to determine if the action was justified, or if there was criminal action such that criminal charges should be filed. This is the same criminal investigative inquiry that is currently conducted when there is an officer-involved incident. The legislature does not intend to create a new type of investigation or that the office should be involved in any administrative review of conduct or complaints to police agencies about officer conduct related to policy or procedure. The process created in this act is intended to change only who investigates the incident. It does not change the nature of the investigation and involves only an investigation to determine justification or whether criminal charges are appropriate.

NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Advisory board" means the office of independent investigations advisory board.
- (2) "Deadly force" has the meaning provided in RCW 9A.16.010.
- (3) "Director" means the director of the office of independent investigations.
- (4) "Great bodily harm" has the meaning provided in RCW 9A.04.110.
- (5) "In-custody" refers to a person who is under the physical control of a general authority Washington law enforcement agency or a limited authority Washington law enforcement agency as defined in RCW 10.93.020 or a city, county, or regional

adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(6) "Independent investigation team" means a team of qualified and certified peace officer investigators, civilian crime scene specialists, and other representatives who operate independently of any involved agency to conduct investigations of police deadly force incidents. An independent investigation team may be comprised of multiple law enforcement agencies who jointly investigate police use of force incidents in their geographical regions or may be a single law enforcement agency, provided it is not the involved agency.

(7) "Involved agency" means a general authority Washington law enforcement agency or limited authority Washington law enforcement agency, as defined in RCW 10.93.020, that employs or supervises the officer or officers who are an involved officer as defined in this section, or an agency responsible for a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(8) "Involved officer" means one of the following persons who is involved in an incident as an actor or custodial officer in which the act or omission by the individual is within the scope of the jurisdiction of the office as defined in this chapter:

(a) A general authority Washington peace officer, specially commissioned Washington peace officer, or limited authority Washington peace officer, as defined in RCW 10.93.020, whether on or off duty if he or she is exercising his or her authority as a peace officer; or

(b) An individual while employed in a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(9) "Office" means the office of independent investigations.

(10) "Substantial bodily harm" has the same meaning as in RCW 9A.04.110.

Office Creation

NEW SECTION. Sec. 301. CREATION. (1) The office of independent investigations is hereby established within the office of the governor for the purpose of conducting fair, thorough, transparent, and competent investigations as authorized under this chapter.

(2) The office of independent investigations is an investigative law enforcement agency, including for the purposes of the public records act, chapter 42.56 RCW.

NEW SECTION. Sec. 302. OFFICE POWERS AND DUTIES. In addition to other responsibilities set forth in this chapter, the office shall:

(1) Conduct fair, thorough, transparent, and competent investigations of police use of force and other incidents involving law enforcement as authorized in this chapter and shall prioritize investigations conducted by the office based on resources and other criteria developed in consultation with the advisory board. The office shall commence investigations as follows:

(a) Beginning no later than July 1, 2022, the office is authorized to conduct investigations of deadly force cases occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody; and

(b) Beginning no later than July 1, 2023, the office is authorized to review, and may investigate, prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation;

(2) Analyze data available to the office and provide reports and recommendations as appropriate based on the data regarding issues, trends, and other relevant areas;

(3) Provide reports on activities of the office as authorized under this chapter; and

(4) Carry out such other responsibilities as may be consistent with this chapter.

NEW SECTION. Sec. 303. DIRECTOR. (1)(a) The governor shall appoint the director of the office and determine the director's compensation. The governor shall select the director from a list of three candidates recommended by the advisory board unless the governor declines to select any of the candidates provided. If the governor declines to select a candidate proposed by the advisory board, the governor may request the advisory board to provide additional qualified nominees for consideration or may offer an alternative candidate who may be appointed following approval by a majority of the advisory board.

(b) Prior to selecting the director, the governor shall consider the results of a background check, including an assessment of criminal history, and research of social media and affiliations to check for racial bias and conflicts of interest.

(2) The director shall hold office for a term of three years and continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the director prior to the expiration of the director's term for neglect of duty, misconduct, or inability to perform duties.

NEW SECTION. Sec. 304. DUTIES OF THE DIRECTOR. (1) The director shall:

(a) Oversee the duties and functions of the office and investigations conducted by the office pursuant to this chapter;

(b) Hire or contract with investigators and other personnel as the director considers necessary to perform investigations conducted by the office, and other duties as required, under this chapter;

(c) Plan and provide trainings for office personnel, including contracted investigators, that promote recognition of and respect for, the diverse races, ethnicities, and cultures of the state;

(d) Plan and provide training for advisory board members including training to utilize an antiracist lens in their duties as advisory board members;

(e) Publish reports of investigations conducted under this chapter;

(f) Enter into contracts and memoranda of understanding as necessary to implement the responsibilities of the office under this chapter;

(g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(h) Develop the nondisclosure agreement required in section 501 of this act; and

(i) Perform the duties and exercise the powers that are set out in this chapter, as well as any additional duties and powers that may be prescribed.

(2) No later than February 1, 2022, in consultation with the advisory board, the director shall develop a plan to implement:

(a) Regional investigation teams and a system for promptly responding to incidents of deadly force under the jurisdiction of the office. The regional investigation teams should:

(i) Allow for prompt response to the incident requiring investigation; and

(ii) Include positions for team members who are not required to be designated as limited authority Washington peace officers;

(b) A system and requirements for involved agencies to notify the office of any incident under the jurisdiction of the office, which must include direction to agencies as to what incidents of force and injuries and other circumstances must be reported to the office, including the timing of such reports, provided that any incident involving substantial bodily harm, great bodily harm, or death is reported to the office immediately in accordance with

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section 402 of this act;

(c) The process to conduct investigations of cases under the jurisdiction of the office including, but not limited to:

(i) The office intake process following notification of an incident by an involved agency;

(ii) The assessment and response to the notification of the incident by the office, including direction to and coordination with the independent investigation team;

(iii) Determination and deployment of necessary resources for the regional investigation teams to conduct the investigations;

(iv) Determination of any conflicts with office investigators or others involved in the investigation to ensure no investigator has an existing conflict with an assigned case;

(v) Protocol and direction to the involved agency;

(vi) Protocol and direction to the independent investigation team;

(vii) Protocol and guidelines for contacts and engagement with the involved agency; and

(viii) Protocol for finalizing the completed investigation and referral to the entity responsible for the prosecutorial decision, including communication with the family and public regarding the completion of the investigation;

(d) A plan for the office's interaction, communications, and responsibilities to: The involved officer; the individual who is the subject of the action by the involved officer that is the basis of the case under investigation, and their families; the public; and other interested parties or stakeholders. The plan must consider the following:

(i) A process for consultation, notifications, and communications with the person, family, or representative of any person who is the subject of the action by the involved officer that is the basis of the case under investigation;

(ii) Translation services which may be utilized through employees or contracted services;

(iii) Support to access assistance or services to the extent possible; and

(iv) A process for situations in which a tribal member is involved in the case that ensures consultation with the federally recognized tribe, and notification of the governor's office of Indian affairs within 24 hours in cases of deadly use of force;

(e) Training for employees and contractors of the office to begin prior to July 1, 2022; and

(f) Prioritization of cases for investigation.

(3) No later than December 1, 2023, in consultation with the advisory board, the director shall develop a proposal for training individuals who are nonlaw enforcement officers to conduct competent, thorough investigations of cases under the jurisdiction of the office. The proposal must establish a training plan with an objective that within five years of the date the office begins investigating deadly force cases the cases will be investigated by nonlaw enforcement officers. The director shall report such proposal to the governor and legislature by December 1, 2023. Any proposal offered by the director must ensure investigations are high quality, thorough, and competent.

(4) The director, in consultation with the advisory board, shall implement a plan to review prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation and investigate if determined appropriate based on the review. The director must prioritize the review or investigation of cases occurring prior to July 1, 2022, based on resources and other cases under investigation with the office.

NEW SECTION. Sec. 305. PERSONNEL. (1) The director may employ, or enter into contracts with, personnel as he or she determines necessary for the proper discharge of his or her

duties. The director must request input from the advisory board on the hiring process and hiring goals, including diversity.

(2) The director may employ, or enter into contracts with, investigators to conduct investigations of cases under the jurisdiction of the office.

(a) The director shall consider the relevant experience and qualifications of the candidate including the extent to which he or she demonstrates experience or understanding of the following areas:

(i) Extensive experience with criminal investigations, including homicide investigations;

(ii) Behavioral health issues;

(iii) Youth cognitive development;

(iv) Trauma-informed interviewing;

(v) De-escalation techniques and utilization; and

(vi) Knowledge of Washington practices, including laws, policies, and procedures related to criminal law, criminal investigations, and policing.

(b) The director shall consider the following prior to employing an investigator:

(i) The investigators should not be commissioned law enforcement officers employed with any law enforcement agency as a peace officer at the time of application with the office.

(A) If the individual considered for a position as an investigator was a prior law enforcement officer, the director must conduct a review of prior disciplinary actions or complaints related to bias.

(B) The individual should not have been a commissioned law enforcement officer within 24 months of the date of the application for service as an investigator; and

(ii) The results of a background check that includes research of social media and affiliations to check for racial bias and conflicts of interest.

(c) Investigators employed or contracted with the office are prohibited from being simultaneously employed, commissioned, or have any business relationship, other than through the work of the office, with a general authority or limited authority Washington law enforcement agency, or county or city corrections agency.

(d) The director may not employ an individual who was a previously commissioned law enforcement officer who does not meet the criteria of this section without the approval of a majority of the advisory board.

(3) The director may employ or enter into contracts for services to provide additional personnel as needed to conduct investigations of cases under the jurisdiction of the office including, but not limited to, the following:

(a) Forensic services and crime scene investigators;

(b) Liaisons for community, family, and relations with a federally recognized tribe;

(c) Analysts, including analysts to conduct evaluations on use of force data;

(d) Mental health experts;

(e) Bilingual staff, translators, or interpreters;

(f) Other experts as needed; and

(g) All staffing and other needs for the office.

(4) The director shall ensure the following training is provided to staff and that there is a regular schedule for additional trainings during the course of employment:

(a) The director shall ensure that the director and staff involved in investigations, including any contracted investigators, engage in trainings that include the following areas. A training may include more than one of the following areas per training. A separate training course is not required for each topic.

(i) History of racism in policing, including tribal sovereignty and history of Native Americans within the justice system;

- (ii) Implicit and explicit bias training;
- (iii) Intercultural competency;
- (iv) The use of a racial equity lens in conducting the work of the office;
- (v) Antiracism training; and
- (vi) Undoing institutional racism.

(b) The director shall ensure that investigators engage in the following training. A training may include more than one of the following areas per training. A separate training course is not required for each topic.

- (i) Criminal investigations, including homicide investigations as appropriate for the assigned positions;
- (ii) Washington practices, including Washington laws and policies, as well as relevant policing practices as appropriate;
- (iii) Interviewing techniques; and
- (iv) Other relevant trainings as needed.

NEW SECTION. Sec. 306. INVESTIGATORS. (1) The director shall designate investigator positions that are limited authority Washington peace officers as defined in RCW 10.93.020. The investigators designated as limited authority Washington peace officers have the authority to investigate any case within the jurisdiction of the office and any criminal activity related to, or discovered in the course of, the investigation of the case under the jurisdiction of the incident that has a relationship to the investigation.

(2) Any investigator employed or contracted with the office for the purpose of conducting investigations may participate in the investigations of a case under the jurisdiction of the office. Only investigators who are limited authority Washington peace officers may be designated a lead investigator on any criminal investigation conducted by the office pursuant to this chapter.

Sec. 307. RCW 10.93.020 and 2006 c 284 s 16 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "General authority Washington law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, as distinguished from a limited authority Washington law enforcement agency, and any other unit of government expressly designated by statute as a general authority Washington law enforcement agency. The Washington state patrol and the department of fish and wildlife are general authority Washington law enforcement agencies.

(2) "Limited authority Washington law enforcement agency" means any agency, political subdivision, or unit of local government of this state, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor (~~control~~) and cannabis board, the office of the insurance commissioner, (~~and~~) the state department of corrections, and the office of independent investigations.

(3) "General authority Washington peace officer" means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.

(4) "Limited authority Washington peace officer" means any

full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority Washington peace officer may be a specially commissioned Washington peace officer if otherwise qualified for such status under this chapter.

(5) "Specially commissioned Washington peace officer", for the purposes of this chapter, means any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state of Washington, who does not qualify under this chapter as a general authority Washington peace officer for that commissioning agency, specifically including reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon or Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho. A reserve peace officer is an individual who is an officer of a Washington law enforcement agency who does not serve such agency on a full-time basis but who, when called by the agency into active service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

(6) "Federal peace officer" means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(7) "Agency with primary territorial jurisdiction" means a city or town police agency which has responsibility for police activity within its boundaries; or a county police or sheriff's department which has responsibility with regard to police activity in the unincorporated areas within the county boundaries; or a statutorily authorized port district police agency or four-year state college or university police agency which has responsibility for police activity within the statutorily authorized enforcement boundaries of the port district, state college, or university.

(8) "Primary commissioning agency" means (a) the employing agency in the case of a general authority Washington peace officer, a limited authority Washington peace officer, (~~an Indian~~) a tribal peace officer from a federally recognized tribe, or a federal peace officer, and (b) the commissioning agency in the case of a specially commissioned Washington peace officer (i) who is performing functions within the course and scope of the special commission and (ii) who is not also a general authority Washington peace officer, a limited authority Washington peace officer, (~~an Indian~~) a tribal peace officer from a federally recognized tribe, or a federal peace officer.

(9) "Primary function of an agency" means that function to which greater than fifty percent of the agency's resources are allocated.

(10) "Mutual law enforcement assistance" includes, but is not limited to, one or more law enforcement agencies aiding or assisting one or more other such agencies through loans or exchanges of personnel or of material resources, for law enforcement purposes.

NEW SECTION. Sec. 308. INVESTIGATIONS—DUTIES AND POWERS. (1) The office has jurisdiction over, and is authorized to conduct investigations of, all cases and incidents as established within this section.

(2)(a) The director may cause an investigation to be conducted into any incident:

- (i) Of a use of deadly force by an involved officer occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody; or
- (ii) Involving prior investigations of deadly force by an

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involved officer if new evidence is brought forth that was not included in the initial investigation.

(b) This section applies only if, at the time of the incident:

(i) The involved officer was on duty; or

(ii) The involved officer was off duty but:

(A) Engaged in the investigation, pursuit, detention, or arrest of a person or otherwise exercising the powers of a general authority or limited authority Washington peace officer; or

(B) The incident involved equipment or other property issued to the official in relation to his or her duties.

(3) The director shall determine prioritization of investigations based on resources and other criteria which may be established in consultation with the advisory board. The director shall ensure that incidents occurring after the date the office begins investigating cases receive the highest priority for investigation.

(4) The investigation should include a review of the entire incident, including but not limited to events immediately preceding the incident that may have contributed to or influenced the outcome of the incident that are directly related to the incident under investigation.

(5) Upon receiving notification required in section 402 of this act of an incident under the jurisdiction of the office, the director:

(a) May cause the incident to be investigated in accordance with this chapter;

(b) May determine investigation is not appropriate for reasons including, but not limited to, the case not being in the category of prioritized cases; or

(c) If the director determines that the incident is not within the office's jurisdiction to investigate, the director shall decline to investigate, and shall give notice of the fact to the involved agency.

(6) If the director determines the case is to be investigated the director will communicate the decision to investigate to the involved agency and will thereafter be the lead investigative body in the case and have priority over any other state or local agency investigating the incident or a case that is under the jurisdiction of the office. The director will implement the process developed pursuant to section 304 of this act and conduct the appropriate investigation in accordance with the process.

(7) In conducting the investigation the office shall have access to reports and information necessary or related to the investigation in the custody and control of the involved agency and any law enforcement agency responding to the scene of the incident including, but not limited to, voice or video recordings, body camera recordings, and officer notes, as well as disciplinary and administrative records except those that might be statements conducted as part of an administrative investigation related to the incident.

(8) The investigation shall be concluded within 120 days of acceptance of the case for investigation. If the office is not able to complete the investigation within 120 days, the director shall report to the advisory board the reasons for the delay.

NEW SECTION. Sec. 309. CRIMINAL JUSTICE TRAINING COMMISSION. (1) The criminal justice training commission shall collaborate with the office to ensure office investigators receive sufficient training to attain the necessary requirements to conduct investigations under the jurisdiction of the office.

(2) The investigators of the office shall receive priority registration to criminal justice training commission trainings necessary to conduct investigations as required by this chapter.

NEW SECTION. Sec. 310. DATA AND RESEARCH. The office will conduct analysis of use of force and other data to the extent such data is available to the office. The director is authorized to enter into contracts or memoranda of understanding

to access data as needed. If data is available, the office should, at a minimum, analyze and report annually: Analysis and research regarding any identified trends, patterns, or other situations identified by the data; and recommendations for improvements. After July 1, 2024, the office should also annually report recommendations, if any, for expanding the scope of investigations or jurisdiction of the office based on trends, data, or reports received by the agency.

NEW SECTION. Sec. 311. LIABILITY. No action or other proceeding may be instituted against the director, an investigator, or an employee or contractor in the office or a person exercising powers or performing duties at the direction of the director for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

NEW SECTION. Sec. 312. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter do not apply in the office of independent investigations to the director, to one confidential secretary, and to any deputy or regional directors, if any.

Sec. 313. RCW 39.26.125 and 2012 c 224 s 14 are each amended to read as follows:

All contracts must be entered into pursuant to competitive solicitation, except for:

(1) Emergency contracts;

(2) Sole source contracts that comply with the provisions of RCW 39.26.140;

(3) Direct buy purchases, as designated by the director. The director shall establish policies to define criteria for direct buy purchases. These criteria may be adjusted to accommodate special market conditions and to promote market diversity for the benefit of the citizens of the state of Washington;

(4) Purchases involving special facilities, services, or market conditions, in which instances of direct negotiation is in the best interest of the state;

(5) Purchases from master contracts established by the department or an agency authorized by the department;

(6) Client services contracts;

(7) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process when the director determines that a competitive solicitation process is not appropriate or cost-effective;

(8) Off-contract purchases of Washington grown food when such food is not available from Washington sources through an existing contract. However, Washington grown food purchased under this subsection must be of an equivalent or better quality than similar food available through the contract and must be able to be paid from the agency's existing budget. This requirement also applies to purchases and contracts for purchases executed by state agencies, including institutions of higher education as defined in RCW 28B.10.016, under delegated authority granted in accordance with this chapter or under RCW 28B.10.029;

(9) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;

(10) Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;

(11) Contracts for services that are necessary to the conduct of collaborative research if the use of a specific contractor is mandated by the funding source as a condition of granting funds;

(12) Contracts for architectural and engineering services as defined in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

(13) Contracts for the employment of expert witnesses for the purposes of litigation; ~~((and))~~

(14) Contracts for bank supervision authorized under RCW ~~((30.38.040))~~ 30A.38.040; and

(15) Contracts for investigators awarded by the office of independent investigations as authorized under section 304 of this act.

Duty of Involved Agency

Sec. 401. RCW 10.114.011 and 2019 c 4 s 5 are each amended to read as follows:

Except as required by federal consent decree, federal settlement agreement, or federal court order, where the use of deadly force by a peace officer results in death, substantial bodily harm, or great bodily harm, an independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard established in RCW 9A.16.040 and satisfied other applicable laws and policies. The investigation must be completely independent of the agency whose officer was involved in the use of deadly force and conducted in accordance with chapter 43.--- RCW (the new chapter created in section 601 of this act). ~~((The))~~ Any rules adopted by the criminal justice training commission must ~~((adopt rules establishing criteria to determine what qualifies as an independent investigation pursuant to this section))~~ be consistent with chapter 43.--- RCW (the new chapter created in section 601 of this act).

NEW SECTION. Sec. 402. NOTIFICATION OF DIRECTOR AND SECURING THE SCENE. (1) Following notification by the director that the office will accept investigations of cases under its jurisdiction after July 1, 2022, an involved agency shall notify the office of any incident by an involved officer in accordance with the requirements under section 304 of this act and pursuant to this section.

(a) If the incident involves use of deadly force by an involved officer that results in death, substantial bodily harm, or great bodily harm the involved agency must immediately contact the office pursuant to the procedure established by the director once the involved agency personnel and other first responders have rendered the scene safe and provided or facilitated lifesaving first aid to persons at the scene who have life-threatening injuries. This requirement does not affect the duty of law enforcement under RCW 36.28A.445.

(b) In all other cases, the involved agency must notify the office of the incident pursuant to the procedure established by the director.

(2)(a) In any case that requires notice to the director under this section, the involved agency shall ensure that any officers or employees over which the involved agency has authority who are at the scene of the incident take all lawful measures necessary for the purposes of protecting, obtaining, or preserving evidence relating to the incident until an office investigator, or independent investigation team at the request of the office, takes charge of the scene.

(b) The primary focus of the involved agency must be the protection and preservation of evidence in order to maintain the integrity of the scene until the office investigator or independent investigation team arrives or otherwise provides direction regarding activities at the scene. The involved agency should ensure that evidence, including but not limited to the following is protected and preserved:

(i) Physical evidence that is at risk of being destroyed or disappearing and cannot be easily reconstructed, including evidence which may be degraded or tainted by human or environmental factors if left unprotected or unpreserved;

(ii) Identification and contact information for witnesses to the incident; and

(iii) Photographs and other methods of documenting the location of physical evidence and location and perspective of witnesses.

(3)(a) When the office investigator, or independent investigation team acting at the request of the office, arrives at the scene of an incident under the jurisdiction of the office, the involved agency will relinquish control of the scene to the office investigator or independent investigation team upon the request of the office investigator. The involved agency has a duty to comply with the requests of the office related to the investigation conducted pursuant to this chapter.

(b) Once the scene is relinquished, no member of the involved agency may participate in any way in the investigation, with the exception of the use of specialized equipment that is necessary for the investigation and where no alternative exists. If there is any equipment of the involved agency used in the investigation, steps must be taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment or their engagement with the investigation.

(4) If an independent investigation team takes control of the scene at the request of the office, the independent investigation team shall relinquish control of the scene and investigation at the request of the office when the office is on the scene or otherwise provides notice that the office is taking control of the scene. The independent investigation team may continue to engage in the investigation conducted at the scene if requested to do so by the lead office investigator, director, or the director's designee. The involvement of the independent investigation team is limited to activities requested by the office and must terminate following the securing of the scene and any evidence preservation or other actions as determined necessary by the office at the scene. The independent investigation team may not continue to participate in the ongoing investigation.

(5) No information about the ongoing independent investigation under the jurisdiction of the office may be shared with any member of the involved agency, except limited briefings given to the chief or sheriff of the involved agency about the progress of the investigation.

(6) If the office declines to investigate a case, the authority and duty to investigate remains with the independent investigation team or local law enforcement authority with jurisdiction over the incident.

Office of Independent Investigations Advisory Board

NEW SECTION. Sec. 501. MEMBERSHIP AND DUTIES. (1)(a) There is created the office of independent investigations advisory board. The advisory board shall consist of the following 11 members, appointed by the governor, one of whom the governor shall designate as chair:

(i) Three members of the general public representing the community who are not current or former law enforcement, with preference given to individuals representing diverse communities;

(ii) One member of the general public representing a family impacted by an incident of the nature under the jurisdiction of the office, who is not current or former law enforcement;

(iii) One member representing a federally recognized tribe in Washington, who is not current or former law enforcement;

(iv) One defense attorney representative;

(v) One prosecuting attorney representative;

(vi) One representative of a police officer labor association with experience in homicide investigations;

(vii) One sheriff or police chief who is also a member of an independent investigation team;

(viii) One credentialed mental health expert who is not current or former law enforcement; and

(ix) One member of the criminal justice training commission.

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(b) The members of the advisory board appointed by the governor shall be appointed for terms of three years and until their successors are appointed and confirmed. The governor shall stagger the initial appointment terms of the advisory board members with the terms of five members being for two years from the date of appointment and six members being for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board serve without compensation, but must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(c) The governor, when making appointments to the advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(2) The purpose of the advisory board is to provide input to the office and shall:

(a) Provide input to the governor on the selection of the director, including providing candidates for consideration for appointment for the position of director. If the governor requests additional candidates for consideration, the advisory board shall provide additional candidates to the governor. If the governor provides an alternative candidate, the advisory board must consider the candidate provided by the governor and vote on the approval or rejection of the candidate.

(i) The advisory board shall recommend candidates to the governor who they find are individuals with sound judgment, independence, objectivity, and integrity who will be viewed as a trustworthy director.

(ii) The director must have experience either in conducting criminal investigations or prosecutions. The advisory board shall consider the relevant experience and qualifications of the candidate including the extent to which they demonstrate experience or demonstrated understanding of the following areas:

- (A) Criminal investigations;
- (B) Organizational leadership;
- (C) Mental health issues;
- (D) Trauma-informed interviewing;
- (E) Community leadership;
- (F) Legal experience or background;
- (G) Antioppression and antiracist analysis and addressing systemic inequities; and
- (H) Working with Black, Indigenous, and communities of color;

(b) Provide input to the director on the plans required to be developed for the office including the regional investigation teams; staffing; training for personnel; procedures for engagement with individuals involved in any case under the jurisdiction of the office, as well as families and the community; recommendations to the legislature; and other input as requested by the governor or director;

(c) Participate in employment interviews as requested by the governor or director; and

(d) Receive briefings or reports from the director relating to data, trends, and other relevant issues, as well as cases under investigation to the extent permitted by law.

(3) Advisory board members have a duty to maintain the confidentiality of the information they receive during the course of their work on the advisory board. Each advisory board member shall agree in writing to not disclose any information they receive or otherwise access related to an investigation, including information about individuals involved in the investigation as involved officers, individuals who are the subject of police action, witnesses, and investigators.

(4) Advisory board members must complete training to utilize an antiracist lens in their duties as advisory board members.

(5) The office shall provide administrative and clerical assistance to the advisory board.

NEW SECTION. Sec. 502. REPORT. (1) In consultation with the director, the advisory board shall assess whether the jurisdiction of the office should be expanded to conduct investigations of other types of incidents committed by involved officers, including but not limited to other types of in-custody deaths not involving use of force but otherwise involving criminal acts committed by involved officers as well as sexual assaults committed by involved officers, subject to the same standard under section 308(2)(b) of this act. The advisory board must consider available data and information on other types of in custody deaths not involving use of force but otherwise involving criminal acts committed by involved officers as well as other types of incidents, the capacity and resources of the office, and any modifications or additions to procedures and processes necessary for the office to conduct investigations of those incidents. The advisory board must consider the recommendations and counsel of the director when conducting the assessment under this section.

(2) At the request of the advisory board, the office shall conduct analysis of available data, including identified trends and patterns, and other information relevant to in-custody deaths involving criminal acts committed by involved officers, sexual assaults committed by involved officers, and other types of incidents as requested by the advisory board.

(3) The advisory board shall submit a report with related recommendations to the legislature and governor by November 1, 2023.

(4) For the purposes of this section, "in-custody death" means a death of an individual while under physical control of a general authority Washington law enforcement agency or a limited authority Washington law enforcement agency as defined in RCW 10.93.020 or a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(5) This section expires July 1, 2024.

Miscellaneous Provisions

NEW SECTION. Sec. 601. CODIFICATION. Sections 201 through 306, 308 through 311, 402, 501, and 502 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 602. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 603. SUBJECT TO APPROPRIATION. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void."

On page 1, beginning on line 3, after "incidents;" strike the remainder of the title and insert "amending RCW 10.93.020, 39.26.125, and 10.114.011; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; creating new sections; and providing an expiration date."

The President declared striking floor amendment no. 657 by Senator Holy the committee striking amendment to be out of order.

MOTION

Senator Holy moved that the following floor amendment no. 658 by Senator Holy be adopted:

On page 3, beginning on line 12, after "within the" strike "office of the governor" and insert "criminal justice training commission"

Senators Holy and Padden spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Pedersen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 658 by Senator Holy on page 3, line 12 to the committee striking amendment.

The motion by Senator Holy failed and floor amendment no. 658 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 670 by Senator Short be adopted:

On page 3, beginning on line 25, after "as" strike "follows:

(a) Beginning" and insert "follows: Beginning"

On page 3, beginning on line 30, after "out-of-custody" strike all material through "investigation" on line 34

On page 7, beginning on line 3, strike all of subsection (4)

On page 12, beginning on line 4, after "incident" strike all material through "Of" on line 5 and insert "of"

On page 12, beginning on line 8, after "out-of-custody" strike all material through "investigation" on line 11

Senator Short spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Dhingra spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 670 by Senator Short on page 3, line 25 to the committee striking amendment.

The motion by Senator Short failed and floor amendment no. 670 was not adopted by voice vote.

MOTION

Senator Ericksen moved that the following floor amendment no. 660 by Senator Ericksen be adopted:

On page 4, line 36, after "members" insert ". Training curriculum may not include critical race theory or the 1619 project"

On page 8, line 36, after "topic." insert "Training curriculum may not include critical race theory or the 1619 project."

On page 20, line 19, after "members" insert ", however, training curriculum may not include critical race theory or the 1619 project"

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Pedersen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 660 by Senator Ericksen on page 4, line 36 to the committee striking amendment.

The motion by Senator Ericksen failed and floor amendment no. 660 was not adopted by voice vote.

MOTION

Senator Ericksen moved that the following floor amendment no. 661 by Senator Ericksen be adopted:

On page 4, line 36, after "members" insert ". Training curriculum may not include or suggest sentiments which may be considered anti-American or negative towards the United States of America"

On page 8, line 36, after "topic." insert "Training curriculum may not include or suggest sentiments which may be considered anti-American or negative towards the United States of America."

On page 20, line 19, after "members" insert ", however, training curriculum may not include or suggest sentiments which may be considered anti-American or negative towards the United States of America"

Senators Ericksen and Fortunato spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Pedersen, Frockt and Hasegawa spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 661 by Senator Ericksen on page 4, line 36 to the committee striking amendment.

The motion by Senator Ericksen failed and floor amendment no. 661 was not adopted by voice vote.

MOTION

Senator Ericksen moved that the following floor amendment no. 662 by Senator Ericksen be adopted:

On page 4, line 36, after "members" insert ". Training curriculum may not, in any way, disparage a person of another race, color, or creed"

On page 8, line 36, after "topic." insert "Training curriculum may not, in any way, disparage a person of another race, color, or creed."

On page 20, line 19, after "members" insert ", however, training curriculum may not, in any way, disparage a person of another race, color, or creed"

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Pedersen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 662 by Senator Ericksen on page 4, line 36 to the committee striking amendment.

The motion by Senator Ericksen failed and floor amendment no. 662 was not adopted by voice vote.

MOTION

Senator Warnick moved that the following floor amendment no. 656 by Senator Warnick be adopted:

On page 6, line 36, after "within" strike "five" and insert "10"

Senator Warnick spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Pedersen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 656 by Senator Warnick on page 6, line 36 to the committee striking amendment.

The motion by Senator Warnick failed and floor amendment no. 656 was not adopted by voice vote.

EIGHTY NINTH DAY, APRIL 9, 2021

2021 REGULAR SESSION

MOTION

Senator Padden moved that the following floor amendment no. 654 by Senator Padden be adopted:

On page 7, beginning on line 35, after "office" strike all material through "If" on line 36 and insert ". If"

Beginning on page 7, line 39, after "bias" strike all material through "investigator" on page 8, line 3

Senator Padden spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Pedersen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 654 by Senator Padden on page 7, line 35 to the committee striking amendment.

The motion by Senator Padden failed and floor amendment no. 654 was not adopted by voice vote.

MOTION

Senator Brown moved that the following floor amendment no. 664 by Senator Brown be adopted:

On page 8, at the beginning of line 5, strike "social media and"

Senator Brown spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Pedersen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 664 by Senator Brown on page 8, line 5 to the committee striking amendment.

The motion by Senator Brown failed and floor amendment no. 664 was not adopted by voice vote.

MOTION

Senator Honeyford moved that the following floor amendment no. 663 by Senator Honeyford be adopted:

On page 12, beginning on line 14, after "but" strike all material through "Engaged" on line 15 and insert "engaged"

On page 12, beginning on line 17, after "officer" strike all material through "duties" on line 19

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Pedersen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 663 by Senator Honeyford on page 12, line 14 to the committee striking amendment.

The motion by Senator Honeyford failed and floor amendment no. 663 was not adopted by voice vote.

MOTION

Senator Padden moved that the following floor amendment no. 655 by Senator Padden be adopted:

On page 18, line 16, after "following" strike "11" and insert

"nine"

On page 18, line 18, after "(i)" strike "Three members" and insert "One member"

On page 18, line 19, after "who" strike "are" and insert "is"

On page 18, line 20, after "given to" strike "individuals" and insert "an individual"

Senator Padden spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Pedersen spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 655 by Senator Padden on page 18, line 16 to the committee striking amendment.

The motion by Senator Padden failed and floor amendment no. 655 was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture, Water, Natural Resources & Parks to Engrossed Substitute House Bill No. 1267.

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

MOTION

On motion of Senator Pedersen, the rules were suspended, Engrossed Substitute House Bill No. 1267 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pedersen spoke in favor of passage of the bill.

Senators Padden and Holy spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1267.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1267 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1267, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:47 p.m., on motion of Senator Liias, the Senate adjourned until 10:00 o'clock a.m. Saturday, April 10, 2021.

DENNY HECK, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

1001	Second Reading	2
President Signed.....	1	
1009	Third Reading Final Passage	10
President Signed.....	1	
1016-S	1221-S	
Second Reading	President Signed.....	1
Third Reading Final Passage	1250-S	
1023	Second Reading	33
President Signed.....	Third Reading Final Passage	33
1031	1251.E	
President Signed.....	Second Reading	10
1044-S2	Third Reading Final Passage	10
Other Action.....	1267-S.E	
Second Reading	Other Action.....	41
Third Reading Final Passage	Second Reading	33, 39, 40, 41
1063	Third Reading Final Passage	41
President Signed.....	1276-S	
1072	President Signed.....	1
President Signed.....	1331-S	
1087	President Signed.....	1
President Signed.....	1342.E	
1096	President Signed.....	1
President Signed.....	1372-S.E	
1113-S.E	President Signed.....	1
Second Reading	1424-S	
Third Reading Final Passage	President Signed.....	1
1119	1426-S.E	
Other Action.....	President Signed.....	1
Second Reading	1445-S	
Third Reading Final Passage	President Signed.....	1
1148-S2	1446-S	
President Signed.....	President Signed.....	1
1168-S2	1469	
Other Action.....	President Signed.....	1
Second Reading	1493-S	
Third Reading Final Passage	President Signed.....	1
1192.E	1521-S.E	
President Signed.....	President Signed.....	1
1208-S	5478	
Other Action.....	Second Reading	11
Second Reading	5478-S	
Third Reading Final Passage	Second Reading	11
1209-S	5478-S.E	
President Signed.....	Third Reading Final Passage	11
1213-S2.E	8623	
Other Action.....	Adopted.....	2
Second Reading	Introduced	1
1216-S2.E	CHAPLAIN OF THE DAY	
	Fortunato, Senator Phil, 31st Legislative	
	District, Auburn	1

FLAG BEARERS

Washington State Patrol Honor Guard 1

GUESTS

Weber, Miss Arianna, Pledge of Allegiance. 1

Weber, Mr. Marcus, Pledge of Allegiance ... 1

PRESIDENT OF THE SENATE

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WASHINGTON STATE SENATE

Personal Privilege, Senator Nguyen 13

Personal Privilege, Senator Wagoner 12

Remarks by former Senator McCoy 2