

FIFTY FIFTH DAY

MORNING SESSION

Senate Chamber, Olympia
Saturday, March 7, 2020

The Senate was called to order at 9:02 a.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all senators were present.

The Sergeant at Arms Color Guard consisting of Interns Mr. Cory Christopherson and Miss Bre Hayden, presented the Colors. Intern Mr. Cory Christopherson led the Senate in the Pledge of Allegiance. The prayer was offered by Senator Mike Padden of 4th Legislative District, Spokane.

MOTION

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

MOTION

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

MOTION

Senator Pedersen moved adoption of the following resolution:

SENATE RESOLUTION
8708

By Senators Pedersen, Das, Braun, Wagoner, Kuderer, Fortunato, Nguyen, Hunt, Takko, Salomon, Sheldon, Hasegawa, Conway, Randall, Carlyle, Wilson, C., Short, McCoy, Rolfes, Becker, Frockt, Darneille, Stanford, Keiser, Lovelett, Van De Wege, Honeyford, King, O'Ban, Padden, Schoesler, Hawkins, Rivers, Cleveland, Hobbs, Dhingra, Saldaña, Mullet, Liias, Walsh, Warnick, Wilson, L., Holy, Ericksen, Zeiger, Muzzall, Billig, Wellman, and Brown

WHEREAS, James R. Ellis, distinguished attorney, committed civic activist, and beloved family man, passed away following a lifetime of dedicated public service; and

WHEREAS, Historylink.org reports that "James R. Ellis never held public office . . . yet, as a citizen activist for more than half a century, he left a bigger footprint on Seattle and King County than perhaps any other single individual"; and

WHEREAS, Before embarking on a career as a community leader and lawyer, Mr. Ellis graduated from Franklin High School in Seattle and Yale University, served in the Army Air Corps during World War II, and resolved to honor the life of his brother Bob, who was killed in the war, by improving the lives of others; and

WHEREAS, Following graduation from the University of Washington School of Law, Mr. Ellis joined the Seattle law firm of Preston, Thorgrimson & Horowitz and developed his specialty and expertise in municipal bonds; and

WHEREAS, Mr. Ellis married the love of his life, Mary Lou, and together raised four children at their home on the shores of Lake Washington, enjoying the magnificent outdoors of the Pacific Northwest; and

WHEREAS, Mr. Ellis, thanks to his tireless advocacy for a new form of regional government to address local problems, became instrumental in the formation of the Municipality of Metropolitan Seattle, responsible for the cleanup of Lake Washington and creation of an innovative countywide transit system; and

WHEREAS, In recognition of his involvement in cleaning up Lake Washington, Mr. Ellis was appointed to the National Water Commission and was offered the position of the first director of the Environmental Protection Agency, eventually declining in the belief he could do more good staying in Washington; and

WHEREAS, Mr. Ellis's unwavering efforts led to the establishment of The Mountains to Sound Greenway Trust, responsible for creating the permanent greenway, stretching from the Puget Sound to the Kittitas foothills along the I-90 corridor; and

WHEREAS, Mr. Ellis shaped the lives of the people of Washington by improving public infrastructure, parks, trails, and the accessibility of resources to the public and underserved through his roles as leader of Forward Thrust, trustee of the Ford Foundation, regent for the University of Washington, and first chairman of the Washington State Convention Center;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate express its deepest condolences to the family, friends, colleagues, and others whose lives were improved by the public service of James Reed Ellis, and acknowledge his invaluable contributions to the state of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the family of James R. Ellis.

Senators Pedersen, Braun, Carlyle and Wellman spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8708.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the family and friends of Mr. James R. Ellis including: Mrs. Lynn and Mr. Mark Erickson and their family and Mr. Bob and Mrs. Jean Ellis and their family who were seated in the gallery.

MOTION

At 9:28 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Becker announced a meeting of the Republican Caucus immediately upon going at ease.

The Senate was called to order at 10:56 a.m. by President Habib.

MOTION

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

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5197,
 SECOND SUBSTITUTE SENATE BILL NO. 5572,
 SUBSTITUTE SENATE BILL NO. 5976,
 SENATE BILL NO. 6045,
 SUBSTITUTE SENATE BILL NO. 6058,
 SENATE BILL NO. 6066,
 SUBSTITUTE SENATE BILL NO. 6074,
 SUBSTITUTE SENATE BILL NO. 6084,
 SUBSTITUTE SENATE BILL NO. 6086,
 SUBSTITUTE SENATE BILL NO. 6091,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6095,
 SENATE BILL NO. 6123,
 SUBSTITUTE SENATE BILL NO. 6135,
 SENATE BILL NO. 6212,
 SENATE BILL NO. 6236,
 SUBSTITUTE SENATE BILL NO. 6319,
 SENATE BILL NO. 6357,
 SUBSTITUTE SENATE BILL NO. 6415,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6419,
 SENATE BILL NO. 6430,
 SUBSTITUTE SENATE BILL NO. 6499,
 SENATE BILL NO. 6567,
 SUBSTITUTE SENATE JOINT MEMORIAL NO. 8017,
 and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

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

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Dhingra moved that George Hackney, Senate Gubernatorial Appointment No. 9291, be confirmed as a member of the Human Rights Commission.

Senator Dhingra spoke in favor of the motion.

MOTIONS

On motion of Senator Rivers, Senators Schoesler and Sheldon were excused.

On motion of Senator Wilson, C., Senators Das, Frockt and Rolfes were excused.

APPOINTMENT OF GEORGE HACKNEY

The President declared the question before the Senate to be the confirmation of George Hackney, Senate Gubernatorial Appointment No. 9291, as a member of the Human Rights Commission.

The Secretary called the roll on the confirmation of George Hackney, Senate Gubernatorial Appointment No. 9291, as a member of the Human Rights Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Saldaña, Salomon, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Absent: Senator Hasegawa

Excused: Senators Frockt, Rolfes and Schoesler

George Hackney, Senate Gubernatorial Appointment No. 9291, having received the constitutional majority was declared confirmed as a member of the Human Rights Commission.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kuderer moved that Grace Huang, Senate Gubernatorial Appointment No. 9300, be confirmed as a member of the Washington State Women.

APPOINTMENT OF GRACE HUANG

The President declared the question before the Senate to be the confirmation of Grace Huang, Senate Gubernatorial Appointment No. 9300, as a member of the Washington State Women's Commission.

The Secretary called the roll on the confirmation of Grace Huang, Senate Gubernatorial Appointment No. 9300, as a member of the Washington State Women's Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Saldaña, Salomon, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Absent: Senator Ericksen

Excused: Senators Frockt, Rolfes and Schoesler

Grace Huang, Senate Gubernatorial Appointment No. 9300, having received the constitutional majority was declared confirmed as a member of the Washington State Women's Commission.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Wellman moved that Bill Kallappa, Senate Gubernatorial Appointment No. 9277, be confirmed as a member of the State Board of Education.

Senator Wellman spoke in favor of the motion.

APPOINTMENT OF BILL KALLAPPA

The President declared the question before the Senate to be the confirmation of Bill Kallappa, Senate Gubernatorial Appointment

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No. 9277, as a member of the State Board of Education.

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

The Secretary called the roll on the confirmation of Bill Kallappa, Senate Gubernatorial Appointment No. 9277, as a member of the State Board of Education and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Saldaña, Salomon, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Absent: Senator Ericksen

Excused: Senators Frockt, Rolfes and Schoesler

Bill Kallappa, Senate Gubernatorial Appointment No. 9277, having received the constitutional majority was declared confirmed as a member of the State Board of Education.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Billig moved that James Murphy, Senate Gubernatorial Appointment No. 9223, be confirmed as a member of the Eastern Washington University Board of Trustees.

Senators Billig, Holy and Padden spoke in favor of passage of the motion.

MOTION

On motion of Senator King, Senator Ericksen was excused.

APPOINTMENT OF JAMES MURPHY

The President declared the question before the Senate to be the confirmation of James Murphy, Senate Gubernatorial Appointment No. 9223, as a member of the Eastern Washington University Board of Trustees.

The Secretary called the roll on the confirmation of James Murphy, Senate Gubernatorial Appointment No. 9223, as a member of the Eastern Washington University Board of Trustees and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Frockt

James Murphy, Senate Gubernatorial Appointment No. 9223, having received the constitutional majority was declared confirmed as a member of the Eastern Washington University Board of Trustees.

THIRD READING

MOTION

Senator Brown moved that Vicki Wilson, Senate Gubernatorial Appointment No. 9225, be confirmed as a member of the Eastern Washington University Board of Trustees.

Senator Brown spoke in favor of the motion.

APPOINTMENT OF VICKI WILSON

The President declared the question before the Senate to be the confirmation of Vicki Wilson, Senate Gubernatorial Appointment No. 9225, as a member of the Eastern Washington University Board of Trustees.

The Secretary called the roll on the confirmation of Vicki Wilson, Senate Gubernatorial Appointment No. 9225, as a member of the Eastern Washington University Board of Trustees and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Frockt

Vicki Wilson, Senate Gubernatorial Appointment No. 9225, having received the constitutional majority was declared confirmed as a member of the Eastern Washington University Board of Trustees.

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1793, by House Committee on Transportation (originally sponsored by Fitzgibbon, Pettigrew, Macri, Valdez, Fey, Cody, Senn, Springer, Pollet and Tarleton)

Establishing additional uses for automated traffic safety cameras for traffic congestion reduction and increased safety.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.63.170 and 2015 3rd sp.s. c 44 s 406 are each amended to read as follows:

(1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) ~~((The))~~ Except for proposed locations used solely for the

pilot program purposes permitted under subsection (6) of this section, the appropriate local legislative authority must prepare an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located: (i) Before enacting an ordinance allowing for the initial use of automated traffic safety cameras; and (ii) before adding additional cameras or relocating any existing camera to a new location within the jurisdiction. Automated traffic safety cameras may be used to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations; ~~((or))~~ speed violations subject to (c) of this subsection; or violations included in subsection (6) of this section for the duration of the pilot program authorized under subsection (6) of this section. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance. Beginning one year after June 7, 2012, cities and counties using automated traffic safety cameras must post an annual report of the number of traffic accidents that occurred at each location where an automated traffic safety camera is located as well as the number of notices of infraction issued for each camera and any other relevant information about the automated traffic safety cameras that the city or county deems appropriate on the city's or county's web site.

(b) Except as provided in (c) of this subsection and subsection (6) of this section, use of automated traffic safety cameras is restricted to the following locations only: (i) Intersections of two or more arterials with traffic control signals that have yellow change interval durations in accordance with RCW 47.36.022, which interval durations may not be reduced after placement of the camera; (ii) railroad crossings; and (iii) school speed zones.

(c) Any city west of the Cascade mountains with a population of more than one hundred ninety-five thousand located in a county with a population of fewer than one million five hundred thousand may operate an automated traffic safety camera to detect speed violations subject to the following limitations:

(i) A city may only operate one such automated traffic safety camera within its respective jurisdiction; and

(ii) The use and location of the automated traffic safety camera must have first been authorized by the Washington state legislature as a pilot project for at least one full year.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle. The primary purpose of camera placement is to take pictures of the vehicle and vehicle license plate when an infraction is occurring. Cities and counties shall consider installing cameras in a manner that minimizes the impact of camera flash on drivers.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic

safety camera may respond to the notice by mail.

(f) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(d) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.

(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images, or any other personally identifying data prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image, or any other personally identifying data may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(h) All locations where an automated traffic safety camera is used must be clearly marked at least thirty days prior to activation of the camera by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera. Signs placed in automated traffic safety camera locations after June 7, 2012, must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW.

(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(2). ~~((The))~~ Except as provided otherwise in subsection (6) of this section, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction. However, the amount of the fine issued for a traffic control signal violation detected through the use of an automated traffic safety camera shall not exceed the monetary penalty for a violation of RCW 46.61.050 as provided under RCW 46.63.110, including all applicable statutory assessments.

(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must

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be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(5)(a) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit as detected by a speed measuring device.

(b) For the purposes of the pilot program authorized under subsection (6) of this section, "automated traffic safety camera" also includes a device used to detect stopping at intersection or crosswalk violations; stopping when traffic obstructed violations; public transportation only lane violations; and stopping or traveling in restricted lane violations. The device, including all technology defined under "automated traffic safety camera," must not reveal the face of the driver or the passengers in vehicles, and must not use any facial recognition technology in real time or after capturing any information. If the face of any individual in a crosswalk or otherwise within the frame is incidentally captured, it may not be made available to the public nor used for any purpose including, but not limited to, any law enforcement action, except in a pending action or proceeding related to a violation under this section.

(6) (~~During the 2011-2013 and 2013-2015 fiscal biennia, this section does not apply to automated traffic safety cameras for the purposes of section 216(5), chapter 367, Laws of 2011 and section 216(6), chapter 306, Laws of 2013.~~) (a)(i) A city with a population greater than five hundred thousand may adopt an ordinance creating a pilot program authorizing automated traffic safety cameras to be used to detect one or more of the following violations: Stopping when traffic obstructed violations; stopping at intersection or crosswalk violations; public transportation only lane violations; and stopping or traveling in restricted lane violations. Under the pilot program, stopping at intersection or crosswalk violations may only be enforced at the twenty intersections where the city would most like to address safety concerns related to stopping at intersection or crosswalk violations. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage.

(ii) Except where specifically exempted, all of the rules and restrictions applicable to the use of automated traffic safety cameras in this section apply to the use of automated traffic safety cameras in the pilot program established in this subsection (6).

(iii) As used in this subsection (6), "public transportation vehicle" means any motor vehicle, streetcar, train, trolley vehicle, ferry boat, or any other device, vessel, or vehicle that is owned or operated by a transit authority or an entity providing service on behalf of a transit authority that is used for the purpose of carrying passengers and that operates on established routes. "Transit authority" has the meaning provided in RCW 9.91.025.

(b) Use of automated traffic safety cameras as authorized in this

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subsection (6) is restricted to the following locations only: Locations authorized in subsection (1)(b) of this section; and midblock on arterials. Additionally, the use of automated traffic safety cameras as authorized in this subsection (6) is further limited to the following:

(i) The portion of state and local roadways in downtown areas of the city used for office and commercial activities, as well as retail shopping and support services, and that may include mixed residential uses;

(ii) The portion of state and local roadways in areas in the city within one-half mile north of the boundary of the area described in (b)(i) of this subsection;

(iii) Portions of roadway systems in the city that travel into and out of (b)(ii) of this subsection that are designated by the Washington state department of transportation as noninterstate freeways for up to four miles; and

(iv) Portions of roadway systems in the city connected to the portions of the noninterstate freeways identified in (b)(iii) of this subsection that are designated by the Washington state department of transportation as arterial roadways for up to one mile from the intersection of the arterial roadway and the noninterstate freeway.

(c) However, automated traffic safety cameras may not be used on an on-ramp to an interstate.

(d) From the effective date of this section through December 31, 2020, a warning notice with no penalty must be issued to the registered owner of the vehicle for a violation generated through the use of an automated traffic safety camera authorized in this subsection (6). Beginning January 1, 2021, a notice of infraction must be issued, in a manner consistent with subsections (1)(e) and (3) of this section, for a violation generated through the use of an automated traffic safety camera authorized in this subsection (6). However, the penalty for the violation may not exceed seventy-five dollars.

(e) For infractions issued as authorized in this subsection (6), a city with a pilot program shall remit monthly to the state fifty percent of the noninterest money received under this subsection (6) in excess of the cost to install, operate, and maintain the automated traffic safety cameras for use in the pilot program. Money remitted under this subsection to the state treasurer shall be deposited in the Cooper Jones active transportation safety account created in section 2 of this act. The remaining fifty percent retained by the city must be used only for improvements to transportation that support equitable access and mobility for persons with disabilities.

(f) A transit authority may not take disciplinary action, regarding a warning or infraction issued pursuant to this subsection (6), against an employee who was operating a public transportation vehicle at the time the violation that was the basis of the warning or infraction was detected.

(g) A city that implements a pilot program under this subsection (6) must provide a preliminary report to the transportation committees of the legislature by June 30, 2022, and a final report by January 1, 2023, on the pilot program that includes the locations chosen for the automated traffic safety cameras used in the pilot program, the number of warnings and traffic infractions issued under the pilot program, the number of traffic infractions issued with respect to vehicles registered outside of the county in which the city is located, the infrastructure improvements made using the penalty moneys as required under (e) of this subsection, an equity analysis that includes any disproportionate impacts, safety, and on-time performance statistics related to the impact on driver behavior of the use of automated traffic safety cameras in the pilot program, and any recommendations on the use of automated traffic safety

cameras to enforce the violations that these cameras were authorized to detect under the pilot program.

NEW SECTION. Sec. 2. A new section is added to chapter 46.68 RCW to read as follows:

The Cooper Jones active transportation safety account is created in the state treasury. All receipts from penalties collected under RCW 46.63.170(6)(e) shall be deposited into the account. Expenditures from the account may be used only to fund grant projects or programs for bicycle, pedestrian, and nonmotorist safety improvement administered by the Washington traffic safety commission. The account is subject to allotment procedures under chapter 43.88 RCW. Moneys in the account may be spent only after appropriation.

NEW SECTION. Sec. 3. Section 1 of this act expires June 30, 2023."

On page 1, line 3 of the title, after "safety;" strike the remainder of the title and insert "amending RCW 46.63.170; adding a new section to chapter 46.68 RCW; and providing an expiration date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 1793.

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

MOTION

On motion of Senator Liias, the rules were suspended, Engrossed Substitute House Bill No. 1793 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 Liias spoke in favor of passage of the bill.

Senators King, Honeyford 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. 1793 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1793 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Stanford, Takko and Wilson, C.

Voting nay: Senators Becker, Braun, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, L. and Zeiger

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1793, 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. 2787, by House Committee on Human Services & Early Learning (originally sponsored by Callan, Harris, Eslick, Senn, Stonier, Santos, Tharinger and Pollet)

Completing the transfer of the early support for infants and toddlers program from the office of the superintendent of public instruction to the department of children, youth, and families.

The measure was read the second time.

MOTION

On motion of Senator Wellman, the rules were suspended, Substitute House Bill No. 2787 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wellman and Hawkins 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. 2787.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2787 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Holy and Honeyford

SUBSTITUTE HOUSE BILL NO. 2787, 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. 1948, by Representatives Entenman, Stokesbary, Sullivan, Senn, Chambers, Ramos, Callan and Graham

Supporting warehousing and manufacturing job centers.

The measure was read the second time.

MOTION

Senator Das 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. The legislature recognizes that changes in sales tax sourcing laws created a significant negative fiscal impact on communities with a concentration of warehousing, manufacturing, and shipping. These communities are vital job centers to our state economy. Furthermore, the infrastructure demands to support these industries are significant. The legislature hereby creates the warehousing and manufacturing job center assistance program to provide these communities with revenue to mitigate for the negative fiscal impact of changes in sales tax sourcing laws, and fund important

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infrastructure to maintain these key job centers.

NEW SECTION. Sec. 2. A new section is added to chapter 82.14 RCW to read as follows:

(1) In order to mitigate local sales tax revenue net losses as a result of the sourcing provisions of the streamlined sales and use tax agreement under this title, the state treasurer, on July 1, 2020, and each July 1st thereafter through July 1, 2026, must transfer into the manufacturing and warehousing job centers account from the general fund the sum required to mitigate actual net losses as determined under this section.

(2) The department must determine each qualified local taxing jurisdiction's annual loss. The department must determine annual losses by comparing at least twelve months of data from tax return information and tax collections for each qualified local taxing jurisdiction before and after July 1, 2008. The department is not required to determine annual losses on a recurring basis, but may make any adjustments to annual losses as it deems proper as a result of the annual reviews. Each calendar quarter, distributions must be made from the manufacturing and warehousing job centers account by the state treasurer on the last working day of the calendar quarter, as directed by the department, to each qualified local taxing jurisdiction, for losses in respect to taxes imposed under the authority of RCW 82.14.390, in an amount representing one-fourth of the jurisdiction's annual loss reduced by voluntary compliance revenue reported during the previous calendar quarter and marketplace facilitator/remote seller revenue reported during the previous calendar quarter.

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

(a) "Loss" or "losses" means the local sales and use tax revenue reduction to a local taxing jurisdiction resulting from the sourcing provisions in RCW 82.14.490 and section 502, chapter 6, Laws of 2007.

(b) "Marketplace facilitator/remote seller revenue" means the local sales and use tax revenue gain, including taxes voluntarily remitted and taxes collected from consumers, to each local taxing jurisdiction from part II of chapter 28, Laws of 2017 3rd sp. sess. as estimated by the department in RCW 82.14.500(6).

(c) "Net loss" or "net losses" means a loss offset by any voluntary compliance revenue and marketplace facilitator/remote seller revenue.

(d) "Qualified local taxing district" means a city:

(i) That was eligible for streamlined sales tax mitigation payments of at least one hundred fifty thousand dollars under RCW 82.14.500 in calendar year 2018, based on the calculation and analysis required under RCW 82.14.500(3)(a); and

(ii) That has a continued local sales tax revenue loss as a result of the sourcing provision of the streamlined sales and use tax agreement under this title, as determined by the department.

(e) "Voluntary compliance revenue" means the local sales tax revenue gain to each local taxing jurisdiction reported to the department from persons registering through the central registration system authorized under the agreement.

(4) This section expires January 1, 2026.

NEW SECTION. Sec. 3. A new section is added to chapter 82.14 RCW to read as follows:

The manufacturing and warehousing job centers account is created in the state treasury. All receipts from section 2 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purpose of mitigating the negative fiscal impacts to local taxing jurisdictions as a result of RCW 82.14.490 and section 502, chapter 6, Laws of 2007."

On page 1, line 2 of the title, after "centers;" strike the remainder of the title and insert "adding new sections to chapter

82.14 RCW; creating a new section; and providing an expiration date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 1948.

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

MOTION

On motion of Senator Das, the rules were suspended, Engrossed House Bill No. 1948 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 Das, Fortunato and Zeiger 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. 1948 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1948 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 7; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Carlyle, Ericksen, Frockt, Honeyford, Pedersen and Wilson, L.

ENGROSSED HOUSE BILL NO. 1948, 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. 1293, by House Committee on Appropriations (originally sponsored by Tharinger, Blake, Kretz and Mosbrucker)

Concerning the distribution of monetary penalties to local courts and state agencies paid for failure to comply with discover pass requirements.

The measure was read the second time.

MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1293 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Padden 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. 1293.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1293 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Hasegawa

SUBSTITUTE HOUSE BILL NO. 1293, 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. 2645, by House Committee on Environment & Energy (originally sponsored by Smith, Eslick and Pollet)

Concerning the photovoltaic module stewardship and takeback program.

The measure was read the second time.

MOTION

Senator Lovelett moved that the following committee striking amendment by the Committee on Environment, Energy & Technology be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.355.010 and 2017 3rd sp.s. c 36 s 12 are each amended to read as follows:

(1) ~~((Findings.))~~ The legislature finds that a convenient, safe, and environmentally sound system for the recycling of photovoltaic modules, minimization of hazardous waste, and recovery of commercially valuable materials must be established. The legislature further finds that the responsibility for this system must be shared among all stakeholders, with manufacturers financing the takeback and recycling system.

(2) ~~((Definitions. For purposes of this section the following definitions apply.))~~ The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Consumer electronic device" means any device containing an electronic circuit board that is intended for everyday use by individuals, such as a watch or calculator.

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

(c) "Distributor" means a person who markets and sells photovoltaic modules to retailers in Washington.

(d) "Installer" means a person who assembles, installs, and maintains photovoltaic module systems.

(e) "Manufacturer" means any person in business or no longer in business but having a successor in interest who, irrespective of the selling technique used, including by means of distance or remote sale:

(i) Manufactures or has manufactured a photovoltaic module

under its own brand names for use or sale in or into this state;

(ii) Assembles or has assembled a photovoltaic module that uses parts manufactured by others for use or sale in or into this state under the assembler's brand names;

(iii) Resells or has resold in or into this state under its own brand names a photovoltaic module produced by other suppliers, including retail establishments that sell photovoltaic modules under their own brand names;

(iv) Manufactures or has manufactured a cobranded photovoltaic module product for use or sale in or into this state that carries the name of both the manufacturer and a retailer;

(v) Imports or has imported a photovoltaic module into the United States that is used or sold in or into this state. However, if the imported photovoltaic module is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under ~~((#))~~ (e)(i) through ~~((#))~~ (vi) of this subsection, that person is the manufacturer;

(vi) Sells at retail a photovoltaic module acquired from an importer that is the manufacturer and elects to register as the manufacturer for those products; or

(vii) Elects to assume the responsibility and register in lieu of a manufacturer as defined under ~~((#))~~ (e)(i) through (vi) of this subsection.

~~((#))~~ (f) "Photovoltaic module" means the smallest nondivisible, environmentally protected assembly of photovoltaic cells or other photovoltaic collector technology and ancillary parts intended to generate electrical power under sunlight, except that "photovoltaic module" does not include a photovoltaic cell that is part of a consumer electronic device for which it provides electricity needed to make the consumer electronic device function. "Photovoltaic module" includes but is not limited to interconnections, terminals, and protective devices such as diodes that:

(i) Are installed on, connected to, or integral with buildings; ~~((#))~~

(ii) Are used as components of freestanding, off-grid, power generation systems, such as for powering water pumping stations, electric vehicle charging stations, fencing, street and signage lights, and other commercial or agricultural purposes; or

(iii) Are part of a system connected to the grid or utility service.

~~((#))~~ (g) "Predecessor" means an entity from which a manufacturer purchased a photovoltaic module brand, its warranty obligations, and its liabilities. "Predecessor" does not include entities from which a manufacturer purchased only manufacturing equipment.

(h) "Rare earth element" means lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, lutetium, yttrium, or scandium.

~~((#))~~ (i) "Reuse" means any operation by which a photovoltaic module or a component of a photovoltaic module changes ownership and is used for the same purpose for which it was originally purchased.

~~((#))~~ (j) "Retailer" means a person who offers photovoltaic modules for retail sale in the state through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or internet sales.

(k) "Stewardship plan" means the plan developed by a manufacturer or its designated stewardship organization for a self-directed stewardship program.

~~((#))~~ (l) "Stewardship program" means the activities conducted by a manufacturer or a stewardship organization to fulfill the requirements of this chapter and implement the activities described in its stewardship plan.

(3) ~~((Program guidance, review, and approval.))~~ The department must develop guidance for a photovoltaic module

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stewardship and takeback program to guide manufacturers in preparing and implementing a self-directed program to ensure the convenient, safe, and environmentally sound takeback and recycling of photovoltaic modules and their components and materials. By January 1, 2018, the department must establish a process to develop guidance for photovoltaic module stewardship plans by working with manufacturers, stewardship organizations, and other stakeholders on the content, review, and approval of stewardship plans. The department's process must be fully implemented and stewardship plan guidance completed by July 1, 2019.

(4) (~~Stewardship organization as agent of manufacturer.~~)

A stewardship organization may be designated to act as an agent on behalf of a manufacturer or manufacturers in operating and implementing the stewardship program required under this chapter. Any stewardship organization that has obtained such designation must provide to the department a list of the manufacturers and brand names that the stewardship organization represents within sixty days of its designation by a manufacturer as its agent, or within sixty days of removal of such designation.

(5) (~~Stewardship plans.~~) Each manufacturer must prepare and submit a stewardship plan to the department by the later of (~~January 1, 2020~~) July 1, 2022, or within thirty days of its first sale of a photovoltaic module in or into the state.

(a) A stewardship plan must, at a minimum:

(i) Describe how manufacturers will finance the takeback and recycling system, and include an adequate funding mechanism to finance the costs of collection, management, and recycling of photovoltaic modules and residuals sold in or into the state by the manufacturer with a mechanism that ensures that photovoltaic modules can be delivered to takeback locations without cost to the last owner or holder;

(ii) Accept all of their photovoltaic modules sold in or into the state after July 1, 2017;

(iii) Describe how the program will minimize the release of hazardous substances into the environment and maximize the recovery of other components, including rare earth elements and commercially valuable materials;

(iv) Provide for takeback of photovoltaic modules at locations that are within the region of the state in which (~~the~~) their photovoltaic modules were used and are as convenient as reasonably practicable, and if no such location within the region of the state exists, include an explanation for the lack of such location;

(v) Identify how relevant stakeholders, including consumers, installers, building demolition firms, and recycling and treatment facilities, will receive information required in order for them to properly dismantle, transport, and treat the end-of-life photovoltaic modules in a manner consistent with the objectives described in (a)(iii) of this subsection;

(vi) Establish performance goals, including a goal for the rate of combined reuse and recycling of collected photovoltaic modules as a percentage of the total weight of photovoltaic modules collected, which rate must be no less than eighty-five percent.

(b) A manufacturer must implement the stewardship plan.

(c) A manufacturer may periodically amend its stewardship plan. The department must approve the amendment if it meets the requirements for plan approval outlined in the department's guidance. When submitting proposed amendments, the manufacturer must include an explanation of why such amendments are necessary.

(6) (~~Plan approval.~~) The department must approve a stewardship plan if it determines the plan addresses each element outlined in the department's guidance.

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(7) (~~Annual report.~~) (a) Beginning April 1, (~~2022~~) 2024, and by April 1st in each subsequent year, a manufacturer, or its designated stewardship organization, must provide to the department a report for the previous calendar year that documents implementation of the plan and assesses achievement of the performance goals established in subsection (5)(a)(vi) of this section.

(b) The report may include any recommendations to the department or the legislature on modifications to the program that would enhance the effectiveness of the program, including management of program costs and mitigation of environmental impacts of photovoltaic modules.

(c) The manufacturer or stewardship organization must post this report on a publicly accessible web site.

(8) (~~Enforcement.~~) Beginning (~~January 1, 2021~~) July 1, 2023, no manufacturer, distributor, retailer, or installer may sell or offer for sale a photovoltaic module in or into the state unless the manufacturer of the photovoltaic module has submitted to the department a stewardship plan and received plan approval.

(a) The department must send a written warning to a manufacturer that is not participating in a plan. The written warning must inform the manufacturer that it must submit a plan or participate in a plan within thirty days of the notice. The department may assess a penalty of up to ten thousand dollars upon a manufacturer for each sale that occurs in or into the state of a photovoltaic module ((in or into the state that occurs)) for which a stewardship plan has not been submitted by the manufacturer and approved by the department after the initial written warning. A manufacturer may appeal a penalty issued under this section to the superior court of Thurston county within one hundred eighty days of receipt of the notice.

(b) The department must send a written warning to a distributor, retailer, or installer that sells or installs a photovoltaic module made by a manufacturer that is not participating in a plan. The written warning must inform the distributor, retailer, or installer that they may no longer sell or install a photovoltaic module if a stewardship plan for that brand has not been submitted by the manufacturer and approved by the department within thirty days of the notice.

(9) (~~Fee.~~) The department may collect a flat fee from participating manufacturers to recover costs associated with the plan guidance, review, and approval process described in subsection (3) of this section. Other administrative costs incurred by the department for program implementation activities, including stewardship plan review and approval, enforcement, and any rule making, may be recovered by charging every manufacturer an annual fee calculated by dividing department administrative costs by the manufacturer's pro rata share of the Washington state photovoltaic module sales in the most recent preceding calendar year, based on best available information. The sole purpose of assessing the fees authorized in this subsection is to predictably and adequately fund the department's costs of administering the photovoltaic module recycling program.

(10) (~~Account.~~) The photovoltaic module recycling account is created in the custody of the state treasurer. All fees collected from manufacturers under this chapter must be deposited in the account. Expenditures from the account may be used only for administering this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

(11) (~~Rule-making.~~) The department may adopt rules as necessary for the purpose of implementing, administering, and

enforcing this chapter.

(12) (~~(National program)~~) In lieu of preparing a stewardship plan and as provided by subsection (5) of this section, a manufacturer may participate in a national program for the convenient, safe, and environmentally sound takeback and recycling of photovoltaic modules and their components and materials, if substantially equivalent to the intent of the state program. The department may determine substantial equivalence if it determines that the national program adequately addresses and fulfills each of the elements of a stewardship plan outlined in subsection (5)(a) of this section and includes an enforcement mechanism reasonably calculated to ensure a manufacturer's compliance with the national program. Upon issuing a determination of substantial equivalence, the department must notify affected stakeholders including the manufacturer. If the national program is discontinued or the department determines the national program is no longer substantially equivalent to the state program in Washington, the department must notify the manufacturer and the manufacturer must provide a stewardship plan as described in subsection (5)(a) of this section to the department for approval within thirty days of notification.

NEW SECTION. Sec. 2. (1) Subject to the availability of amounts appropriated for this specific purpose, the Washington State University extension energy program must convene a photovoltaic module recovery, reuse, and recycling work group to review and provide recommendations on potential methodologies for the management of end-of-life photovoltaic modules, including modules from utility scale solar projects.

(2) The membership of the work group convened under this section must include, but is not limited to, members representing:

- (a) A manufacturer of photovoltaic modules located in the state;
- (b) A manufacturer of photovoltaic modules located outside the state;
- (c) A national solar industry group;
- (d) Solar installers in the state;
- (e) A utility scale solar project;
- (f) A nonprofit environmental organization with expertise in waste minimization;
- (g) A city solid waste program;
- (h) A county solid waste program;
- (i) An organization with expertise in photovoltaic module recycling;
- (j) A community-based environmental justice group; and
- (k) The department of ecology.

(3) Participation in the work group convened under this section is strictly voluntary and without compensation or reimbursement.

(4) The Washington State University extension energy program must submit its findings and recommendations in a final report to the legislature and the governor, consistent with RCW 43.01.036, by December 1, 2021.

(5) This section expires January 31, 2022."

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 70.355.010; creating a new section; and providing an expiration date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Energy & Technology to Engrossed Substitute House Bill No. 2645.

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

MOTION

On motion of Senator Lovelett, the rules were suspended,

Engrossed Substitute House Bill No. 2645 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 Lovelett, Ericksen and Das 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. 2645 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2645 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Schoesler

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2645, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6312, by Senators Zeiger, O'Ban and Rolfes

Making the nonprofit and library fund-raising exemption permanent.

The measure was read the second time.

MOTION

On motion of Senator Zeiger, the rules were suspended, Senate Bill No. 6312 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Zeiger and Kuderer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6312.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6312 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Hasegawa

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SENATE BILL NO. 6312, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6331, by Senators Mullet, Wilson and L.

Concerning captive insurers. Revised for 2nd Substitute: Concerning captive insurance.

MOTION

On motion of Senator Mullet, Second Substitute Senate Bill No. 6331 was substituted for Senate Bill No. 6331 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Mullet moved that the following striking floor amendment no. 1340 by Senators Mullet and Wilson, L. be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that creating a framework for Washington corporations and public institutions of higher education to manage their risks through captive insurers will facilitate the growth and safety of those entities and protect the public interest. The legislature further finds that captive insurance promotes prudent risk management and provides access to insurance and reinsurance markets that may not be available to these Washington entities otherwise. The legislature believes that encouraging the use of captive insurance will support those who rely upon the strength and stability of employers in this state.

The legislature notes that, under the federal McCarran-Ferguson act, the regulation and taxation of insurance is left to the states. The due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution limit the ability of states to regulate and tax transactions outside their territorial boundaries. In *State Board of Insurance v. Todd Shipyards Corp.*, 370 U.S. 451 (1962), the United States supreme court ruled that a state may not tax an insurance transaction that has no connection with the state other than the location of the risk.

However, that decision has been called into question following the United States supreme court's decision in *South Dakota v. Wayfair, Inc.*, 585 U.S. ___ (2018), in which the court held that states may charge tax on purchases made from out-of-state sellers, even those without a physical presence in the taxing state. The legislature finds that although the *Wayfair* decision dealt expressly with sales tax, its impact extends to any transactions made over the internet, which, in modern commerce, means transactions in nearly every industry, including insurance.

The legislature finds that the ability of out-of-state corporations to use captive insurers to manage risk associated with economic activity in Washington discourages corporations from subjecting themselves to regulation and taxation by the state of Washington, and seriously impairs the capacity of the state of Washington to provide and enforce effective regulation of the insurance business. Accordingly, the legislature finds it necessary and proper to regulate and tax captive insurers that are used to manage the Washington risk of out-of-state corporations that have

purposefully availed themselves of the benefits of an economic market in Washington.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" means an entity directly or indirectly controlling, controlled by, or under common control with another entity. "Affiliate" also means any person that holds an insured interest because that person has or had an employment or sales contract with an insured person.

(2) "Control" means possession of the power to direct the management and policies of an entity through ownership of voting securities, by contract, or otherwise.

(3) "Foreign captive insurer" means an insurance company with the following characteristics:

(a) It is wholly owned by a corporation, that:

(i) Has its principal place of business in another state or territory of the United States other than this state, or the District of Columbia;

(ii) Is itself not an insurer; and

(iii) Has total assets worth at least twenty-five million dollars as verified by audited financial statements prepared by independent certified accountants;

(b) It insures risks of the parent corporation, the parent corporation's other affiliates, or both; and

(c) It is licensed as a captive insurer by the jurisdiction in which it is domiciled.

(4) "Washington captive insurer" means an insurance company with the following characteristics:

(a) It is wholly owned by a corporation or a public institution of higher education as defined in RCW 28B.10.016, that:

(i) Has its principal place of business in Washington;

(ii) Is not itself an insurer; and

(iii) Has total assets worth at least twenty-five million dollars as verified by audited financial statements prepared by independent certified accountants;

(b) It insures risks of the parent corporation or institution, the parent corporation's or institution's other affiliates, or both; and

(c) It is licensed as a captive insurer by the jurisdiction in which it is domiciled.

NEW SECTION. Sec. 3. (1) Within one hundred twenty days after the effective date of this section or, if later, within one hundred twenty days after first issuing a policy that covers Washington risks, a Washington captive insurer must register with the commissioner. Upon furnishing evidence of good standing in its state of domicile and paying a fee of two thousand five hundred dollars, a Washington captive insurer is entitled to receive a certificate of captive authority as a registered Washington captive insurer. No other documents, deposits, or payments may be required to obtain this certificate.

(2) A registered Washington captive insurer may renew its certificate of captive authority for successive periods of twelve months each by paying a fee not to exceed two thousand five hundred dollars for each such period.

(3) A registered Washington captive insurer may provide insurance to a parent corporation that has its principal place of business in this state, to the parent corporation's other affiliates, or both. A registered Washington captive insurer owned by an institution of higher education as defined in RCW 28B.10.016 may provide insurance to that institution, its affiliates, or both.

(4) A registered Washington captive insurer may insure risks of its affiliates and obtain or provide reinsurance for risks insured in this state.

NEW SECTION. Sec. 4. (1) Within one hundred twenty days after the effective date of this section or, if later, within one

hundred twenty days after first issuing a policy that covers Washington risks, a foreign captive insurer must register with the commissioner. Upon furnishing evidence of good standing in its state of domicile and paying a tax of two thousand five hundred dollars, a foreign captive insurer is entitled to receive a certificate of authority as a registered foreign captive insurer. No other documents, deposits, or payments may be required to obtain this certificate.

(2) A registered foreign captive insurer may renew its certificate of authority for successive periods of twelve months each by paying a tax not to exceed two thousand five hundred dollars for each period.

(3) A registered foreign captive insurer may insure risks of its affiliates and obtain or provide reinsurance for risks insured in this state.

(4) On or before the first day of March of each year, a registered foreign captive insurer must remit to the state treasurer through the commissioner a tax in the amount of two percent of the premiums, exclusive of returned premiums and sums collected to cover federal and state taxes and examination fees, for insurance directly procured by and provided to its parent or another affiliate for Washington risks during the preceding calendar year. The tax when collected must be credited to the general fund.

(5) For the purposes of this section, "Washington risks" means the share of risk covered by the premiums that is allocable to this state, based upon where the underlying risks are located or where the losses or injuries giving rise to covered claims arise. The foreign captive insurer may use any reasonable method of determining such an allocation, including actuarial analysis or use of a proxy such as sales, property value, or payroll. The foreign captive insurer must share their methodology and relevant analysis in determining their allocation with the commissioner. Whether paid directly or by reimbursement, neither the timing nor the nature of a foreign captive insurer's payment may be deemed to reflect, create, or constitute Washington risks.

(6) If a registered foreign captive insurer fails to remit the tax provided by this section by the last day of the month in which the tax becomes due, the registered foreign captive insurer must pay the penalties and interest provided in RCW 48.14.060. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction. Any fine collected by the commissioner must be paid to the state treasurer and credited to the general fund.

(7) A foreign captive insurer that registers with the commissioner may not be deemed to be an unauthorized insurer for any period preceding or following such registration. A registered foreign captive insurer is exempt from sanctions set forth in RCW 48.14.095, for violations of RCW 48.05.030(1), 48.14.060, or 48.15.020 regardless of when such violations are alleged to have occurred.

(8) Taxes on premiums may not be imposed or collected on a foreign captive insurer for any period before January 1, 2010, and all taxes must be limited to a foreign captive insurer's Washington risk.

(9) For periods beginning January 1, 2020, a registered foreign captive insurer is subject to the sanctions in subsection (6) of this section.

(10) This section does not apply to institutions of higher education as defined in RCW 28B.10.016.

NEW SECTION. Sec. 5. (1) On or before the first day of March of each year, a registered Washington captive insurer must remit to the state treasurer through the commissioner a tax in the amount of two percent of the premiums, exclusive of returned premiums and sums collected to cover federal and state taxes and examination fees, for insurance directly procured by and provided to its parent or another affiliate for Washington risks during the

preceding calendar year. The tax when collected must be credited to the general fund.

(2) For the purposes of this section, "Washington risks" means the share of risk covered by the premiums that is allocable to this state, based upon where the underlying risks are located or where the losses or injuries giving rise to covered claims arise. The captive insurer may use any reasonable method of determining such an allocation, including actuarial analysis or use of a proxy such as sales, property value, or payroll. The captive insurer must share their methodology and relevant analysis in determining their allocation with the commissioner. Whether paid directly or by reimbursement, neither the timing nor the nature of a captive insurer's payment may be deemed to reflect, create, or constitute Washington risks.

(3) If a registered Washington captive insurer fails to remit the tax provided by this section by the last day of the month in which the tax becomes due, the registered Washington captive insurer must pay the penalties and interest provided in RCW 48.14.060. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction. Any fine collected by the commissioner must be paid to the state treasurer and credited to the general fund.

(4) A Washington captive insurer that registers with the commissioner as provided in section 3 of this act may not be deemed to be an unauthorized insurer for any period preceding or following such registration. A registered Washington captive insurer is exempt from sanctions set forth in RCW 48.14.095, for violations of RCW 48.05.030(1), 48.14.060, or 48.15.020 regardless of when such violations are alleged to have occurred.

(5) Taxes on premiums may not be imposed or collected on a Washington captive insurer for any period before January 1, 2010, and all taxes must be limited to a Washington captive insurer's Washington risk. Taxes on premiums may not be imposed or collected on a Washington captive insurer affiliated with a public institution of higher education for any period.

(6) For periods beginning January 1, 2020, a registered Washington captive insurer is subject to the sanctions in subsection (3) of this section.

(7) Subsections (1), (2), (3), and (6) of this section do not apply to institutions of higher education as defined in RCW 28B.10.016.

NEW SECTION. Sec. 6. The commissioner may adopt rules as necessary to implement this act, but such rules must recognize the differences between captive insurance and commercial insurance offered to Washington insureds by unrelated companies.

Sec. 7. RCW 48.14.020 and 2016 c 133 s 1 are each amended to read as follows:

(1) Subject to other provisions of this chapter, each authorized insurer except title insurers and registered Washington captive insurers as defined in section 2 of this act shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax on premiums. Except as provided in subsection (3) of this section, such tax shall be in the amount of two percent of all premiums, excluding amounts returned to or the amount of reductions in premiums allowed to holders of industrial life policies for payment of premiums directly to an office of the insurer, collected or received by the insurer under RCW 48.14.090 during the preceding calendar year other than ocean marine and foreign trade insurances, after deducting premiums paid to policyholders as returned premiums, upon risks or property resident, situated, or to be performed in this state. For tax purposes, the reporting of premiums shall be on a written basis or on a paid-for basis consistent with the basis required by the annual statement. For the purposes of this section the consideration received by an insurer for the granting of an annuity

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shall not be deemed to be a premium.

(2)(a) The taxes imposed in this section do not apply to amounts received by any life and disability insurer for health care services included within the definition of practice of dentistry under RCW 18.32.020 except amounts received for pediatric oral services that qualify as coverage for the minimum essential coverage requirement under P.L. 111-148 (2010), as amended, and for stand-alone family dental plans as defined in RCW 43.71.080(4)(a), only when offered in the individual market, as defined in RCW 48.43.005(~~((27))~~), or to a small group, as defined in RCW 48.43.005(~~((33))~~).

(b) Beginning January 1, 2014, moneys collected for premiums written on qualified health benefit plans and qualified dental plans offered through the health benefit exchange under chapter 43.71 RCW must be deposited in the health benefit exchange account under RCW 43.71.060.

(3) In the case of insurers which require the payment by their policyholders at the inception of their policies of the entire premium thereon in the form of premiums or premium deposits which are the same in amount, based on the character of the risks, regardless of the length of term for which such policies are written, such tax shall be in the amount of two percent of the gross amount of such premiums and premium deposits upon policies on risks resident, located, or to be performed in this state, in force as of the thirty-first day of December next preceding, less the unused or unabsorbed portion of such premiums and premium deposits computed at the average rate thereof actually paid or credited to policyholders or applied in part payment of any renewal premiums or premium deposits on one-year policies expiring during such year.

(4) Each authorized insurer shall with respect to all ocean marine and foreign trade insurance contracts written within this state during the preceding calendar year, on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax of ninety-five one-hundredths of one percent on its gross underwriting profit. Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such ocean marine and foreign trade insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amounts refunded, or paid as participation dividends, by such insurers to the holders of such contracts.

(5) The state does hereby preempt the field of imposing excise or privilege taxes upon insurers or their appointed insurance producers, other than title insurers, and no county, city, town or other municipal subdivision shall have the right to impose any such taxes upon such insurers or these insurance producers.

(6) If an authorized insurer collects or receives any such premiums on account of policies in force in this state which were originally issued by another insurer and which other insurer is not authorized to transact insurance in this state on its own account, such collecting insurer shall be liable for and shall pay the tax on such premiums.

Sec. 8. RCW 48.14.095 and 2008 c 217 s 8 are each amended to read as follows:

(1) This section applies to any insurer or taxpayer, as defined in RCW 48.14.0201, violating or failing to comply with RCW 48.05.030(1), 48.17.060, 48.36A.290(1), 48.44.015(1), or 48.46.027(1).

(2) Except as provided in subsections (7) and (8) of this section, RCW 48.14.020, 48.14.0201, and 48.14.060 apply to insurers or

taxpayers identified in subsection (1) of this section.

(3) If an insurance contract, health care services contract, or health maintenance agreement covers risks or exposures, or enrolled participants only partially in this state, the tax payable is computed on the portion of the premium that is properly allocated to a risk or exposure located in this state, or enrolled participants residing in this state.

(4) In determining the amount of taxable premiums under subsection (3) of this section, all premiums, other than premiums properly allocated or apportioned and reported as taxable premiums of another state, that are written, procured, or received in this state, or that are for a policy or contract negotiated in this state, are considered to be written on risks or property resident, situated, or to be performed in this state, or for health care services to be provided to enrolled participants residing in this state.

(5) Insurance on risks or property resident, situated, or to be performed in this state, or health coverage for the provision of health care services for residents of this state, is considered to be insurance procured, continued, renewed, or performed in this state, regardless of the location from which the application is made, the negotiations are conducted, or the premiums are remitted.

(6) Premiums on risks or exposures that are properly allocated to federal waters or international waters or under the jurisdiction of a foreign government are not taxable by this state.

(7) This section does not apply to premiums on insurance procured by a licensed surplus line broker under chapter 48.15 RCW.

(8) This section does not apply to premiums on insurance that is issued by a Washington captive insurer under chapter 48.---
RCW (the new chapter created in section 12 of this act).

Sec. 9. RCW 48.15.160 and 2008 c 217 s 11 are each amended to read as follows:

(1) The provisions of this chapter controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance, to insurance issued by a Washington captive insurer under chapter 48.--- RCW (the new chapter created in section 12 of this act), or to the following insurances when so placed by licensed insurance producers of this state:

(a) Ocean marine and foreign trade insurances.

(b) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(c) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(d) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in schedule interstate flight, or cargo of such aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

(2) Insurance producers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this chapter and shall meet the requirements imposed upon a surplus line broker pursuant to RCW 48.15.090 and any regulations adopted thereunder. The record shall be preserved for not less than five years from the effective date of the insurance and shall be kept available in this state and open to the examination of the commissioner. The insurance producer shall furnish to the commissioner at the commissioner's request and on forms as designated and furnished by him or her a report of all such coverages so placed in a designated calendar year.

Sec. 10. RCW 82.04.320 and 1961 c 15 s 82.04.320 are each amended to read as follows:

~~((This))~~ (1) Except as otherwise provided in this section, this chapter ((shall)) does not apply to any person in respect to insurance business upon which a tax based on gross premiums is paid to the state(~~(- PROVIDED, That the))~~.

(2) The provisions of this section ((shall)) do not exempt any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such companies(~~(- PROVIDED FURTHER, That the))~~.

(3) The provisions of this section ((shall)) do not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

(4) For purposes of this section, for periods preceding the effective date of this section, Washington captive insurers as defined in section 2 of this act are deemed to be persons in respect to insurance business that have paid a tax on gross premiums to the state.

Sec. 11. RCW 48.14.090 and 2009 c 161 s 4 are each amended to read as follows:

In determining the amount of direct premium taxable in this state other than for policies issued by a Washington captive insurer as defined in section 2 of this act, all such premiums written, procured, or received in this state shall be deemed written upon risks or property resident, situated, or to be performed in this state except such premiums as are properly allocated or apportioned and reported as taxable premiums of any other state or states. For tax purposes, the reporting of premiums shall be on a written basis or on a paid-for basis consistent with the basis required by the annual statement.

NEW SECTION. Sec. 12. Sections 1 through 6 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 13. 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. 14. Sections 8 through 11 of this act apply both retroactively and prospectively.

NEW SECTION. Sec. 15. 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 1 of the title, after "insurance;" strike the remainder of the title and insert "amending RCW 48.14.020, 48.14.095, 48.15.160, 82.04.320, and 48.14.090; adding a new chapter to Title 48 RCW; creating a new section; prescribing penalties; and declaring an emergency."

The President declared the question before the Senate to be the adoption of striking floor amendment no. 1340 by Senators Mullet and Wilson, L. to Second Substitute Senate Bill No. 6331.

The motion by Senator Mullet carried and striking floor amendment no. 1340 was adopted by voice vote.

MOTION

On motion of Senator Mullet, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6331 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators 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 Second Substitute Senate Bill No. 6331.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6331 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6331, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5147, by Senators Wilson, L., Brown, Carlyle, Conway, Darneille, Palumbo, Keiser, Mullet, O'Ban, Short, Wagoner and Warnick

Providing tax relief to females by exempting feminine hygiene products from retail sales and use tax. Revised for 1st Substitute: Providing tax relief to females by exempting feminine hygiene products from retail sales and use tax.

MOTION

On motion of Senator Wilson, L., Substitute Senate Bill No. 5147 was substituted for Senate Bill No. 5147 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Rolfes moved that the following floor amendment no. 1352 by Senators Rolfes and Wilson, L. be adopted:

On page 1, line 1 of the title, after "relief" strike all material through "products" on line 2 and insert "by exempting menstrual products"

Senator Rolfes spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1352 by Senators Rolfes and Wilson, L. on page 1, line 1 to Substitute Senate Bill No. 5147.

The motion by Senator Rolfes carried and floor amendment no. 1352 was adopted by voice vote.

MOTION

On motion of Senator Wilson, L., the rules were suspended, Engrossed Substitute Senate Bill No. 5147 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wilson, L., Cleveland, Becker, Wagoner and Randall 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. 5147.

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5147 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

ENGROSSED SUBSTITUTE SENATE BILL NO. 5147, 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 12:18 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Becker announced a meeting of the Republican Caucus immediately upon going at ease.

Senator McCoy announced a meeting of the Democratic Caucus immediately upon going at ease.

The Senate was called to order at 1:23 p.m. by President Habib.

MOTION

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

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6189 with the following amendment(s): 6189-S.E AMH BERG PRIN 661

On page 3, after line 18, insert the following:

"NEW SECTION. Sec. 5. A new section is added to chapter 41.05 RCW to read as follows:

(1) A school employee eligible as of February 29, 2020, for the employer contribution towards benefits offered by the school employees' benefits board shall maintain their eligibility for the employer contribution under the following circumstances directly related or in response to the governor's February 29, 2020, proclamation of a state of emergency existing in all counties in the state of Washington related to the novel coronavirus (COVID-19):

(a) During any school closures or changes in school operations for the school employee;

(b) While the school employee is quarantined or required to care for a family member, as defined by RCW 49.46.210(2), who is quarantined; and

(c) In order to take care of a child as defined by RCW 49.46.210(2), who is enrolled in school employee benefits, when the child's:

(i) School is closed;

(ii) Regular day care facility is closed; or
 (iii) Regular child care provider is unable to provide services.
 (2) Requirements in subsection (1) of this section expires when the governor's state of emergency related to the novel coronavirus (COVID-19) ends.

(3) When regular school operations resume, school employees shall continue to maintain their eligibility for the employer contribution for the remainder of the school year so long as their work schedule returns to the schedule in place before February 29, 2020, or, if there is a change in schedule, so long as the new schedule, had it been in effect at the start of the school year, would have resulted in the employee being anticipated to work the minimum hours to meet benefits eligibility.

(4) Quarantine, as used in subsection (1)(b) includes only periods of isolation required by the federal government, a foreign national government, a state or local public health official, a health care provider, or an employer."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Wellman moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6189 and ask the House to recede therefrom.

Senators Wellman and Braun spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wellman that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6189 and ask the House to recede therefrom.

The motion by Senator Wellman carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6189 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6050 with the following amendment(s): 6050-S AMH HCW H5123.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.32A.015 and 2001 c 50 s 2 are each amended to read as follows:

(1) The purpose of this chapter is to protect, subject to certain limitations, the persons specified in RCW 48.32A.025(1) against failure in the performance of contractual obligations, under life ~~((and))~~ insurance, disability insurance ((policies)), health benefit plans, and certificates of coverage, and annuity policies, plans, or contracts specified in RCW 48.32A.025(2), because of the impairment or insolvency of the member insurer that issued the policies, plans, or contracts.

(2) To provide this protection, an association of member insurers is created to pay benefits and to continue coverages as limited by this chapter, and members of the association are subject to assessment to provide funds to carry out the purpose of this chapter.

Sec. 2. RCW 48.32A.025 and 2001 c 50 s 3 are each amended to read as follows:

(1) This chapter provides coverage for the policies and contracts specified in subsection (2) of this section as follows:

(a) To persons who, regardless of where they reside, except for nonresident certificate holders or enrollees under group policies or contracts, are the beneficiaries, assignees, or payees, including health care providers and facilities rendering services covered under health benefit plans, policies, or certificates of coverage, of the persons covered under (b) of this subsection;

(b) To persons who are owners of or certificate holders or enrollees under the policies or contracts, other than unallocated annuity contracts and structured settlement annuities, and in each case who:

(i) Are residents; or

(ii) Are not residents, but only under all of the following conditions:

(A) The member insurer that issued the policies or contracts is domiciled in this state;

(B) The states in which the persons reside have associations similar to the association created by this chapter; and

(C) The persons are not eligible for coverage by an association in any other state due to the fact that the insurer, health care service contractor, or health maintenance organization was not licensed in the state at the time specified in the state's guaranty association law;

(c) For unallocated annuity contracts specified in subsection (2) of this section, (a) and (b) of this subsection do not apply, and this chapter, except as provided in (e) and (f) of this subsection, does provide coverage to:

(i) Persons who are the owners of the unallocated annuity contracts if the contracts are issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state; and

(ii) Persons who are owners of unallocated annuity contracts issued to or in connection with government lotteries if the owners are residents;

(d) For structured settlement annuities specified in subsection (2) of this section, (a) and (b) of this subsection do not apply, and this chapter, except as provided in (e) and (f) of this subsection, does provide coverage to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee:

(i) Is a resident, regardless of where the contract owner resides; or

(ii) Is not a resident, but only under both of the following conditions:

(A)(I) The contract owner of the structured settlement annuity is a resident; or

(II) The contract owner of the structured settlement annuity is not a resident, but the insurer that issued the structured settlement annuity is domiciled in this state; and the state in which the contract owner resides has an association similar to the association created by this chapter; and

(B) Neither the payee, nor beneficiary, nor enrollee, nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides;

(e) This chapter does not provide coverage to:

(i) A person who is a payee, or beneficiary, of a contract owner resident of this state, if the payee, or beneficiary, is afforded any coverage by the association of another state; ~~((or))~~

(ii) A person covered under (c) of this subsection, if any coverage is provided by the association of another state to the person; or

(iii) A person who acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. Sec. 5891(c)(3)(A), regardless of whether the transaction occurred before or after such section became effective; and

(f) This chapter is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a

nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person shall not be provided coverage under this chapter. In determining the application of this subsection (1)(f) in situations where a person could be covered by the association of more than one state, whether as an owner, payee, beneficiary, enrollee, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one association.

(2)(a) This chapter provides coverage to the persons specified in subsection (1) of this section for policies, plans, or contracts of direct, nongroup life, disability, health benefit, or ~~((annuity policies or contracts))~~ annuities and supplemental contracts to any of these, for certificates under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by this chapter. Annuity contracts and certificates under group annuity contracts include but are not limited to guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement annuities, annuities issued to or in connection with government lotteries, and any immediate or deferred annuity contracts. However, any annuity contracts that are unallocated annuity contracts are subject to the specific provisions in this chapter for unallocated annuity contracts.

(b) ~~((This))~~ Except as provided in (c) of this subsection, this chapter does not provide coverage for:

(i) A portion of a policy or contract not guaranteed by the member insurer, or under which the risk is borne by the policy or contract owner;

(ii) A policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(iii) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(A) Averaged over the period of four years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting two percentage points from Moody's corporate bond yield average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four years before the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier; and

(B) On and after the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available;

(iv) A portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, disability, health, or annuity benefits to its employees, members, or others, to the extent that the plan or program is self-funded or uninsured, including but not limited to benefits payable by an employer, association, or other person under:

(A) A multiple employer welfare arrangement as defined in 29 U.S.C. Sec. ~~((1444))~~ 1002;

(B) A minimum premium group insurance plan;

(C) A stop-loss group insurance plan; or

(D) An administrative services only contract;

(v) A portion of a policy or contract to the extent that it provides for:

(A) Dividends or experience rating credits;

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(B) Voting rights; or

(C) Payment of any fees or allowances to any person, including the policy or contract owner, in connection with the service to or administration of the policy or contract;

(vi) A policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;

(vii) An unallocated annuity contract issued to or in connection with a benefit plan protected under the federal pension benefit guaranty corporation, regardless of whether the federal pension benefit guaranty corporation has yet become liable to make any payments with respect to the benefit plan;

(viii) A portion of an unallocated annuity contract that is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a government lottery;

(ix) A portion of a policy or contract to the extent that the assessments required by RCW 48.32A.085 with respect to the policy or contract are preempted by federal or state law;

(x) An obligation that does not arise under the express written terms of the policy or contract issued by the member insurer to the enrollee, contract owner, certificate holder, or policy owner, including without limitation:

(A) Claims based on marketing materials;

(B) Claims based on side letters, riders, or other documents that were issued by the member insurer without meeting applicable policy or contract form filing or approval requirements;

(C) Misrepresentations of or regarding policy or contract benefits;

(D) Extra-contractual claims; or

(E) A claim for penalties or consequential or incidental damages;

(xi) A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer; ~~((or))~~

(xii) A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subsection (2)(b)(xii), the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture;

(xiii) A policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to parts C and D of subchapter XVIII, chapter 7 of Title 42, United States Code (commonly known as medicare parts C and D) or subchapter XIX, chapter 7 of Title 42, United States Code (commonly known as medicaid), and any regulations issued pursuant thereto, or chapter 74.09 RCW and any regulations issued pursuant thereto; or

(xiv) Structured settlement annuity benefits to which a payee or beneficiary has transferred his or her rights in a structured settlement factoring transaction as defined in 26 U.S.C. Sec. 5891(c)(3)(A), regardless of whether the transaction occurred

before or after such section became effective.

(c) The exclusion from coverage referenced in (b)(iii) of this subsection does not apply to any portion of a policy or contract, including a rider, that provides long-term care or any other health benefits.

(3) The benefits that the association may become obligated to cover shall in no event exceed the lesser of:

(a) The contractual obligations for which the member insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(b)(i) With respect to one life, regardless of the number of policies or contracts:

(A) Five hundred thousand dollars in life insurance death benefits, but not more than five hundred thousand dollars in net cash surrender and net cash withdrawal values for life insurance;

(B) In disability insurance and health benefit plan benefits:

(I) Five hundred thousand dollars for coverages not defined as disability income insurance or ~~((basic hospital, medical, and surgical insurance or major medical insurance))~~ health benefit plans including any net cash surrender and net cash withdrawal values;

(II) Five hundred thousand dollars for disability income insurance;

(III) Five hundred thousand dollars for ~~((basic hospital, medical and surgical insurance or major medical insurance))~~ health benefit plans;

(IV) Five hundred thousand dollars for long-term care insurance; or

(C) Five hundred thousand dollars in the present value of annuity benefits, including net cash surrender and net cash withdrawal values, except as provided in (b)(ii), (iii), and (v) of this subsection (3)~~((b))~~;

(ii) With respect to each individual participating in a governmental retirement benefit plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, one hundred thousand dollars in present value annuity benefits, including net cash surrender and net cash withdrawal values;

(iii) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, five hundred thousand dollars in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any;

(iv) However, in no event shall the association be obligated to cover more than: (A) An aggregate of five hundred thousand dollars in benefits with respect to any one life under (b)(i), (ii), ~~((and))~~ (iii), and (iv) of this subsection (3)~~((b))~~ except with respect to benefits for ~~((basic hospital, medical, and surgical insurance and major medical insurance))~~ health benefit plans under (b)(i)(B) of this subsection (3)~~((b))~~, in which case the aggregate liability of the association shall not exceed five hundred thousand dollars with respect to any one individual; or (B) with respect to one owner of multiple nongroup policies of life insurance, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, more than five million dollars in benefits, regardless of the number of policies and contracts held by the owner;

(v) With respect to either: (A) One contract owner provided coverage under subsection (1)(d)(ii) of this section; or (B) one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in (b)(ii) of this subsection (3)~~((b))~~, five million dollars in benefits, irrespective of the number of contracts with respect to the contract owner or

plan sponsor. However, in the case where one or more unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state and in no event shall the association be obligated to cover more than five million dollars in benefits with respect to all these unallocated contracts; ~~((e))~~

(vi) The limitations set forth in this subsection are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to its subrogation and assignment rights; or

(vii) For purposes of this chapter, benefits provided by a long-term care rider to a life insurance policy or annuity contract must be considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

(4) In performing its obligations to provide coverage under RCW 48.32A.075, the association is not required to guarantee, assume, reinsure, reissue, or perform, or cause to be guaranteed, assumed, reinsured, reissued, or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

Sec. 3. RCW 48.32A.045 and 2001 c 50 s 5 are each amended to read as follows:

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

(1) "Account" means either of the two accounts created under RCW 48.32A.055.

(2) "Association" means the Washington life and disability insurance guaranty association created under RCW 48.32A.055.

(3) "Authorized assessment" or the term "authorized" when used in the context of assessments means a resolution by the board of directors has been passed whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

(4) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan issued pursuant to the requirements of chapter 48.20 RCW.

(5) "Called assessment" or the term "called" when used in the context of assessments means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

(6) "Commissioner" means the insurance commissioner of this state.

(7) "Contractual obligation" means an obligation under a policy or contract or certificate under a group policy or contract, or portion thereof for which coverage is provided under RCW 48.32A.025.

(8) "Covered policy" or "covered contract" means a policy or contract or portion of a policy or contract for which coverage is provided under RCW 48.32A.025.

(9) "Extra-contractual claims" includes, for example, claims relating to bad faith in the payment of claims, punitive or exemplary damages, or attorneys' fees and costs.

(10) "Health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange,

reimburse, or pay for health care services, except the following:

(a) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(b) Coverage supplemental to the coverage provided under chapter 55 of Title 10 of the United States Code;

(c) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property or casualty liability insurance policy, such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage;

(k) Plans deemed by the commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the commissioner;

(l) Civilian health and medical program for the veterans affairs administration (CHAMPVA); and

(m) Long-term care insurance as defined under chapter 48.83 or 48.84 RCW, or benefits for home health care, community-based care, or any combination thereof.

(11) "Impaired insurer" means a member insurer which, after July 22, 2001, is not an insolvent insurer, and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

~~((44))~~ (12) "Insolvent insurer" means a member insurer which, after July 22, 2001, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

~~((42))~~ (13) "Member insurer" means an insurer, health care service contractor, or health maintenance organization licensed, or that holds a certificate of authority, or a certificate of registration, to transact in this state any kind of business related to insurance or a health benefit plan for which coverage is provided under RCW 48.32A.025, and includes an insurer, health care service contractor, or health maintenance organization whose license, certificate of registration, or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

(a) ~~((A))~~ A health care service contractor, whether profit or nonprofit;

~~((B))~~ A health maintenance organization;

~~((C))~~ A fraternal benefit society;

~~((D))~~ (b) A mandatory state pooling plan;

~~((E))~~ (c) A mutual assessment company or other person that operates on an assessment basis;

~~((F))~~ (d) An insurance exchange;

~~((G))~~ (e) An organization that has a certificate or license limited to the issuance of charitable gift annuities under RCW 48.38.010;

(f) A nonrisk-bearing hospital or medical service organization, whether for profit or not for profit;

(g) A multiple employer welfare arrangement under chapter 48.125 RCW; or

(h) An entity similar to (a) through (g) of this subsection.

~~((43))~~ (14) "Moody's corporate bond yield average" means the monthly average corporates as published by Moody's

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investors service, inc., or any successor thereto.

~~((14))~~ (15) "Owner" of a policy or contract and "policy holder," "policy owner," and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the member insurer. "Owner," "policy holder," "contract owner," and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

~~((15))~~ (16) "Person" means an individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

~~((16))~~ (17) "Plan sponsor" means:

(a) The employer in the case of a benefit plan established or maintained by a single employer;

(b) The employee organization in the case of a benefit plan established or maintained by an employee organization; or

(c) In the case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

~~((17))~~ (18) "Premiums" means amounts or considerations, by whatever name called, received on covered policies or contracts less returned premiums, considerations, and deposits and less dividends and experience credits. "Premiums" does not include amounts or considerations received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under RCW 48.32A.025(2), except that assessable premium shall not be reduced on account of RCW 48.32A.025(2)(b)(iii) relating to interest limitations and RCW 48.32A.025(3)(b) relating to limitations with respect to one individual, one participant, and one policy or contract owner. "Premiums" does not include:

(a) Premiums in excess of five million dollars on an unallocated annuity contract not issued under a governmental retirement benefit plan, or its trustee, established under section 401, 403(b), or 457 of the United States Internal Revenue Code; or

(b) With respect to multiple nongroup policies of life insurance owned by one owner, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of five million dollars with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

~~((18))~~ (19)(a) "Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise that function, determined by the association in its reasonable judgment by considering the following factors:

(i) The state in which the primary executive and administrative headquarters of the entity is located;

(ii) The state in which the principal office of the chief executive officer of the entity is located;

(iii) The state in which the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;

(iv) The state in which the executive or management committee of the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;

(v) The state from which the management of the overall operations of the entity is directed; and

(vi) In the case of a benefit plan sponsored by affiliated

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companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the factors in (a)(i) through (v) of this subsection.

However, in the case of a plan sponsor, if more than fifty percent of the participants in the benefit plan are employed in a single state, that state is the principal place of business of the plan sponsor.

(b) The principal place of business of a plan sponsor of a benefit plan described in subsection ~~((16))~~ (17)(c) of this section is the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, is the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

~~((19))~~ (20) "Receivership court" means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the member insurer.

~~((20))~~ (21) "Resident" means a person to whom a contractual obligation is owed and who resides in this state on the date of entry of a court order that determines a member insurer to be an impaired insurer or a court order that determines a member insurer to be an insolvent insurer, whichever occurs first. A person may be a resident of only one state, which in the case of a person other than a natural person is its principal place of business. Citizens of the United States that are either (a) residents of foreign countries, or (b) residents of United States possessions, territories, or protectorates that do not have an association similar to the association created by this chapter, are residents of the state of domicile of the member insurer that issued the policies or contracts.

~~((21))~~ (22) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

~~((22))~~ (23) "State" means a state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate.

~~((23))~~ (24) "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, disability, or annuity policy or contract.

~~((24))~~ (25) "Unallocated annuity contract" means an annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by ~~((25))~~ a member insurer under the contract or certificate.

Sec. 4. RCW 48.32A.055 and 2001 c 50 s 6 are each amended to read as follows:

(1) There is created a nonprofit unincorporated legal entity to be known as the Washington life and disability insurance guaranty association which is composed of the commissioner ex officio and each member insurer. All member insurers must be and remain members of the association as a condition of their authority to transact the business of insurance, health care service contractor business, or health maintenance organization business in this state. The association shall perform its functions under the plan of operation established and approved under RCW 48.32A.095 and shall exercise its powers through a board of directors established under RCW 48.32A.065. For purposes of administration and assessment, the association shall maintain two accounts:

(a) The life insurance and annuity account which includes the following subaccounts:

(i) Life insurance account;

(ii) Annuity account which includes annuity contracts owned by a governmental retirement plan, or its trustee, established under section 401, 403(b), or 457 of the United States Internal Revenue Code, but otherwise excludes unallocated annuities; and

(iii) Unallocated annuity account, which excludes contracts owned by a governmental retirement benefit plan, or its trustee, established under section 401, 403(b), or 457 of the United States Internal Revenue Code; and

(b) The disability insurance account, which includes health benefit plans, disability benefit policies and contracts, and long-term care policies and contracts.

(2) The association is under the immediate supervision of the commissioner and is subject to the applicable provisions of the insurance laws of this state. Meetings or records of the association may be opened to the public upon majority vote of the board of directors of the association.

Sec. 5. RCW 48.32A.065 and 2001 c 50 s 7 are each amended to read as follows:

(1) The board of directors of the association consists of the commissioner ex officio and not less than ~~((five))~~ seven nor more than ~~((nine))~~ eleven member insurers serving terms as established in the plan of operation. The insurer members of the board are selected by member insurers subject to the approval of the commissioner.

Vacancies on the board are filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner.

(2) In approving selections or in appointing members to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors but members of the board are not otherwise compensated by the association for their services.

Sec. 6. RCW 48.32A.075 and 2001 c 50 s 8 are each amended to read as follows:

(1) If a member insurer is an impaired insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner:

(a) ~~((Guaranty))~~ Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, reissued, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer; or

(b) Provide such moneys, pledges, loans, notes, guarantees, or other means as are proper to effectuate (a) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under (a) of this subsection.

(2) If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(a)(i)(A) ~~((Guaranty))~~ Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, the policies or contracts of the insolvent insurer; or

(B) Assure payment of the contractual obligations of the insolvent insurer; and

(ii) Provide moneys, pledges, loans, notes, guarantees, or other means reasonably necessary to discharge the association's duties; or

(b) Provide benefits and coverages in accordance with the following provisions:

(i) With respect to ~~((life and disability insurance))~~ policies and ~~((annuities))~~ contracts, assure payment of benefits ~~((for premiums identical to the premiums and benefits, except for terms of conversion and renewability,))~~ that would have been payable under the policies or contracts of the insolvent insurer~~((s))~~ for claims incurred:

(A) With respect to group policies and contracts, not later than the earlier of the next renewal date under those policies or contracts or forty-five days, but in no event less than thirty days, after the date on which the association becomes obligated with respect to the policies and contracts;

(B) With respect to nongroup policies, contracts, and annuities not later than the earlier of the next renewal date, if any, under the policies or contracts or one year, but in no event less than thirty days, from the date on which the association becomes obligated with respect to the policies or contracts;

(ii) Make diligent efforts to provide all known insureds, enrollees, or annuitants, for nongroup policies and contracts, or group policy or contract owners with respect to group policies and contracts, thirty days notice of the termination of the benefits provided;

(iii) With respect to nongroup ~~((life and disability insurance))~~ policies ~~((and annuities))~~ or contracts covered by the association, make diligent efforts to make available to each known insured, enrollee, or annuitant, or owner if other than the insured, enrollee, or annuitant, and with respect to an individual formerly insured, formerly an enrollee, or formerly an annuitant under a group policy who is not eligible for replacement group coverage, make diligent efforts to make available substitute coverage on an individual basis in accordance with the provisions of (b)(iv) of this subsection, if the insureds, enrollees, or annuitants had a right under law or the terminated policy or annuity to convert coverage to individual coverage or to continue an individual policy or annuity in force until a specified age or for a specified time, during which the member insurer, health care service contractor, or health maintenance organization had no right unilaterally to make changes in any provision of the policy, contract, or annuity or had a right only to make changes in premium by class;

(iv)(A) The substitute coverage under (b)(iii) of this subsection, must be offered through a solvent, admitted member insurer. In the alternative, the association in its discretion, and subject to any conditions imposed by the association and approved by the commissioner, may reissue the terminated coverage or issue an alternative policy or contract at actuarially justified rates, subject to the prior approval of the commissioner;

(B) Substituted coverage must be offered without requiring evidence of insurability, and may not provide for any waiting period or exclusion that would not have applied under the terminated policy or contract;

(C) The association may reinsure any alternative or reissued policy or contract;

(v) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy or contract, the premium must be actuarially justified and set by the association in accordance with the amount of insurance or coverage provided and the age and class of risk, subject to approval of the ~~((domiciliary insurance))~~ commissioner ~~((and the receivership court));~~

(vi) If the association elects to issue alternative coverage:

(A) Alternative policies or contracts adopted by the association must be subject to the approval of the commissioner. The association may adopt alternative policies or contracts of various types for future issuance without regard to any particular impairment or insolvency.

(B) Alternative policies or contracts must contain at least the minimum statutory provisions required in this state and provide benefits that cannot be unreasonable in relation to the premium charged. The association must set the premium in accordance with a table of rates that it must adopt. The premium must reflect the amount of insurance benefits or coverage to be provided and the age and class of risk of each insured, but must not reflect any changes in the health of the insured after the original policy or

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contract was last underwritten.

(C) Any alternative policy or contract issued by the association shall provide coverage of a type similar to that of the policy or contract issued by the impaired or insolvent insurer, as determined by the association.

(vii) The association's obligations with respect to coverage under any policy or contract of the impaired or insolvent insurer or under any reissued policy or contract cease on the date the coverage or policy or contract is replaced by another similar policy or contract by the policy or contract owner, the insured, the enrollee, or the association; or

~~((viii))~~ (viii) When proceeding under this subsection (2)(b) with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with RCW 48.32A.025(2)(b)(iii).

(3) Nonpayment of premiums within thirty-one days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage terminates the association's obligations under the policy, contract, or coverage under this chapter with respect to the policy, contract, or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this chapter.

(4) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer belong to and are payable at the direction of the association, and the association is liable for unearned premiums due to policy or contract owners arising after the entry of the order.

(5) The protection provided by this chapter does not apply when any guaranty protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(6) In carrying out its duties under subsection (2) of this section, the association may:

(a) Subject to approval by a court in this state, impose permanent policy or contract liens in connection with a guarantee, assumption, or reinsurance agreement, if the association finds that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the association's duties under this chapter, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens, are in the public interest; and

(b) Subject to approval by a court in this state, impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, the association may defer the payment of cash values, policy loans, or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(7) A deposit in this state, held pursuant to law or required by the commissioner for the benefit of creditors, including policy or contract owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of ~~((a))~~ a member insurer domiciled in this state or in a reciprocal state, under RCW 48.31.171, shall be

promptly paid to the association. The association is entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of policy or contract owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy or contract owners' claims in this state related to that insolvency and shall remit to the domiciliary receiver the amount so paid to the association and not retained under this subsection. Any amount so paid to the association less the amount not retained by it shall be treated as a distribution of estate assets under RCW 48.31.185 or similar provision of the state of domicile of the impaired or insolvent insurer.

(8) If the association fails to act within a reasonable period of time with respect to an insolvent insurer, as provided in subsection (2) of this section, the commissioner has the powers and duties of the association under this chapter with respect to the insolvent insurer.

(9) The association may render assistance and advice to the commissioner, upon the commissioner's request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of an impaired or insolvent insurer.

(10) The association has standing to appear or intervene before a court or agency in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this chapter or with jurisdiction over any person or property against which the association may have rights through subrogation or otherwise. Standing extends to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reissuing, reinsuring, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association also has the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise.

(11)(a) A person receiving benefits under this chapter is deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from, or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received because of this chapter, whether the benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative policies, contracts, or coverages. The association may require an assignment to it of such rights and cause of action by any enrollee, payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any right or benefits conferred by this chapter upon the person.

(b) The subrogation rights of the association under this subsection have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

(c) In addition to (a) and (b) of this subsection, the association has all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, enrollee, beneficiary, or payee of a policy or contract with respect to the policy or contracts, including without limitation, in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received under this chapter, against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or

payment therefor, excepting any such person responsible solely by reason of serving as an assignee in respect of a qualified assignment under section 130 of the United States Internal Revenue Code.

(d) If (a) through (c) of this subsection are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts, or portion thereof, covered by the association.

(e) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in this subsection, the person shall pay to the association the portion of the recovery attributable to the policies or contracts, or portion thereof, covered by the association.

(12) In addition to the rights and powers elsewhere in this chapter, the association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under RCW 48.32A.085 and to settle claims or potential claims against it;

(c) Borrow money to effect the purposes of this chapter; any notes or other evidence of indebtedness of the association not in default are legal investments for domestic insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary or appropriate to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this chapter;

(e) Take such legal action as may be necessary or appropriate to avoid or recover payment of improper claims;

(f) Exercise, for the purposes of this chapter and to the extent approved by the commissioner, the powers of a domestic life ~~((or))~~ insurer, disability insurer, health care service contractor, or health maintenance organization, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under this chapter;

(g) Organize itself as a corporation or in other legal form permitted by the laws of the state;

(h) Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request; ~~((and))~~

(i) In accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under this chapter; and

(j) Take other necessary or appropriate action to discharge its duties and obligations under this chapter or to exercise its powers under this chapter.

(13) The association may join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

(14)(a) At any time within one year after the coverage date, which is the date on which the association becomes responsible for the obligations of a member insurer, the association may elect to succeed to the rights and obligations of the member insurer, that accrue on or after the coverage date and that relate to policies, contracts, or annuities, covered~~((s))~~ in whole or in part~~((r))~~ by the association, under any one or more indemnity reinsurance agreements entered into by the member insurer as a ceding insurer and selected by the association. However, the association may not exercise an election with respect to a reinsurance agreement if the

receiver, rehabilitator, or liquidator of the member insurer has previously and expressly disaffirmed the reinsurance agreement. The election is effective when notice is provided to the receiver, rehabilitator, or liquidator and to the affected reinsurers. If the association makes an election, the following provisions apply with respect to the agreements selected by the association:

(i) The association is responsible for all unpaid premiums due under the agreements, for periods both before and after the coverage date, and is responsible for the performance of all other obligations to be performed after the coverage date, in each case which relate to policies, contracts, or annuities, covered~~((s))~~ in whole or in part~~((r))~~ by the association. The association may charge policies, contracts, or annuities, covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association;

(ii) The association is entitled to any amounts payable by the reinsurer under the agreements with respect to losses or events that occur in periods after the coverage date and that relate to policies, contracts, or annuities, covered by the association~~((s))~~ in whole or in part. However, upon receipt of any such amounts, the association is obliged to pay to the beneficiary under the policy ~~((or))~~ contract, or annuity on account of which the amounts were paid a portion of the amount equal to the excess of: The amount received by the association, over the benefits paid by the association on account of the policy ~~((or))~~ contract, or annuity, less the retention of the impaired or insolvent member insurer applicable to the loss or event;

(iii) Within thirty days following the association's election, the association and each indemnity reinsurer shall calculate the net balance due to or from the association under each reinsurance agreement as of the date of the association's election, giving full credit to all items paid by either the member insurer, or its receiver, rehabilitator, or liquidator, or the indemnity reinsurer during the period between the coverage date and the date of the association's election. Either the association or indemnity reinsurer shall pay the net balance due the other within five days of the completion of this calculation. If the receiver, rehabilitator, or liquidator has received any amounts due the association pursuant to (a)(ii) of this subsection, the receiver, rehabilitator, or liquidator shall remit the same to the association as promptly as practicable; and

(iv) If the association, within sixty days of the election, pays the premiums due for periods both before and after the coverage date that relate to policies, contracts, or annuities, covered by the association~~((s))~~ in whole or in part, the reinsurer is not entitled to terminate the reinsurance agreements, insofar as the agreements relate to policies, contracts, or annuities, covered by the association~~((s))~~ in whole or in part, and is not entitled to set off any unpaid premium due for periods prior to the coverage date against amounts due the association;

(b) In the event the association transfers its obligations to another member insurer, and if the association and the other member insurers agree, the other member insurer succeeds to the rights and obligations of the association under (a) of this subsection effective as of the date agreed upon by the association and the other member insurers and regardless of whether the association has made the election referred to in (a) of this subsection. However:

(i) The indemnity reinsurance agreements automatically terminate for new reinsurance unless the indemnity reinsurer and the other member insurers agree to the contrary;

(ii) The obligations described in (a)(ii) of this subsection no longer apply on and after the date the indemnity reinsurance agreement is transferred to the third party member insurer; and

(iii) This subsection (14)(b) does not apply if the association has previously expressly determined in writing that it will not

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exercise the election referred to in (a) of this subsection;

(c) The provisions of this subsection supersede the provisions of any law of this state or of any affected reinsurance agreement that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the insolvent (~~(member)~~) insurer. The receiver, rehabilitator, or liquidator remains entitled to any amounts payable by the reinsurer under the reinsurance agreement with respect to losses or events that occur in periods prior to the coverage date, subject to applicable setoff provisions; and

(d) Except as set forth under this subsection, this subsection does not alter or modify the terms and conditions of the indemnity reinsurance agreements of the insolvent (~~(member)~~) insurer. This subsection does not abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance agreement. This subsection does not give a policy or contract owner, an enrollee, or a beneficiary an independent cause of action against an indemnity reinsurer that is not otherwise set forth in the indemnity reinsurance agreement.

(15) The board of directors of the association has discretion and may exercise reasonable business judgment to determine the means by which the association provides the benefits of this chapter in an economical and efficient manner.

(16) When the association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person is not entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(17) Venue in a suit against the association arising under this chapter is in the county in which liquidation or rehabilitation proceedings have been filed in the case of a domestic member insurer. In other cases, venue is in King county or Thurston county. The association is not required to give an appeal bond in an appeal that relates to a cause of action arising under this chapter.

(18) In carrying out its duties in connection with guaranteeing, assuming, reissuing, or reinsuring policies or contracts under subsection (1) or (2) of this section, the association may (~~(subject to approval of the receivership court.)~~) issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

(a) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for: (i) A fixed interest rate; (ii) payment of dividends with minimum guarantees; or (iii) a different method for calculating interest or changes in value;

(b) There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract; and

(c) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

Sec. 7. RCW 48.32A.085 and 2001 c 50 s 9 are each amended to read as follows:

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments are due not less than thirty days after prior written notice to the member insurers and accrue interest at twelve percent per annum on and after the due date.

(2) There are two classes of assessments, as follows:

(a) Class A assessments are authorized and called for the purpose of meeting administrative and legal costs and other expenses. Class A assessments may be authorized and called whether or not related to a particular impaired or insolvent insurer; and

(b) Class B assessments are authorized and called to the extent necessary to carry out the powers and duties of the association under RCW 48.32A.075 with regard to an impaired or an insolvent insurer.

(3)(a) The amount of a class A assessment is determined by the board and may be authorized and called on a pro rata or nonpro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. (~~(The total of all nonpro rata assessments may not exceed one hundred fifty dollars per member insurer in any one calendar year.)~~)

(b) The amount of a class B assessment (~~(may)~~), except for assessments related to long-term care insurance, must be allocated for assessment purposes (~~(among)~~) between the accounts and among the subaccounts of the life insurance and annuity accounts, pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard determined by the board to be fair and reasonable under the circumstances.

(~~(b))~~ (c) The amount of the class B assessment for long-term care insurance written by an impaired or insolvent insurer must be allocated according to a methodology included in the plan of operation and approved by the commissioner. The methodology must provide for fifty percent of the assessment to be allocated to disability and health member insurers and fifty percent to be allocated to life and annuity member insurers.

(d) Class B assessments against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became insolvent or, in the case of an assessment with respect to an impaired insurer, the three most recent calendar years for which information is available preceding the year in which the insurer became impaired, bears to premiums received on business in this state for those calendar years by all assessed member insurers.

(~~(e))~~ (e) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer may not be authorized or called until necessary to implement the purposes of this chapter. Classification of assessments under subsection (2) of this section and computation of assessments under this subsection must be made with a reasonable degree of accuracy, recognizing that exact determinations are not always possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within one hundred eighty days after the assessment is authorized.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred pursuant to a repayment plan approved by the association.

(5)(a)(i) Subject to the provisions of (a)(ii) of this subsection, the total of all assessments authorized by the association with respect to a member insurer for each subaccount of the life insurance and annuity account and for the ~~((health))~~ disability insurance account may not in one calendar year exceed two percent of that member insurer's average annual premiums received in this state on the policies and contracts covered by the subaccount or account during the three calendar years preceding the year in which the insurer became an impaired or insolvent insurer.

(ii) If two or more assessments are authorized in one calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation in (a)(i) of this subsection must be equal and limited to the higher of the three-year average annual premiums for the applicable subaccount or account as calculated under this section.

(iii) If the maximum assessment, together with the other assets of the association in an account, does not provide in one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds must be assessed as soon thereafter as permitted by this chapter.

(b) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment is insufficient to cover anticipated claims.

(c) If the maximum assessment for a subaccount of the life and annuity account in one year does not provide an amount sufficient to carry out the responsibilities of the association, then under subsection (3)~~((b))~~ (d) of this section, the board shall access the other subaccounts of the life and annuity account for the necessary additional amount, subject to the maximum stated in (a) of this subsection.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each member insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses claims.

(7) Any member insurer may when determining its premium rates and policy owner dividends, as to any kind of insurance, health care service contractor business, or health maintenance organization business within the scope of this chapter, consider the amount reasonably necessary to meet its assessment obligations under this chapter.

(8) The association shall issue to each member insurer paying an assessment under this chapter, other than a class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment paid. All outstanding certificates must be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

(9)(a) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment is available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment must be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for

the protest.

(b) Within sixty days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(c) Within thirty days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within sixty days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the commissioner.

(d) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the commissioner for a final decision, with or without a recommendation from the association.

(e) If the protest or appeal on the assessment is upheld, the amount paid in error or excess must be returned to the member ~~((company))~~ insurer. Interest on a refund due a protesting member must be paid at the rate actually earned by the association.

(10) The association may request information of member insurers in order to aid in the exercise of its power under this section and member insurers shall promptly comply with a request.

Sec. 8. RCW 48.32A.095 and 2001 c 50 s 10 are each amended to read as follows:

(1)(a) The association shall submit to the commissioner a plan of operation and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments are effective upon the commissioner's written approval or unless it has not been disapproved within thirty days.

(b) If the association fails to submit a suitable plan of operation within one hundred twenty days following July 22, 2001, or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt reasonable rules as necessary or advisable to effectuate the provisions of this chapter. The rules continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(2) All member insurers shall comply with the plan of operation.

(3) The plan of operation must, in addition to requirements enumerated elsewhere in this chapter:

(a) Establish procedures for handling the assets of the association;

(b) Establish the amount and method of reimbursing members of the board of directors under RCW 48.32A.065;

(c) Establish regular places and times for meetings including telephone conference calls of the board of directors;

(d) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(e) Establish the procedures whereby selections for the board of directors are made and submitted to the commissioner;

(f) Establish any additional procedures for assessments under RCW 48.32A.085; ~~((and))~~

(g) Establish procedures whereby a director may be removed for cause, including in the case where a member insurer becomes an impaired or insolvent insurer;

(h) Require the board of directors to establish policies and procedures for addressing conflicts of interests among the board of directors and the member insurers they represent; and

(i) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(4) The plan of operation may provide that any or all powers

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and duties of the association, except those under RCW 48.32A.075(12)(c) and 48.32A.085, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization must be reimbursed for any payments made on behalf of the association and must be paid for its performance of any function of the association. A delegation under this subsection takes effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this chapter.

Sec. 9. RCW 48.32A.115 and 2001 c 50 s 12 are each amended to read as follows:

The commissioner shall aid in the detection and prevention of member insurer insolvencies or impairments.

(1) It is the duty of the commissioner to:

(a) Notify the commissioners of all the other states, territories of the United States, and the District of Columbia within thirty days following the action taken or the date the action occurs, when the commissioner takes any of the following actions against a member insurer:

- (i) Revocation of license;
- (ii) Suspension of license; or

(iii) Makes a formal order that the ~~((company))~~ member insurer restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policy owners, certificate holders, contract owners, or creditors;

(b) Report to the board of directors when the commissioner has taken any of the actions set forth in (a) of this subsection or has received a report from any other commissioner indicating that any such action has been taken in another state. The report to the board of directors must contain all significant details of the action taken or the report received from another commissioner;

(c) Report to the board of directors when the commissioner has reasonable cause to believe from an examination, whether completed or in process, of any member insurer that the insurer may be an impaired or insolvent insurer; and

(d) Furnish to the board of directors the national association of insurance commissioners insurance regulatory information system ratios and listings of companies not included in the ratios developed by the national association of insurance commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. The report and the information must be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(2) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting the duties and responsibilities of the commissioner regarding the financial condition of member insurers and ~~((companies))~~ insurers, health care service contractors, or health maintenance organizations seeking admission to transact ~~((insurance))~~ business in this state.

(3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any ~~((company))~~ insurer, health care service contractor, or health maintenance organization seeking to do ~~((an insurance))~~ business in this state. The reports and recommendations are not public documents.

(4) The board of directors may, upon majority vote, notify the commissioner of any information indicating a member insurer may be an impaired or insolvent insurer.

(5) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of member insurer insolvencies.

Sec. 10. RCW 48.32A.135 and 2001 c 50 s 14 are each amended to read as follows:

(1) This chapter does not reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(2) Records must be kept of all meetings of the board of directors to discuss the activities of the association in carrying out its powers and duties under RCW 48.32A.075. The records of the association with respect to an impaired or insolvent insurer may not be disclosed prior to the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the association to render a report of its activities under RCW 48.32A.145.

(3) For the purpose of carrying out its obligations under this chapter, the association is a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee under RCW 48.32A.075(11). Assets of the impaired or insolvent insurer attributable to covered policies must be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter. Assets attributable to covered policies, as used in this subsection, are that proportion of the assets which the reserves that should have been established for such policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(4) As a creditor of the impaired or insolvent insurer as established in subsection (3) of this section, the association and other similar associations are entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this chapter. If the liquidator has not, within one hundred twenty days of a final determination of insolvency of ~~((an))~~ a member insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the association is entitled to make application to the receivership court for approval of its own proposal to disburse these assets.

(5)(a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, ~~((the))~~ shareholders, contract owners, certificate holders, enrollees, and ~~((the))~~ policy owners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the insolvent insurer. In such a determination, consideration must be given to the welfare of the policy owners, contract owners, certificate holders, and enrollees of the continuing or successor member insurer.

(b) A distribution to stockholders, if any, of an impaired or insolvent insurer shall not be made until and unless the total amount of valid claims of the association with interest thereon for funds expended in carrying out its powers and duties under RCW 48.32A.075 with respect to the member insurer have been fully recovered by the association.

(6)(a) If an order for liquidation or rehabilitation of ~~((an))~~ a member insurer domiciled in this state has been entered, the receiver appointed under the order has a right to recover on behalf of the member insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of (b) through (d) of this subsection.

(b) A distribution is not recoverable if the member insurer shows that when paid the distribution was lawful and reasonable, and that the member insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the member insurer to fulfill its contractual obligations.

(c) Any person who was an affiliate that controlled the member insurer at the time the distributions were paid is liable up to the amount of distributions received. Any person who was an affiliate that controlled the member insurer at the time the distributions were declared, is liable up to the amount of distributions which would have been received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they are jointly and severally liable.

(d) The maximum amount recoverable under this subsection is the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

(e) If any person liable under (c) of this subsection is insolvent, all its affiliates that controlled it at the time the distribution was paid are jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

Sec. 11. RCW 48.32A.175 and 2001 c 50 s 18 are each amended to read as follows:

All proceedings in which the insolvent insurer is a party in any court in this state are stayed ~~((sixty))~~ one hundred eighty days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on any matters germane to its powers or duties. As to judgment under any decision, order, verdict, or finding based on default the association may apply to have such a judgment set aside by the same court that made such a judgment and must be permitted to defend against the suit on the merits.

Sec. 12. RCW 48.32A.185 and 2005 c 274 s 313 are each amended to read as follows:

(1) No person, including ~~((an))~~ a member insurer, agent, or affiliate of ~~((an))~~ a member insurer may make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement, written or oral, which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance or other coverage covered by the Washington life and disability insurance guaranty association act. However, this section does not apply to the Washington life and disability insurance guaranty association or any other entity which does not sell or solicit insurance or coverage by a health care service contractor or health maintenance organization.

(2) ~~((Within one hundred eighty days after July 22, 2001, the))~~ The association shall prepare a summary document describing the general purposes and current limitations of this chapter and complying with subsection (3) of this section. This summary document must be submitted to the commissioner for approval. The summary document must also be available upon request by a

policy owner, contract owner, certificate owner, or enrollee. The distribution, delivery, contents, or interpretation of this document does not guarantee that either the policy or the contract or the ~~((owner of the policy or contract))~~ policy owner, contract owner, certificate holder, or enrollee is covered in the event of the impairment or insolvency of a member insurer. The ~~((description))~~ summary document must be revised by the association as amendments to this chapter may require. Failure to receive this document does not give the policy owner, contract owner, certificate holder, enrollee, or insured any greater rights than those stated in this chapter.

(3) The summary document prepared under subsection (2) of this section must contain a clear and conspicuous disclaimer on its face. The commissioner shall establish the form and content of the disclaimer. The disclaimer must:

(a) State the name and address of the life and disability insurance guaranty association and insurance department;

(b) Prominently warn the ~~((policy or contract owner))~~ policy owner, contract owner, certificate holder, or enrollee that the life and disability insurance guaranty association may not cover the policy or contract or, if coverage is available, it is subject to substantial limitations and exclusions and conditioned on continued residence in this state;

(c) State the types of policies or contracts for which guaranty funds provide coverage;

(d) State that the member insurer and its agents are prohibited by law from using the existence of the life and disability insurance guaranty association for the purpose of sales, solicitation, or inducement to purchase any form of insurance, health care service contractor coverage, or health maintenance organization coverage;

(e) State that the policy ~~((or))~~ owner, contract owner, certificate holder, insured, or enrollee should not rely on coverage under the life and disability insurance guaranty association when selecting an insurer, health care service contractor, or health maintenance organization;

(f) Explain rights available and procedures for filing a complaint to allege a violation of any provisions of this chapter; and

(g) Provide other information as directed by the commissioner including but not limited to, sources for information about the financial condition of member insurers provided that the information is not proprietary and is subject to disclosure under chapter 42.56 RCW.

(4) A member insurer must retain evidence of compliance with subsection (2) of this section for as long as the policy or contract for which the notice is given remains in effect."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Cleveland moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6050 and ask the House to recede therefrom.

Senators Cleveland and O'Ban spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Cleveland that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6050 and ask the House to recede therefrom.

The motion by Senator Cleveland carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6050 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6280 with the following amendment(s): 6280-S.E AMH ENGR H5405.E

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that:

(1) Unconstrained use of facial recognition services by state and local government agencies poses broad social ramifications that should be considered and addressed. Accordingly, legislation is required to establish safeguards that will allow state and local government agencies to use facial recognition services in a manner that benefits society while prohibiting uses that threaten our democratic freedoms and put our civil liberties at risk.

(2) However, state and local government agencies may use facial recognition services in a variety of beneficial ways, such as locating missing or incapacitated persons, identifying victims of crime, and keeping the public safe.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accountability report" means a report developed in accordance with section 3 of this act.

(2) "Enroll," "enrolled," or "enrolling" means the process by which a facial recognition service creates a facial template from one or more images of an individual and adds the facial template to a gallery used by the facial recognition service for recognition or persistent tracking of individuals. It also includes the act of adding an existing facial template directly into a gallery used by a facial recognition service.

(3)(a) "Facial recognition service" means technology that analyzes facial features and is used by a state or local government agency for the identification, verification, or persistent tracking of individuals in still or video images.

(b) "Facial recognition service" does not include: (i) The analysis of facial features to grant or deny access to an electronic device; or (ii) the use of an automated or semiautomated process for the purpose of redacting a recording for release or disclosure outside the law enforcement agency to protect the privacy of a subject depicted in the recording, if the process does not generate or result in the retention of any biometric data or surveillance information.

(4) "Facial template" means the machine-interpretable pattern of facial features that is extracted from one or more images of an individual by a facial recognition service.

(5) "Identification" means the use of a facial recognition service by a state or local government agency to determine whether an unknown individual matches any individual whose identity is known to the state or local government agency and who has been enrolled by reference to that identity in a gallery used by the facial recognition service.

(6) "Legislative authority" means the respective city, county, or other local governmental agency's council, commission, or other body in which legislative powers are vested. For a port district, the legislative authority refers to the port district's port commission. For an airport established pursuant to chapter 14.08 RCW and operated by a board, the legislative authority refers to the airport's board. For a state agency, "legislative authority" refers to the technology services board created in RCW 43.105.285.

(7) "Meaningful human review" means review or oversight by one or more individuals who are trained in accordance with section 8 of this act and who have the authority to alter the decision under review.

(8) "Nonidentifying demographic data" means data that is not linked or reasonably linkable to an identified or identifiable individual, and includes, at a minimum, information about gender, race or ethnicity, age, and location.

(9) "Ongoing surveillance" means using a facial recognition service to track the physical movements of a specified individual through one or more public places over time, whether in real time or through application of a facial recognition service to historical records. It does not include a single recognition or attempted recognition of an individual, if no attempt is made to subsequently track that individual's movement over time after they have been recognized.

(10) "Persistent tracking" means the use of a facial recognition service by a state or local government agency to track the movements of an individual on a persistent basis without identification or verification of that individual. Such tracking becomes persistent as soon as:

(a) The facial template that permits the tracking is maintained for more than forty-eight hours after first enrolling that template; or

(b) Data created by the facial recognition service is linked to any other data such that the individual who has been tracked is identified or identifiable.

(11) "Recognition" means the use of a facial recognition service by a state or local government agency to determine whether an unknown individual matches:

(a) Any individual who has been enrolled in a gallery used by the facial recognition service; or

(b) A specific individual who has been enrolled in a gallery used by the facial recognition service.

(12) "Serious criminal offense" means any offense defined under RCW 9.94A.030 (26), (33), (42), (43), (47), or (56).

(13) "Verification" means the use of a facial recognition service by a state or local government agency to determine whether an individual is a specific individual whose identity is known to the state or local government agency and who has been enrolled by reference to that identity in a gallery used by the facial recognition service.

NEW SECTION. Sec. 3. (1) A state or local government agency using or intending to develop, procure, or use a facial recognition service must file with a legislative authority a notice of intent to develop, procure, or use a facial recognition service and specify a purpose for which the technology is to be used. A state or local government agency may commence the accountability report required in this section only upon the approval of the notice of intent by the legislative authority.

(2) Prior to developing, procuring, or using a facial recognition service, a state or local government agency must produce an accountability report for that service. Each accountability report must include, at minimum, clear and understandable statements of the following:

(a)(i) The name of the facial recognition service, vendor, and version; and (ii) a description of its general capabilities and limitations, including reasonably foreseeable capabilities outside the scope of the proposed use of the agency;

(b)(i) The type or types of data inputs that the technology uses; (ii) how that data is generated, collected, and processed; and (iii) the type or types of data the system is reasonably likely to generate;

(c)(i) A description of the purpose and proposed use of the facial recognition service, including what decision or decisions

will be used to make or support it; (ii) whether it is a final or support decision system; and (iii) its intended benefits, including any data or research demonstrating those benefits;

(d) A clear use and data management policy, including protocols for the following:

(i) How and when the facial recognition service will be deployed or used and by whom including, but not limited to, the factors that will be used to determine where, when, and how the technology is deployed, and other relevant information, such as whether the technology will be operated continuously or used only under specific circumstances. If the facial recognition service will be operated or used by another entity on the agency's behalf, the facial recognition service accountability report must explicitly include a description of the other entity's access and any applicable protocols;

(ii) Any measures taken to minimize inadvertent collection of additional data beyond the amount necessary for the specific purpose or purposes for which the facial recognition service will be used;

(iii) Data integrity and retention policies applicable to the data collected using the facial recognition service, including how the agency will maintain and update records used in connection with the service, how long the agency will keep the data, and the processes by which data will be deleted;

(iv) Any additional rules that will govern use of the facial recognition service and what processes will be required prior to each use of the facial recognition service;

(v) Data security measures applicable to the facial recognition service including how data collected using the facial recognition service will be securely stored and accessed, if and why an agency intends to share access to the facial recognition service or the data from that facial recognition service with any other entity, and the rules and procedures by which an agency sharing data with any other entity will ensure that such entities comply with the sharing agency's use and data management policy as part of the data sharing agreement;

(vi) How the facial recognition service provider intends to fulfill security breach notification requirements pursuant to chapter 19.255 RCW and how the agency intends to fulfill security breach notification requirements pursuant to RCW 42.56.590; and

(vii) The agency's training procedures, including those implemented in accordance with section 8 of this act, and how the agency will ensure that all personnel who operate the facial recognition service or access its data are knowledgeable about and able to ensure compliance with the use and data management policy prior to use of the facial recognition service;

(e) The agency's testing procedures, including its processes for periodically undertaking operational tests of the facial recognition service in accordance with section 6 of this act;

(f) Information on the facial recognition service's rate of false matches, potential impacts on protected subpopulations, and how the agency will address error rates, determined independently, greater than one percent;

(g) A description of any potential impacts of the facial recognition service on civil rights and liberties, including potential impacts to privacy and potential disparate impacts on marginalized communities, and the specific steps the agency will take to mitigate the potential impacts and prevent unauthorized use of the facial recognition service; and

(h) The agency's procedures for receiving feedback, including the channels for receiving feedback from individuals affected by the use of the facial recognition service and from the community at large, as well as the procedures for responding to feedback.

(3) Prior to finalizing the accountability report, the agency must:

(a) Allow for a public review and comment period;

(b) Hold at least three community consultation meetings; and
(c) Consider the issues raised by the public through the public review and comment period and the community consultation meetings.

(4) The final accountability report must be adopted by a legislative authority in a public meeting before the agency may develop, procure, or use a facial recognition service.

(5) The final adopted accountability report must be clearly communicated to the public at least ninety days prior to the agency putting the facial recognition service into operational use, posted on the agency's public web site, and submitted to the consolidated technology services agency established in RCW 43.105.006. The consolidated technology services agency must post each submitted accountability report on its public web site.

(6) A state or local government agency seeking to procure a facial recognition service must require vendors to disclose any complaints or reports of bias regarding the service.

(7) An agency seeking to use a facial recognition service for a purpose not disclosed in the agency's existing accountability report must first seek public comment and community consultation on the proposed new use and adopt an updated accountability report pursuant to the requirements contained in this section.

(8) A state or local government agency that is using a facial recognition service as of the effective date of this section must suspend its use of the service until it complies with the requirements of this chapter.

NEW SECTION. Sec. 4. (1) State and local government agencies using a facial recognition service are required to prepare and publish an annual report that discloses:

(a) The extent and effectiveness of their use of such services, including nonidentifying demographic data about individuals subjected to a facial recognition service;

(b) An assessment of compliance with the terms of their accountability report;

(c) Any known or reasonably suspected violations of their accountability report, including categories of complaints alleging violations; and

(d) Any revisions to the accountability report recommended by the agency during the next update of the policy.

(2) The annual report must be submitted to the office of privacy and data protection.

(3) All agencies must hold community meetings to review and discuss their annual report within sixty days of its adoption by a legislative authority and public release.

NEW SECTION. Sec. 5. State and local government agencies using a facial recognition service to make decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals must ensure that those decisions are subject to meaningful human review. Decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals means decisions that result in the provision or denial of financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care services, or access to basic necessities such as food and water, or that impact civil rights of individuals.

NEW SECTION. Sec. 6. Prior to deploying a facial recognition service in the context in which it will be used, state and local government agencies using a facial recognition service to make decisions that produce legal effects on individuals or similarly significant effect on individuals must test the facial recognition service in operational conditions. State and local government agencies must take reasonable steps to ensure best quality results by following all guidance provided by the

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developer of the facial recognition service.

NEW SECTION. Sec. 7. (1)(a) A facial recognition service provider that provides or intends to provide facial recognition services to state or local government agencies must make available an application programming interface or other technical capability, chosen by the provider, to enable legitimate, independent, and reasonable tests of those facial recognition services for accuracy and unfair performance differences across distinct subpopulations. Such subpopulations are defined by visually detectable characteristics such as: (i) Race, skin tone, ethnicity, gender, age, or disability status; or (ii) other protected characteristics that are objectively determinable or self-identified by the individuals portrayed in the testing dataset. If the results of the independent testing identify material unfair performance differences across subpopulations, the provider must develop and implement a plan to mitigate the identified performance differences.

(b) Making an application programming interface or other technical capability does not require providers to do so in a manner that would increase the risk of cyberattacks or to disclose proprietary data. Providers bear the burden of minimizing these risks when making an application programming interface or other technical capability available for testing.

(2) Nothing in this section requires a state or local government to collect or provide data to a facial recognition service provider to satisfy the requirements in subsection (1) of this section.

NEW SECTION. Sec. 8. State and local government agencies using a facial recognition service must conduct periodic training of all individuals who operate a facial recognition service or who process personal data obtained from the use of a facial recognition service. The training must include, but not be limited to, coverage of:

(1) The capabilities and limitations of the facial recognition service;

(2) Procedures to interpret and act on the output of the facial recognition service; and

(3) To the extent applicable to the deployment context, the meaningful human review requirement for decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals.

NEW SECTION. Sec. 9. (1) State and local government agencies must disclose their use of a facial recognition service on a criminal defendant to that defendant in a timely manner prior to trial.

(2) State and local government agencies using a facial recognition service shall maintain records of their use of the service that are sufficient to facilitate public reporting and auditing of compliance with agencies' facial recognition policies.

(3) In January of each year, any judge who has issued a warrant for the use of a facial recognition service to engage in any surveillance, or an extension thereof, as described in section 13(1) of this act, that expired during the preceding year, or who has denied approval of such a warrant during that year shall report to the administrator for the courts:

(a) The fact that a warrant or extension was applied for;

(b) The fact that the warrant or extension was granted as applied for, was modified, or was denied;

(c) The period of surveillance authorized by the warrant and the number and duration of any extensions of the warrant;

(d) The identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application; and

(e) The nature of the public spaces where the surveillance was conducted.

(4) In January of each year, any state or local government

agency that has applied for a warrant, or an extension thereof, for the use of a facial recognition service to engage in any surveillance as described in section 13(1) of this act shall provide to a legislative authority a report summarizing nonidentifying demographic data of individuals named in warrant applications as subjects of surveillance with the use of a facial recognition service.

NEW SECTION. Sec. 10. This chapter does not apply to a state or local government agency that is mandated to use a specific facial recognition service pursuant to a federal regulation or order, or that are undertaken through partnership with a federal agency to fulfill a congressional mandate. A state or local government agency must report the mandated use of a facial recognition service to a legislative authority.

NEW SECTION. Sec. 11. (1) Any person who has been subjected to a facial recognition service in violation of this chapter or about whom information has been obtained, retained, accessed, or used in violation of this chapter, may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this chapter.

(2) A court shall award costs and reasonable attorneys' fees to a prevailing plaintiff in an action brought under subsection (1) of this section.

NEW SECTION. Sec. 12. (1)(a) The William D. Ruckelshaus center must establish a facial recognition task force, with members as provided in this subsection.

(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;

(iii) Eight representatives from advocacy organizations that represent individuals or protected classes of communities historically impacted by surveillance technologies including, but not limited to, African American, Hispanic American, Native American, Pacific Islander American, and Asian American communities, religious minorities, protest and activist groups, and other vulnerable communities;

(iv) Two members from law enforcement or other agencies of government;

(v) One representative from a retailer or other company who deploys facial recognition services in physical premises open to the public;

(vi) Two representatives from consumer protection organizations;

(vii) Two representatives from companies that develop and provide facial recognition services; and

(viii) Two representatives from universities or research institutions who are experts in either facial recognition services or their sociotechnical implications, or both.

(b) The task force shall choose two cochairs from among its legislative membership.

(2) The task force shall review the following issues:

(a) Provide recommendations addressing the potential abuses and threats posed by the use of a facial recognition service to civil liberties and freedoms, privacy and security, and discrimination against vulnerable communities, as well as other potential harm, while also addressing how to facilitate and encourage the continued development of a facial recognition service so that individuals, businesses, government, and other stakeholders in society continue to utilize its benefits;

(b) Provide recommendations regarding the adequacy and effectiveness of applicable Washington state laws; and

(c) Conduct a study on the quality, accuracy, and efficacy of a

facial recognition service including, but not limited to, its quality, accuracy, and efficacy across different subpopulations.

(3) Legislative members of the task force are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(4) The task force shall report its findings and recommendations to the governor and the appropriate committees of the legislature by September 30, 2021.

(5) This section expires September 30, 2022.

NEW SECTION. Sec. 13. A new section is added to chapter 9.73 RCW to read as follows:

(1) State and local government agencies may not use a facial recognition service to engage in any surveillance including, but not limited to, engaging in ongoing surveillance, creating a facial template, conducting an identification, starting persistent surveillance, or performing a recognition, without a warrant, unless exigent circumstances exist. A warrant is not required if a facial recognition service is used solely for purposes of locating a missing child or identifying a deceased person.

(2) State and local government agencies must not apply a facial recognition service to any individual based on their religious, political, or social views or activities, participation in a particular noncriminal organization or lawful event, or actual or perceived race, ethnicity, citizenship, place of origin, immigration status, age, disability, gender, gender identity, sexual orientation, or other characteristic protected by law. This subsection does not condone profiling including, but not limited to, predictive law enforcement tools.

(3) State and local government agencies may not use a facial recognition service to create a record describing any individual's exercise of rights guaranteed by the First Amendment of the United States Constitution and by Article I, section 5 of the state Constitution.

(4) Law enforcement agencies that utilize body worn camera recordings shall comply with the provisions of RCW 42.56.240(14).

(5) State and local law enforcement agencies may not use the results of a facial recognition service as the sole basis to establish probable cause in a criminal investigation. The results of a facial recognition service may be used in conjunction with other information and evidence lawfully obtained by a law enforcement officer to establish probable cause in a criminal investigation.

(6) State and local law enforcement agencies may not use a facial recognition service to identify an individual based on a sketch or other manually produced image.

(7) State and local law enforcement agencies may not substantively manipulate an image for use in a facial recognition service in a manner not consistent with the facial recognition service provider's intended use and training.

NEW SECTION. Sec. 14. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Consumer" means a natural person who is a Washington resident.

(2) "Controller" means the natural or legal person which, alone or jointly with others, determines the purposes and means of the processing of personal data.

(3) "Enroll," "enrolled," or "enrolling" means the process by which a facial recognition service creates a facial template from one or more images of a consumer and adds the facial template to a gallery used by the facial recognition service for identification, verification, or persistent tracking of consumers. It also includes

the act of adding an existing facial template directly into a gallery used by a facial recognition service.

(4) "Facial recognition service" means technology that analyzes facial features and is used for the identification, verification, or persistent tracking of consumers in still or video images.

(5) "Facial template" means the machine-interpretable pattern of facial features that is extracted from one or more images of an individual by a facial recognition service.

(6) "Identification" means the use of a facial recognition service by a controller to determine whether an unknown consumer matches any consumer whose identity is known to the controller and who has been enrolled by reference to that identity in a gallery used by the facial recognition service.

(7) "Meaningful human review" means review or oversight by one or more individuals who are trained in accordance with section 15(8) of this act and who have the authority to alter the decision under review.

(8) "Persistent tracking" means the use of a facial recognition service to track the movements of a consumer on a persistent basis without identification or verification of that consumer. Such tracking becomes persistent as soon as:

(a) The facial template that permits the tracking uses a facial recognition service for more than forty-eight hours after the first enrolling of that template; or

(b) The data created by the facial recognition service in connection with the tracking of the movements of the consumer are linked to any other data such that the consumer who has been tracked is identified or identifiable.

(9) "Personal data" means any information that is linked or reasonably linkable to an identified or identifiable natural person. "Personal data" does not include deidentified data or publicly available information.

(10) "Processor" means a natural or legal person who processes personal data on behalf of a controller.

(11) "Recognition" means the use of a facial recognition service to determine whether:

(a) An unknown consumer matches any consumer who has been enrolled in a gallery used by the facial recognition service; or

(b) An unknown consumer matches a specific consumer who has been enrolled in a gallery used by the facial recognition service.

(12) "Verification" means the use of a facial recognition service by a controller to determine whether a consumer is a specific consumer whose identity is known to the controller and who has been enrolled by reference to that identity in a gallery used by the facial recognition service.

NEW SECTION. Sec. 15. (1)(a) Processors that provide facial recognition services must make available an application programming interface or other technical capability, chosen by the processor, to enable controllers or third parties to conduct legitimate, independent, and reasonable tests of those facial recognition services for accuracy and unfair performance differences across distinct subpopulations. Such subpopulations are defined by visually detectable characteristics, such as (i) race, skin tone, ethnicity, gender, age, or disability status, or (ii) other protected characteristics that are objectively determinable or self-identified by the individuals portrayed in the testing dataset. If the results of that independent testing identify material unfair performance differences across subpopulations, the processor must develop and implement a plan to mitigate the identified performance differences. Nothing in this subsection prevents a processor from prohibiting the use of the processor's facial recognition service by a competitor for competitive purposes.

(b) Making an application programming interface or other

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technical capability does not require processors to do so in a manner that would increase the risk of cyberattacks or to disclose proprietary data. Processors bear the burden of minimizing these risks when making an application programming interface or other technical capability available for testing.

(2) Processors that provide facial recognition services must provide documentation that includes general information that:

(a) Explains the capabilities and limitations of the services in plain language; and

(b) Enables testing of the services in accordance with this section.

(3) Processors that provide facial recognition services must prohibit by contract the use of facial recognition services by controllers to unlawfully discriminate under federal or state law against individual consumers or groups of consumers.

(4) Controllers must provide a conspicuous and contextually appropriate notice whenever a facial recognition service is deployed in a physical premise open to the public that includes, at minimum, the following:

(a) The purpose or purposes for which the facial recognition service is deployed; and

(b) Information about where consumers can obtain additional information about the facial recognition service including, but not limited to, a link to any applicable online notice, terms, or policy that provides information about where and how consumers can exercise any rights that they have with respect to the facial recognition service.

(5) Controllers must obtain consent from a consumer prior to enrolling an image of that consumer in a facial recognition service used in a physical premise open to the public.

(6) Controllers using a facial recognition service to make decisions that produce legal effects on consumers or similarly significant effects on consumers must ensure that those decisions are subject to meaningful human review.

(7) Prior to deploying a facial recognition service in the context in which it will be used, controllers using a facial recognition service to make decisions that produce legal effects on consumers or similarly significant effects on consumers must test the facial recognition service in operational conditions. Controllers must take commercially reasonable steps to ensure best quality results by following all reasonable guidance provided by the developer of the facial recognition service.

(8) Controllers using a facial recognition service must conduct periodic training of all individuals that operate a facial recognition service or that process personal data obtained from the use of facial recognition services. Such training shall include, but not be limited to, coverage of:

(a) The capabilities and limitations of the facial recognition service;

(b) Procedures to interpret and act on the output of the facial recognition service; and

(c) The meaningful human review requirement for decisions that produce legal effects on consumers or similarly significant effects on consumers, to the extent applicable to the deployment context.

(9) Controllers shall not knowingly disclose personal data obtained from a facial recognition service to a law enforcement agency, except when such disclosure is:

(a) Pursuant to the consent of the consumer to whom the personal data relates;

(b) Required by federal, state, or local law in response to a warrant;

(c) Necessary to prevent or respond to an emergency involving danger of death or serious physical injury to any person, upon a good faith belief by the controller; or

(d) To the national center for missing and exploited children, in connection with a report submitted thereto under Title 18 U.S.C. Sec. 2258A.

(10) Voluntary facial recognition services used to verify an aviation passenger's identity in connection with services regulated by the secretary of transportation under Title 49 U.S.C. Sec. 41712 and exempt from state regulation under Title 49 U.S.C. Sec. 41713(b)(1) are exempt from this section. Images captured by an airline must not be retained for more than twenty-four hours and, upon request of the attorney general, airlines must certify that they do not retain the image for more than twenty-four hours. An airline facial recognition service must disclose and obtain consent from the customer prior to capturing an image.

NEW SECTION. Sec. 16. (1) Any person who has been subjected to a facial recognition service in violation of this chapter, or about whom information has been obtained, retained, accessed, or used in violation of this chapter, may institute proceedings in any court of competent jurisdiction to obtain injunctive relief or declaratory relief, or to recover actual damages, but not less than statutory damages of seven thousand five hundred dollars per violation, whichever is greater.

(2) A court shall award costs and reasonable attorneys' fees to a prevailing plaintiff in an action brought under subsection (1) of this section.

NEW SECTION. Sec. 17. Nothing in this act applies to the use of a facial recognition matching system by the department of licensing pursuant to RCW 46.20.037.

NEW SECTION. Sec. 18. (1) Sections 1 through 11 and 17 of this act constitute a new chapter in Title 43 RCW.

(2) Sections 14 through 16 of this act constitute a new chapter in Title 19 RCW."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Carlyle moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6280 and ask the House to recede therefrom.

Senator Carlyle spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Carlyle that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6280 and ask the House to recede therefrom.

The motion by Senator Carlyle carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6280 and asked the House to recede therefrom by voice vote.

PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Mr. President. I believe this is the correct motion. I have a letter addressed to the Office of Management and Budget in Congress, in Washington D.C., regarding the closure of the Archives in Seattle and asking them to reconsider. So I have that letter on my desk and a signature page for people to sign, so being run in the other body by Representative Tharinger, and trying to get as many signatures as possible to protest the potential closure of the Archives. So, signature sheet is on my desk. Thank you."

EDITOR'S NOTE: The federal Public Buildings Reform Board recommended closure and sale of the National Archives and

Records Administration (NARA) facility in Seattle's Sand Point neighborhood. National Archives at Seattle maintains and provide access to permanent records created by Federal agencies and courts in Alaska, Idaho, Oregon, and Washington and is used by academic and other researchers, Federal agencies, and other customers. The Office of Management and Budget approved the sale in late January of 2020.

MESSAGE FROM THE HOUSE

March 4, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6141 with the following amendment(s): 6141-S.E AMH CWD H5163.1

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature recognizes the increasing importance of postsecondary education as a tool for economic resilience and mobility, as well as the financial barriers many students in our state face in pursuing postsecondary education. In light of the 2019 expansion of the Washington college grant, it is also important to share information about new financial aid opportunities available to prospective postsecondary students. The legislature also acknowledges Washington's low completion rate of the free application for federal student aid in comparison with other states, as well as other states' successes in increasing these rates by expanding supports for students and their families. Research has shown that increased completion of student aid applications in other states has led to increases in high school graduation and college matriculation, especially for students in underrepresented groups. Given these facts, the legislature intends to undertake several actions to improve financial aid awareness and to increase coordination in this area among schools, districts, agencies, and institutions of higher education.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.77 RCW to read as follows:

(1) The council shall adopt a centralized online statewide calculator tool for the purposes of estimating federal Pell grant and Washington college grant awards for all public four-year institutions of higher education in Washington state.

(2) The tool must provide an estimate of state and federal aid based on student and family financial circumstances.

(3) The calculator tool must be published on a web site managed by the council.

(4) The financial aid calculator must be for estimation purposes only and is not a guarantee of state aid. Neither this section nor the estimates provided by the financial aid calculator constitute an entitlement on the part of the state, and no institution, agency, or their agents or employees may be held liable for any estimates created through its usage.

(5) The financial aid calculator must be designed for anonymous use and may not be used to collect or share any data.

NEW SECTION. Sec. 3. A new section is added to chapter 28B.77 RCW to read as follows:

(1) In collaboration with financial aid experts from public four-year and two-year institutions of higher education, as well as independent colleges in Washington state, the Washington student achievement council shall develop clear, consistent definitions for institutions of higher education to adopt regarding financial aid package award letters.

(2) By July 1, 2021, all public four-year and two-year institutions of higher education, as well as all independent colleges in Washington state, must adopt uniform terminology

and a standardized template for financial aid award packages so that students may easily compare them.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.230 RCW to read as follows:

(1)(a) Beginning with the 2020-21 school year, all school districts with a high school must provide a financial aid advising day, as defined in section 5 of this act.

(b) Districts must provide both a financial aid advising day and notification of financial aid opportunities at the beginning of each school year to parents and guardians of any student entering the twelfth grade. The notification must include information regarding:

(i) The eligibility requirements of the Washington college grant;

(ii) The requirements of the financial aid advising day;

(iii) The process for opting out of the financial aid advising day; and

(iv) Any community-based resources available to assist parents and guardians in understanding the requirements of and how to complete the free application for federal student aid and the Washington application for state financial aid.

(2) Districts may administer the financial aid advising day, as defined in section 5 of this act, in accordance with information-sharing requirements set in the high school and beyond plan in RCW 28A.230.090.

(3) The Washington state school directors' association, with assistance from the office of the superintendent of public instruction and the Washington student achievement council, shall develop a model policy and procedure that school district board of directors may adopt. The model policy and procedure must describe minimum standards for a financial aid advising day as defined in section 5 of this act.

(4) School districts are encouraged to engage in the Washington student achievement council's financial aid advising training.

(5) The office of the superintendent of public instruction may adopt rules for the implementation of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.300 RCW to read as follows:

(1)(a) Beginning with the 2020-21 school year, within existing resources, and in collaboration with the Washington student achievement council, the office of the superintendent of public instruction shall coordinate a financial aid advising day with all school districts with a high school.

(b) For the purposes of this section and section 4 of this act, a "financial aid advising day" means a day or series of days between September 1st and December 1st of each year that includes, but is not limited to, dedicated time during regular school hours for staff to:

(i) Provide information to twelfth grade students on the free application for federal student aid, the Washington application for state financial aid, and the college board's CSS profile;

(ii) As appropriate and whenever possible, assist twelfth grade students in completing the free application for federal student aid and the Washington application for state financial aid; and

(iii) In conjunction with the Washington student achievement council, distribute information on the Washington college grant and demonstrate the use of the college financial aid calculator created in section 2 of this act.

(c) Each school district may choose the date or series of dates on which to hold a financial aid advising day.

(2) The office of the superintendent of public instruction shall coordinate with the Washington student achievement council whenever possible to assist districts in facilitating opportunities outside of regular school hours for parents to take part in seminars on completing the free application for federal student aid and the

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Washington application for state financial aid. Whenever possible, districts shall provide spoken language interpreter services for limited English-speaking families.

(3) Schools must allow students over the age of eighteen to opt out and parents or guardians of students under the age of eighteen to opt their student out of scheduled financial aid advising day activities.

(4) A student may not be penalized for failing to complete financial aid applications or for opting out of activities under subsection (3) of this section.

(5) Educational staff, including instructional, administrative, and counseling staff, may not be assessed or penalized on the basis of students' completion of financial aid forms or students' decisions to opt out under subsection (3) of this section.

(6) In the administration of the financial aid advising day, personally identifiable student or family information must be protected in accordance with state and federal privacy laws.

Sec. 6. RCW 28A.230.090 and 2019 c 252 s 103 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students, except as provided in RCW 28A.230.122 and 28A.655.250 and except those equivalencies established by local high schools or school districts under RCW 28A.230.097. The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) Except as provided otherwise in this subsection, the certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation. The requirement to earn a certificate of academic achievement to qualify for graduation from a public high school concludes with the graduating class of 2019. The obligation of qualifying students to earn a certificate of individual achievement as a prerequisite for graduation from a public high school concludes with the graduating class of 2021.

(c)(i) Each student must have a high school and beyond plan to guide the student's high school experience and inform course taking that is aligned with the student's goals for education or training and career after high school.

(ii)(A) A high school and beyond plan must be initiated for each student during the seventh or eighth grade. In preparation for initiating that plan, each student must first be administered a career interest and skills inventory.

(B) For students with an individualized education program, the high school and beyond plan must be developed in alignment with their individualized education program. The high school and beyond plan must be developed in a similar manner and with similar school personnel as for all other students.

(iii)(A) The high school and beyond plan must be updated to reflect high school assessment results in RCW 28A.655.070(3)(b) and to review transcripts, assess progress toward identified goals, and revised as necessary for changing interests, goals, and needs. The plan must identify available interventions and academic support, courses, or both, that are designed for students who are not on track to graduate, to enable them to fulfill high school graduation requirements. Each student's high school and beyond plan must be updated to inform junior year course taking.

(B) For students with an individualized education program, the high school and beyond plan must be updated in alignment with their school to postsecondary transition plan. The high school and beyond plan must be updated in a similar manner and with similar school personnel as for all other students.

(iv) School districts are encouraged to involve parents and guardians in the process of developing and updating the high school and beyond plan, and the plan must be provided to the students' parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district. Nothing in this subsection (1)(c)(iv) prevents districts from providing high school and beyond plans to parents and guardians in additional languages that are not required by this subsection.

(v) All high school and beyond plans must, at a minimum, include the following elements:

(A) Identification of career goals, aided by a skills and interest assessment;

(B) Identification of educational goals;

(C) Identification of dual credit programs and the opportunities they create for students, including eligibility for automatic enrollment in advanced classes under RCW 28A.320.195, career and technical education programs, running start programs, AP courses, international baccalaureate programs, and college in the high school programs;

(D) Information about the college bound scholarship program established in chapter 28B.118 RCW;

(E) A four-year plan for course taking that:

(I) Includes information about options for satisfying state and local graduation requirements;

(II) Satisfies state and local graduation requirements;

(III) Aligns with the student's secondary and postsecondary goals, which can include education, training, and career;

(IV) Identifies course sequences to inform academic acceleration, as described in RCW 28A.320.195 that include dual credit courses or programs and are aligned with the student's goals; and

(V) Includes information about the college bound scholarship program, the Washington college grant, and other scholarship opportunities;

(F) Evidence that the student has received the following information on federal and state financial aid programs that help pay for the costs of a postsecondary program:

(I) Information about the documentation necessary for completing the applications; application timeliness and submission deadlines; the importance of submitting applications early; information specific to students who are or have been in foster care; information specific to students who are, or are at risk of being, homeless; information specific to students whose family member or guardians will be required to provide financial and tax information necessary to complete applications; and

(II) Opportunities to participate in sessions that assist students and, when necessary, their family members or guardians, fill out financial aid applications; and

(G) By the end of the twelfth grade, a current resume or activity log that provides a written compilation of the student's education, any work experience, and any community service and how the school district has recognized the community service pursuant to RCW 28A.320.193.

(d) Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level. Effective with the graduating class of 2015, the state board of education may not establish a requirement for students to complete a culminating project for graduation. A district may establish additional, local requirements

for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.

(e)(i) The state board of education shall adopt rules to implement the career and college ready graduation requirement proposal adopted under board resolution on November 10, 2010, and revised on January 9, 2014, to take effect beginning with the graduating class of 2019 or as otherwise provided in this subsection (1)(e). The rules must include authorization for a school district to waive up to two credits for individual students based on a student's circumstances, provided that none of the waived credits are identified as mandatory core credits by the state board of education. School districts must adhere to written policies authorizing the waivers that must be adopted by each board of directors of a school district that grants diplomas. The rules must also provide that the content of the third credit of mathematics and the content of the third credit of science may be chosen by the student based on the student's interests and high school and beyond plan with agreement of the student's parent or guardian or agreement of the school counselor or principal.

(ii) School districts may apply to the state board of education for a waiver to implement the career and college ready graduation requirement proposal beginning with the graduating class of 2020 or 2021 instead of the graduating class of 2019. In the application, a school district must describe why the waiver is being requested, the specific impediments preventing timely implementation, and efforts that will be taken to achieve implementation with the graduating class proposed under the waiver. The state board of education shall grant a waiver under this subsection (1)(e) to an applying school district at the next subsequent meeting of the board after receiving an application.

(iii) A school district must update the high school and beyond plans for each student who has not earned a score of level 3 or level 4 on the middle school mathematics assessment identified in RCW 28A.655.070 by ninth grade, to ensure that the student takes a mathematics course in both ninth and tenth grades. This course may include career and technical education equivalencies in mathematics adopted pursuant to RCW 28A.230.097.

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to earn a certificate of academic achievement, complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements.

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school

graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) Unless requested otherwise by the student and the student's family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

Sec. 7. RCW 28A.230.215 and 2019 c 252 s 504 are each amended to read as follows:

(1) The legislature finds that fully realizing the potential of high school and beyond plans as meaningful tools for articulating and revising pathways for graduation will require additional school counselors and family coordinators. The legislature further finds that the development and implementation of an online electronic platform for high school and beyond plans will be an appropriate and supportive action that will assist students, parents and guardians, educators, and counselors as the legislature explores options for funding additional school counselors.

(2) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall facilitate the creation of a list of available electronic platforms for the high school and beyond plan. Platforms eligible to be included on the list must meet the following requirements:

(a) Enable students to create, personalize, and revise their high school and beyond plan as required by RCW 28A.230.090;

(b) Grant parents or guardians, educators, and counselors appropriate access to students' high school and beyond plans;

(c) Employ a sufficiently flexible technology that allows for subsequent modifications necessitated by statutory changes, administrative changes, or both, as well as enhancements to improve the features and functionality of the platform;

(d) Include a sample financial aid letter and a link to the financial aid calculator created in section 2 of this act, at such a time as those materials are finalized;

(e) Comply with state and federal requirements for student privacy;

~~((e))~~ (f) Allow for the portability between platforms so that students moving between school districts are able to easily transfer their high school and beyond plans; and

~~((f))~~ (g) To the extent possible, include platforms in use by school districts during the 2018-19 school year.

(3) Beginning in the 2020-21 school year, each school district must ensure that an electronic high school and beyond plan platform is available to all students who are required to have a high school and beyond plan.

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(4) The office of the superintendent of public instruction may adopt and revise rules as necessary to implement this section.

NEW SECTION. Sec. 8. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Randall moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6141.

Senators Randall and Holy spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Randall that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6141.

The motion by Senator Randall carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6141 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6141, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6141, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Absent: Senator Hobbs

ENGROSSED SUBSTITUTE SENATE BILL NO. 6141, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Wilson, C., Senator Hobbs was excused.

MESSAGE FROM THE HOUSE

MOTION

Senator Wellman moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6191.

Senators Wellman and Hawkins spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wellman that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6191.

The motion by Senator Wellman carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6191 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6191, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6191, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Ericksen, Padden and Wagoner

Excused: Senator Hobbs

SUBSTITUTE SENATE BILL NO. 6191, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 6313 with the following amendment(s): 6313.E AMH APP H5350.1

Strike everything after the enacting clause and insert the following:

"PART I

ACT NAME AND LEGISLATIVE FINDINGS

NEW SECTION. Sec. 1. This act may be known and cited as the voting opportunities through education act or the VOTE act.

NEW SECTION. Sec. 2. The legislature finds that robust participation by young voters in Washington state elections is critical to ensuring lifelong civic engagement. Research has shown that voting is a habitual behavior and that people who vote in the first three elections when they are eligible will likely vote for life. However, this is also the period of time when they are likely to face unique barriers to participate in the democratic process, including regularly changing their address, becoming eligible shortly after an election, and exclusion from certain voter registration policies.

The legislature also finds that the period prior to election day is the most critical time to ensure ballot access for young voters. States with early voting have higher participation rates than states that do not and the use of early voting sites on college campuses helped produce record levels of participation for young voters in 2016 and 2018.

The legislature finds that students that have more opportunities to be registered and vote are more likely to participate. Limiting

statutory voter registration opportunities on college campuses to days well in advance of election day is inconsistent with implementation of same-day voter registration. Making automatic voter registration unavailable to those registering for the first time denies young voters the same benefits as every other voter.

PART II

PERSONS ALLOWED TO VOTE IN PRIMARIES

Sec. 3. RCW 29A.08.210 and 2018 c 109 s 8 are each amended to read as follows:

An applicant for voter registration shall complete an application providing the following information concerning his or her qualifications as a voter in this state:

(1) The former address of the applicant if previously registered to vote;

(2) The applicant's full name;

(3) The applicant's date of birth;

(4) The address of the applicant's residence for voting purposes;

(5) The mailing address of the applicant if that address is not the same as the address in subsection (4) of this section;

(6) The sex of the applicant;

(7) The applicant's Washington state driver's license number, Washington state identification card number, or the last four digits of the applicant's social security number if he or she does not have a Washington state driver's license or Washington state identification card;

(8) A check box allowing the applicant to indicate that he or she is a member of the armed forces, national guard, or reserves, or that he or she is an overseas voter;

(9) A check box allowing the applicant to acknowledge that he or she is at least ~~((eighteen))~~ sixteen years old ~~((or is at least sixteen years old and will vote only after he or she reaches the age of eighteen))~~;

(10) Clear and conspicuous language, designed to draw the applicant's attention, stating that ~~((the))~~;

~~(a) The~~ applicant must be a United States citizen in order to register to vote; and

(b) The applicant may register to vote if the applicant is at least sixteen years old and may vote if the applicant will be at least eighteen years old by the next general election, or is at least eighteen years old for special elections;

(11) A check box and declaration confirming that the applicant is a citizen of the United States;

(12) The following warning:

"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, a fine of up to ten thousand dollars, or both."

(13) The oath required by RCW 29A.08.230 and a space for the applicant's signature; and

(14) Any other information that the secretary of state determines is necessary to establish the identity of the applicant and prevent duplicate or fraudulent voter registrations.

This information shall be recorded on a single registration form to be prescribed by the secretary of state.

Sec. 4. RCW 29A.08.230 and 2013 c 11 s 14 are each amended to read as follows:

For all voter registrations, the registrant shall sign the following oath:

"I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, I ~~((will be))~~ am at least ~~((eighteen))~~ sixteen years old ~~((when I vote))~~, I am not disqualified from voting due to a court order, and I am not under department of

corrections supervision for a Washington felony conviction."

Sec. 5. RCW 29A.08.330 and 2019 c 391 s 6 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the service agent shall ask the following:

(a) "Are you a United States citizen?"

(b) "Are you at least ~~((eighteen))~~ sixteen years old ~~((or are you at least sixteen years old and will you vote only after you turn eighteen))~~?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to sign up to vote, register to vote, or update a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration application.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

(5) Each designated agency shall transmit the applications to the secretary of state or appropriate county auditor within three business days and must be received by the election official by the required voter registration deadline.

(6) Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.

Sec. 6. RCW 29A.08.810 and 2011 c 10 s 20 are each amended to read as follows:

(1) Registration of a person as a voter is presumptive evidence of his or her right to vote. A challenge to the person's right to vote must be based on personal knowledge of one of the following:

(a) The challenged voter has been convicted of a felony and the voter's civil rights have not been restored;

(b) The challenged voter has been judicially declared ineligible to vote due to mental incompetency;

(c) The challenged voter does not live at the residential address provided, in which case the challenger must either:

(i) Provide the challenged voter's actual residence on the challenge form; or

(ii) Submit evidence that he or she exercised due diligence to verify that the challenged voter does not reside at the address provided and to attempt to contact the challenged voter to learn the challenged voter's actual residence, including that the challenger personally:

(A) Sent a letter with return service requested to the challenged

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voter's residential address provided, and to the challenged voter's mailing address, if provided;

(B) Visited the residential address provided and contacted persons at the address to determine whether the voter resides at the address and, if not, obtained and submitted with the challenge form a signed affidavit subject to the penalties of perjury from a person who owns or manages property, resides, or is employed at the address provided, that to his or her personal knowledge the challenged voter does not reside at the address as provided on the voter registration;

(C) Searched local telephone directories, including online directories, to determine whether the voter maintains a telephone listing at any address in the county;

(D) Searched county auditor property records to determine whether the challenged voter owns any property in the county; and

(E) Searched the statewide voter registration database to determine if the voter is registered at any other address in the state;

(d) The challenged voter will not be eighteen years of age by the next general election; or

(e) The challenged voter is not a citizen of the United States.

(2) A person's right to vote may be challenged by another registered voter or the county prosecuting attorney.

(3) The challenger must file a signed affidavit subject to the penalties of perjury swearing that, to his or her personal knowledge and belief, having exercised due diligence to personally verify the evidence presented, the challenged voter either is not qualified to vote or does not reside at the address given on his or her voter registration record based on one of the reasons allowed in subsection (1) of this section. The challenger must provide the factual basis for the challenge, including any information required by subsection (1)(c) of this section, in the signed affidavit. The challenge may not be based on unsupported allegations or allegations by anonymous third parties. All documents pertaining to the challenge are public records.

(4) Challenges based on a felony conviction under RCW 29A.08.520 must be heard according to RCW 29A.08.520 and rules adopted by the secretary of state.

PART III

AUTOMATIC VOTER SIGN-UP TO REGISTER

Sec. 7. RCW 29A.08.355 and 2018 c 110 s 102 are each amended to read as follows:

(1) The department of licensing ~~((shall implement an automatic voter registration system so that))~~ must allow a person age eighteen years or older ~~((who))~~ to be registered to vote or update voter registration information by automated process at the time of registration, renewal, or change of address if:

(a) The person meets requirements for voter registration ~~((and))~~;

(b) The person has received or is renewing an enhanced driver's license or identocard issued under RCW 46.20.202 or is changing the address for an existing enhanced driver's license or identocard pursuant to RCW 46.20.205 ~~((may be registered to vote or update voter registration information at the time of registration, renewal, or change of address, by automated process if the)); and~~

(c) The department of licensing record associated with the applicant contains ~~((the))~~;

(i) The data required to determine whether the applicant meets requirements for voter registration under RCW 29A.08.010 ~~((, other))~~;

(ii) Other information as required by the secretary of state ~~((and includes a))~~; and

(iii) A signature image.

(2) The department of licensing must allow a person sixteen or

seventeen years of age to be signed up to register to vote by automated process at the time of registration, renewal, or change of address if:

(a) The person meets requirements to sign up to register to vote;

(b) The person has received or is renewing an enhanced driver's license or identocard issued under RCW 46.20.202 or is changing the address for an existing enhanced driver's license or identocard pursuant to RCW 46.20.205; and

(c) The department of licensing record associated with the applicant contains:

(i) The data required to determine whether the applicant meets the requirements for voter registration under RCW 29A.08.210, other than age;

(ii) Other information as required by the secretary of state; and

(iii) A signature image.

(3) The person must be informed that his or her record will be used for voter registration and offered an opportunity to decline to register.

Sec. 8. RCW 46.20.155 and 2018 c 109 s 15 are each amended to read as follows:

(1) Before issuing an original license or identocard or renewing a license or identocard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the agent shall ask the following:

(1) "Are you a United States citizen?"

(2) "Are you at least ~~((eighteen))~~ sixteen years old ~~((or are you at least sixteen years old and will you vote only after you turn eighteen))~~?"

If the applicant answers in the affirmative to both questions, the agent shall then submit the registration, sign up form, or update. If the applicant answers in the negative to either question, the agent shall not submit an application. Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identocard by mail or by electronic commerce.

Sec. 9. RCW 28A.230.094 and 2018 c 127 s 2 are each amended to read as follows:

(1)(a) Beginning with or before the 2020-21 school year, each school district that operates a high school must provide a mandatory one-half credit stand-alone course in civics for each high school student. Except as provided by (c) of this subsection, civics content and instruction embedded in other social studies courses do not satisfy the requirements of this subsection.

(b) Credit awarded to students who complete the civics course must be applied to course credit requirements in social studies that are required for high school graduation.

(c) Civics content and instruction required by this section may be embedded in social studies courses that offer students the opportunity to earn both high school and postsecondary credit.

(2) The content of the civics course must include, but is not limited to:

(a) Federal, state, tribal, and local government organization and procedures;

(b) Rights and responsibilities of citizens addressed in the Washington state and United States Constitutions;

(c) Current issues addressed at each level of government;

(d) Electoral issues, including elections, ballot measures, initiatives, and referenda;

(e) The study and completion of the civics component of the federally administered naturalization test required of persons seeking to become naturalized United States citizens; and

(f) The importance in a free society of living the basic values and character traits specified in RCW 28A.150.211.

(3) By September 1, 2020, the office of the superintendent of public instruction, in collaboration with the Washington state association of county auditors and a 501(c)(3) nonprofit organization engaged in voter outreach and increasing voter participation, shall identify and make available civics materials and resources for use in courses under this section. The materials and resources must be posted on the office of the superintendent of public instruction's web site.

PART IV STUDENT ENGAGEMENT HUBS

NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.40 RCW to read as follows:

(1) Each state university, regional university, and The Evergreen State College as defined in RCW 28B.10.016 and each higher education campus as defined in RCW 28B.45.012 shall open a nonpartisan student engagement hub on its campus. The student engagement hub may be open during business hours beginning eight days before, and ending at 8:00 p.m. on the day of, the general election. All student engagement hubs must allow students to download their exact ballot from an online portal. Upon request of the student government organization to the administration and the county auditor, the student engagement hub at a state university, regional university, or The Evergreen State College as defined in RCW 28B.10.016 must allow voters to register in person pursuant to RCW 29A.08.140(1)(b) and provide voter registration materials and ballots.

(2) Each institution shall contract with the county auditor for the operation of a student engagement hub under this section.

(3) Student engagement hubs are not voting centers as outlined in RCW 29A.40.160 and must be operated in a manner that avoids partisan influence or electioneering.

PART V VOTERS' PAMPHLETS

Sec. 11. RCW 29A.32.031 and 2013 c 283 s 2 are each amended to read as follows:

The voters' pamphlet published or distributed under RCW 29A.32.010 must contain:

(1) Information about each measure for an advisory vote of the people and each ballot measure initiated by or referred to the voters for their approval or rejection as required by RCW 29A.32.070;

(2) In even-numbered years, statements, if submitted, from candidates for the office of president and vice president of the United States, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court. Candidates may also submit campaign contact information and a photograph not more than five years old in a format that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(3) In odd-numbered years, if any office voted upon statewide appears on the ballot due to a vacancy, then statements and photographs for candidates for any vacant office listed in subsection (2) of this section must appear;

(4) Contact information for the public disclosure commission established under RCW 42.17A.100, including the following

statement: "For a list of the people and organizations that donated to state and local candidates and ballot measure campaigns, visit www.pdc.wa.gov." The statement must be placed in a prominent position, such as on the cover or on the first two pages of the voters' pamphlet. The secretary of state may substitute such language as is necessary for accuracy and clarity and consistent with the intent of this section;

(5) Contact information for major political parties;

(6) A brief statement explaining the deletion and addition of language for proposed measures under RCW 29A.32.080; ~~((and))~~

(7) A list of all student engagement hubs as designated under section 10 of this act; and

(8) Any additional information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters.

Sec. 12. RCW 29A.32.241 and 2016 c 83 s 2 are each amended to read as follows:

(1) The local voters' pamphlet shall include but not be limited to the following:

(a) Appearing on the cover, the words "official local voters' pamphlet," the name of the jurisdiction producing the pamphlet, and the date of the election or primary;

(b) A list of jurisdictions that have measures or candidates in the pamphlet;

(c) Information on how a person may register to vote and obtain a ballot;

(d) The text of each measure accompanied by an explanatory statement prepared by the prosecuting attorney for any county measure or by the attorney for the jurisdiction submitting the measure if other than a county measure. All explanatory statements for city, town, or district measures not approved by the attorney for the jurisdiction submitting the measure shall be reviewed and approved by the county prosecuting attorney or city attorney, when applicable, before inclusion in the pamphlet;

(e) The arguments for and against each measure submitted by committees selected pursuant to RCW 29A.32.280; ~~((and))~~

(f) A list of all student engagement hubs in the county as designated under section 10 of this act; and

(g) For partisan primary elections, information on how to vote the applicable ballot format and an explanation that minor political party candidates and independent candidates will appear only on the general election ballot.

(2) The county auditor's name may not appear in the local voters' pamphlet in his or her official capacity if the county auditor is a candidate for office during the same year. His or her name may only be included as part of the information normally included for candidates.

PART VI HARMONIZING PROVISIONS

Sec. 13. RCW 29A.04.061 and 2003 c 111 s 111 are each amended to read as follows:

"Elector" means any person who possesses all of the qualifications to vote under Article VI of the state Constitution, including persons who are seventeen years of age at the primary election or presidential primary election but who will be eighteen years of age by the general election.

Sec. 14. RCW 29A.08.110 and 2019 c 391 s 5 are each amended to read as follows:

(1) For persons registering under RCW 29A.08.120, 29A.08.123, 29A.08.170, 29A.08.330, 29A.08.340, 29A.08.362, and 29A.08.365, an application is considered complete only if it contains the information required by RCW 29A.08.010. The applicant is considered to be registered to vote as of ~~((the))~~;

(a) The original date of receipt ~~((or when))~~;

(b) When the person will be at least eighteen years old by the next election; or

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(c) When the person will be at least seventeen years old by the next primary election or presidential primary election and eighteen years old by the general election, whichever is applicable.

(2) As soon as practicable, the auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. The secretary of state shall, pursuant to RCW 29A.04.611, establish procedures to enable new or updated voter registrations to be recorded on an expedited basis. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. Within sixty days after the receipt of an application or transfer, the auditor shall send to the applicant, by first-class nonforwardable mail, an acknowledgment notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.

~~((2))~~ (3) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice shall require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant shall be registered to vote as of the original date of application. The applicant shall not be placed on the official list of registered voters until the application is complete.

~~((3))~~ (4) Once a future voter is no longer in pending status, as described in RCW 29A.08.615, his or her application to sign up to register to vote is no longer pending and is subject to this section.

Sec. 15. RCW 29A.08.170 and 2018 c 109 s 5 are each amended to read as follows:

(1) A person may sign up to register to vote if he or she is sixteen or seventeen years of age, as part of the future voter program.

(2) A person who signs up to register to vote may not vote until reaching eighteen years of age ~~((and his or her name))~~ unless the person is seventeen years of age at the primary election or presidential primary election and will be eighteen years of age by the general election. A person who signs up to register to vote may not be added to the statewide voter registration database list of voters until such time as he or she will be ~~((eighteen years of age by))~~ eligible to vote in the next election.

Sec. 16. RCW 29A.08.172 and 2018 c 109 s 6 are each amended to read as follows:

(1) A person who has attained sixteen years of age may sign up to register to vote, as part of the future voter program, by submitting a voter registration application by mail.

(2) The applicant must attest to the truth of the information provided on the application by affirmatively accepting the information as true.

(3) If signing up to register by mail, the person must provide a signature for voter registration purposes.

(4) The applicant must affirmatively acknowledge that he or she will not vote in a special or general election until his or her eighteenth birthday.

Sec. 17. RCW 29A.08.174 and 2018 c 109 s 14 are each amended to read as follows:

(1) A person who has attained sixteen years of age and has a valid Washington state driver's license or identicard may sign up to register to vote as part of the future voter program, by submitting a voter registration application electronically on the secretary of state's web site.

(2) The applicant must attest to the truth of the information provided on the application by affirmatively accepting the information as true.

(3) If signing up to register electronically, the applicant must affirmatively assent to the use of his or her driver's license or identicard signature for voter registration purposes.

(4) The applicant must affirmatively acknowledge that he or she will not vote in a special or general election until his or her eighteenth birthday, and will only vote in a primary election or presidential primary election if he or she will be eighteen years of age by the general election.

(5) For each electronic registration application, the secretary of state must obtain a digital copy of the applicant's driver's license or identicard signature from the department of licensing.

(6) The secretary of state may employ additional security measures to ensure the accuracy and integrity of voter preregistration applications submitted electronically.

Sec. 18. RCW 29A.08.359 and 2019 c 391 s 8 are each amended to read as follows:

(1)(a) For persons age eighteen years and older registering under RCW 29A.08.355(1), an application is considered complete only if it contains the information required by RCW 29A.08.010 and other information as required by the secretary of state. The applicant is considered to be registered to vote as of the original date of issuance or renewal or date of change of address of an enhanced driver's license or identicard issued under RCW 46.20.202 or change of address for an existing enhanced driver's license or identicard pursuant to RCW 46.20.205.

(b) For persons sixteen or seventeen years of age registering under RCW 29A.08.355(2), an application is considered complete only if it contains the information required by RCW 29A.08.010 and other information as required by the secretary of state. The applicant is considered to be registered to vote as of the date set forth in RCW 29A.08.110(1).

(c) The information must be transmitted in an expedited manner and must be received by an election official by the required voter registration deadline. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. Within sixty days after the receipt of an application or transfer, the auditor shall send to the applicant, by first-class nonforwardable mail, an acknowledgment notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The United States postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.

~~((b))~~ (d) An auditor may use other means to communicate with potential and registered voters such as, but not limited to, email, phone, or text messaging. The alternate form of communication must not be in lieu of the first-class mail requirements. The auditor shall act in compliance with all voter notification processes established in federal law.

(2) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice must require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant must be registered to vote. The applicant must not be placed on the official list of registered voters until the application is complete.

(3) If the prospective registration applicant declines to register to vote or the information provided by the department of licensing does not indicate citizenship, the information must not be

included on the list of registered voters.

(4) The department of licensing is prohibited from sharing data files used by the secretary of state to certify voters registered through the automated process outlined in RCW 29A.08.355 with any federal agency, or state agency other than the secretary of state. Personal information supplied for the purposes of obtaining a driver's license or identicaid is exempt from public inspection pursuant to RCW 42.56.230.

Sec. 19. RCW 29A.80.041 and 2009 c 106 s 3 are each amended to read as follows:

Any member of a major political party who is a registered voter in the precinct and who will be at least eighteen years old by the date of the precinct committee officer election may file his or her declaration of candidacy as prescribed under RCW 29A.24.031 with the county auditor for the office of precinct committee officer of his or her party in that precinct. When elected at the primary, the precinct committee officer shall serve so long as the committee officer remains an eligible voter in that precinct.

Sec. 20. RCW 29A.84.140 and 2018 c 109 s 13 are each amended to read as follows:

A person who knows that he or she does not possess the legal qualifications of a voter and who registers to vote is guilty of a class C felony. This section does not apply to persons age sixteen or seventeen signing up to register to vote as authorized under RCW 29A.08.170 or 29A.08.355(2).

Sec. 21. RCW 46.20.156 and 2018 c 110 s 105 are each amended to read as follows:

For persons eighteen years of age or older who meet requirements for voter registration and persons sixteen or seventeen years of age who meet requirements to sign up to register to vote, who have been issued or are renewing an enhanced driver's license or identicaid under RCW 46.20.202 or applying for a change of address for an existing enhanced driver's license or identicaid pursuant to RCW 46.20.205, and have not declined to register to vote, the department shall produce and transmit to the secretary of state the following information from the records of each individual: The name, address, date of birth, gender of the applicant, the driver's license number, signature image, and the date on which the application was submitted. The department and the secretary of state shall process information as an automated application on a daily basis.

PART VII OTHER PROVISIONS

Sec. 22. RCW 29A.08.140 and 2019 c 391 s 4 are each amended to read as follows:

(1) In order to vote in any primary, special election, or general election, a person who is not registered to vote in Washington must:

(a) Submit a registration application that is received by an election official no later than eight days before the day of the primary, special election, or general election. For purposes of this subsection (1)(a), "received" means: (i) Being physically received by an election official by the close of business of the required deadline; or (ii) for applications received online or electronically, by midnight, of the required deadline; or

(b) Register in person at ~~((the))~~ a county auditor's office, the division of elections if in a separate city from the county auditor's office, a voting center, a student engagement hub, or other location designated by the county auditor ~~((in his or her county of residence))~~ no later than 8:00 p.m. on the day of the primary, special election, or general election.

(2) ~~((a))~~ (a) In order to change a residence address for voting in any primary, special election, or general election, a person who is already registered to vote in Washington may update his or her registration by:

~~((a))~~ (i) Submitting an address change using a

registration application or making notification via any non-in-person method that is received by election officials no later than eight days before the day of the primary, special election, or general election; or

~~((b))~~ (ii) Appearing in person, at ~~((the))~~ a county auditor's office, the division of elections if in a separate city from the county auditor's office, a voting center, or other location designated by the county auditor ~~((in his or her county of residence))~~, no later than 8:00 p.m. on the day of the primary, special election, or general election to be in effect for that primary, special election, or general election.

~~((c))~~ (b) A registered voter who fails to update his or her residential address by this deadline may vote according to his or her previous registration address.

(3) To register or update a voting address in person at ~~((the))~~ a county auditor's office, a voting center, or other location designated by the county auditor, a person must appear in person at ~~((the))~~ a county auditor's office, a voting center, or other location designated by the county auditor ~~((in the county in which the person resides))~~ at a time when the facility is open and complete the voter registration application by providing the information required by RCW 29A.08.010.

NEW SECTION. **Sec. 23.** Subject to the availability of amounts appropriated for this specific purpose, the secretary of state may provide grants to county auditors to implement section 10 of this act.

NEW SECTION. **Sec. 24.** Sections 3, 5, 6, and 13 through 17 of this act take effect January 1, 2022.

NEW SECTION. **Sec. 25.** Sections 7, 8, 18, 20, and 21 of this act take effect September 1, 2023."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6313.

Senator Liias spoke in favor of the motion.

Senator Zeiger spoke on the motion to concur.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6313.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6313 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6313, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6313, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, O'Ban,

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Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Hobbs

ENGROSSED SENATE BILL NO. 6313, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6440 with the following amendment(s): 6440-S.E AMH LAWS H5175.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 51.08 RCW to read as follows:

"New medical issue" means a medical issue not covered by a previous medical examination requested by the department or the self-insurer such as an issue regarding medical causation, medical treatment, work restrictions, or evaluating permanent partial disability.

Sec. 2. RCW 51.32.110 and 1997 c 325 s 3 are each amended to read as follows:

(1) ((Any)) As required under RCW 51.36.070, any worker entitled to receive any benefits or claiming such under this title shall, if requested by the department or self-insurer, submit himself or herself for medical examination, ((at a time and from time to time,)) at a place reasonably convenient for the worker ((and as may be provided by the rules of the department)). An injured worker, whether an alien or other injured worker, who is not residing in the United States at the time that a medical examination is requested may be required to submit to an examination at any location in the United States determined by the department or self-insurer.

(2) If the worker refuses to submit to medical examination, or obstructs the same, or, if any injured worker shall persist in unsanitary or injurious practices which tend to imperil or retard his or her recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his or her recovery or refuse or obstruct evaluation or examination for the purpose of vocational rehabilitation or does not cooperate in reasonable efforts at such rehabilitation, the department or the self-insurer upon approval by the department, with notice to the worker may suspend any further action on any claim of such worker so long as such refusal, obstruction, noncooperation, or practice continues and reduce, suspend, or deny any compensation for such period: **PROVIDED, That ((the)) (a) The department or the self-insurer shall not suspend any further action on any claim of a worker or reduce, suspend, or deny any compensation if a worker has good cause for refusing to submit to or to obstruct any examination, evaluation, treatment or practice requested by the department or required under this section and (b) the department may not assess a no-show fee against the worker if the worker gives at least five business days' notice of the worker's intent not to attend the examination.**

(3) If the worker necessarily incurs traveling expenses in attending the examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her out of the accident fund upon proper voucher and audit or shall be repaid by the self-insurer, as the case may be.

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(4)(a) If the medical examination required by this section causes the worker to be absent from his or her work without pay:

(i) In the case of a worker insured by the department, the worker shall be paid compensation out of the accident fund in an amount equal to his or her usual wages for the time lost from work while attending the medical examination; or

(ii) In the case of a worker of a self-insurer, the self-insurer shall pay the worker an amount equal to his or her usual wages for the time lost from work while attending the medical examination.

(b) This subsection (4) shall apply prospectively to all claims regardless of the date of injury.

Sec. 3. RCW 51.36.070 and 2001 c 152 s 2 are each amended to read as follows:

(1)(a) Whenever the ((director)) department or the self-insurer deems it necessary in order to ((resolve any)) (i) make a decision regarding claim allowance or reopening, (ii) resolve a new medical issue, an appeal, or case progress, or (iii) evaluate the worker's permanent disability or work restriction, a worker shall submit to examination by a physician or physicians selected by the ((director)) department, with the rendition of a report to the person ordering the examination, the attending physician, and the injured worker.

(b) The examination must be at a place reasonably convenient to the injured worker, or alternatively utilize telemedicine if the department determines telemedicine is appropriate for the examination. For purposes of this subsection, "reasonably convenient" means at a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner. The department must address in rule how to accommodate the injured worker if no approved medical examiner in the specialty needed is available in that community.

(2) The department or self-insurer shall provide the physician performing an examination with all relevant medical records from the worker's claim file. The director, in his or her discretion, may charge the cost of such examination or examinations to the self-insurer or to the medical aid fund as the case may be. The cost of said examination shall include payment to the worker of reasonable expenses connected therewith.

(3) For purposes of this section, "examination" means a physical or mental examination by a medical care provider licensed to practice medicine, osteopathy, podiatry, chiropractic, dentistry, or psychiatry at the request of the department or self-insured employer or by order of the board of industrial insurance appeals.

(4) This section applies prospectively to all claims regardless of the date of injury.

NEW SECTION. Sec. 4. (1) An independent medical examination work group is established within the department of labor and industries, with members as provided in this subsection.

(a) The speaker of the house of representatives shall appoint two members from the house of representatives, with one member appointed from each of the two largest caucuses of the house of representatives;

(b) The president of the senate shall appoint two members from the senate, with one member appointed from each of the two largest caucuses of the senate;

(c) The department of labor and industries shall appoint one business representative representing employers participating in the state fund;

(d) The department of labor and industries shall appoint one business representative representing employers who are self-insured for purposes of workers' compensation insurance;

(e) The department of labor and industries shall appoint two

labor representatives;

(f) The department of labor and industries shall appoint one representative of both an association representing physicians who perform examinations for purposes of workers' compensation insurance and the panel companies that work with them; and

(g) The department of labor and industries shall appoint one attorney who represents injured workers.

(2) The work group must:

(a) Develop strategies for reducing the number of medical examinations per claim while considering claim duration and medical complexity;

(b) Develop strategies for improving access to medical records, including records and reports created during the course of or pursuant to an examination;

(c) Consider whether the department of labor and industries should do all the scheduling of independent medical examinations;

(d) Consider the circumstances for which independent medical examiners should be randomly selected or specified;

(e) Consider workers' rights in the independent medical examination process including attendance, specialist consultations, the audio or video recording of examinations, and the distance and location of examinations;

(f) Recommend changes to improve the efficiency of the independent medical examination process; and

(g) Identify barriers to increasing the supply of in-state physicians willing to do independent medical examinations in the workers' compensation system.

(3) The department of labor and industries must report its findings and recommendations to the legislature by December 11, 2020.

(4) This section expires December 31, 2020.

NEW SECTION. Sec. 5. A new section is added to chapter 51.36 RCW to read as follows:

(1) The department may adopt rules to implement section 3 of this act.

(2) The department must adopt rules, policies, and processes governing the use of telemedicine for independent medical examinations under section 3 of this act. Development of rules may include a pilot project. Consideration should be given to all available research regarding the use of telemedicine for independent medical examinations.

NEW SECTION. Sec. 6. Sections 1 through 3 of this act take effect January 1, 2021."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Stanford moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6440.

Senator Stanford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Stanford that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6440.

The motion by Senator Stanford carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6440 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6440, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6440, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Hobbs

ENGROSSED SUBSTITUTE SENATE BILL NO. 6440, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6473 with the following amendment(s): 6473-S.E AMH ENVI H5085.3

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 70.310 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, the use of asbestos-containing building materials in new construction or renovations is prohibited.

(2) Subsection (1) of this section does not apply to:

(a) The use of asbestos-containing building materials in residential construction;

(b) The use of asbestos-containing building materials that are, as of the effective date of this section, already ordered by a contractor or currently in the possession of the contractor; or

(c) The use of asbestos-containing building materials if complying with subsection (1) of this section would result in the breach of a contract existing as of the effective date of this section.

Sec. 2. RCW 70.310.020 and 2013 c 51 s 2 are each amended to read as follows:

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

(1) "Asbestos" includes the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentine), crocidolite (riebeckite), anthophyllite, and any of these minerals that have been chemically treated or altered. The chemical abstracts service registry number for each is as follows: Asbestos (1332-21-4), actinolite (13768-00-8), amosite (12172-73-5), tremolite (14567-73-8), chrysotile (12001-29-5), crocidolite (12001-28-4), and anthophyllite (17068-78-9).

(2) "Asbestos-containing building material" means ~~((any))~~;

(a) Until January 1, 2025, any building material to which asbestos is deliberately added in any concentration or that contains more than one percent asbestos by weight or area as determined using the United States environmental protection agency method for the determination of asbestos in building materials, EPA/600/R-93/116, July 1993; and

(b) Beginning January 1, 2025, any building material to which asbestos is deliberately added in any concentration or that

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contains more than one-tenth of one percent asbestos by weight or area as determined using the United States environmental protection agency method for the determination of asbestos in building materials, EPA/600/R-93/116, July 1993.

(3) "Building material" includes materials designed for, or used in, construction, renovation, repair, or maintenance of institutional, commercial, public, industrial, or residential buildings and structures. The term does not include automobiles, recreational vehicles, boats, or other mobile means of transportation.

(4) "Consumer" means any person that acquires a building material for direct use or ownership, rather than for resale or use in production and manufacturing.

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

(6) "Person" means any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(7) "Retailer" means any person that sells goods or commodities directly to consumers.

(8) "Interested party" means any contractor, subcontractor, or worker that performs, or is reasonably expected to perform, work at a facility covered under section 3 of this act or any organization whose members perform, or are reasonably expected to perform, work at a facility covered under section 3 of this act.

(9) "Residential construction" means construction, alteration, repair, improvement, or maintenance of single-family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including the basement.

NEW SECTION. Sec. 3. A new section is added to chapter 70.310 RCW to read as follows:

(1) Every owner of a facility that is engaged in activities described in codes 31 through 33 of the North American industry classification system must:

(a) Perform an inspection of the facility to determine whether asbestos-containing building materials are present and, if asbestos-containing building materials are found during the initial inspection, reinspect asbestos-containing building materials every five years thereafter. The inspections must be conducted by persons meeting the accreditation requirements of the federal toxic substances control act, 15 U.S.C. Sec. 2646 (b) or (c); and

(b) Develop, maintain, and update an asbestos management plan and keep a copy at the facility. The asbestos management plan must be updated every five years and after any material changes in asbestos-containing building materials in the facility. The asbestos management plan must include:

(i) The name and address of the facility and whether the facility has asbestos-containing building materials, and the type of asbestos-containing building material;

(ii) The date of the original facility inspection;

(iii) A plan for reinspections;

(iv) A blueprint of the facility that clearly identifies the location of asbestos-containing building materials;

(v) A description of any response action or prevention measures taken to reduce asbestos exposure;

(vi) A copy of the analysis of any building or facility, and the name and address of any laboratory that sampled the material;

(vii) The name, address, and telephone number of a designated contact to whom the owner has assigned responsibility for ensuring that the duties of the owner are carried out; and

(viii) A description of steps taken to inform workers about inspections, reinspections, response actions, and periodic surveillance of the asbestos-containing building materials.

(2) Upon request, the asbestos management plan required under subsection (1)(b) of this section must be made available to

the department, the department of labor and industries, local air pollution control authorities in jurisdictions where they have been created under this chapter, and any interested party. In addition to the penalties established by this chapter, failure to create or maintain a required asbestos management plan is a violation of chapter 49.17 RCW and subject to the penalties established under RCW 49.17.180 and 49.17.190.

NEW SECTION. Sec. 4. A new section is added to chapter 49.17 RCW to read as follows:

(1) The asbestos plan requirements in section 3(1)(b) of this act are an industrial health or safety standard adopted under the authority of this chapter.

(2) A violation of the requirements of section 3(1)(b) of this act is subject to the penalties established under RCW 49.17.180 and 49.17.190 for violations of safety or health standards adopted under the authority of this chapter.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Wilson, C. moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5395.

Senator Wilson, C. spoke in favor of the motion.

Senators Short, Braun, Schoesler and Padden spoke against the motion.

POINT OF ORDER

Senator Braun: "I'm getting messages from parents that say, you know how you can sign up for notification on bills, so the Senate has apparently already sent out an email, time 1:54, that says we have already concurred with these amendments. And my question is: How is it possible we are sending email saying that we have concurred with these amendments when we have not yet completed this debate?"

REPLY BY THE PRESIDENT

President Habib: "One moment. Okay, Senator Braun, thank you, your point of order is well taken. There was an inadvertent mistake that was made that is being corrected so, the members of the public should be aware that no vote has been taken on this and I apologize on behalf of the Senate. Apologize to members and to those who are paying attention to this debate going on right now. Thank you, Senator Braun."

Senator Braun: "Thank you, Mr. President."

POINT OF ORDER

Senator Padden: "Yes, Mr. President, would you be so kind as to read what the new message actually says? That is going out to the parents who were misinformed."

REPLY BY THE PRESIDENT

President Habib: "Senator Padden, there is, there is no message, so to speak, that was sent. There was, I guess, in the, so

members of the public are, are allowed to sign up for notifications on a particular measure. And, inadvertently, a notice was sent out for those who are following Engrossed Substitute Senate Bill No. 5395, that was sent out mistakenly saying that a concurrence motion had been, had prevailed. And so, that has now been corrected in the system. However, we are not sure that there will be another notification sent out in, because I am not sure that that triggers another email to correct the record. So, it's regrettable but ultimately, I will tell you what: There is only 49 people who need to know, for this particular moment, who need to know the procedural posture. Of course, the public is watching this on TVW and should be, and everyone should feel free to, the caucus staff and others, should feel free to communicate in real time what is going on. But, what's important right now, for your deliberations is to understand where we are, and to take the vote you're about to take on concurrence. Now, if the motion goes down, then a notification will be sent that the Senate did not concur. And if the motion prevails then another concurrence, another update will be done, triggered, another email. So, one way or another, your constituents will learn, very shortly, what the result of this vote will be. Okay? And I, once again, Senator Padden, Senator Braun and others, I do apologize. Technology is a, you know, ask the people in Iowa. It's tricky. It's important, it is helpful, it is useful but as we've talked about here, in other bills this week, it takes, sometimes with technology there can be inadvertent mistakes that are made. Thankfully we have our friends at TVW live broadcasting all of this to the public."

MOTION

Senator Short moved the Senate defer further consideration of Engrossed Substitute Senate Bill No. 5395.

Senator Liias objected to the motion by Senator Short.

Senators Short and Schoesler spoke in favor of the motion to defer further consideration of Engrossed Substitute Senate Bill No. 5093.

Senator Liias spoke against the motion.

Senator Padden demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

MOTION

Senator Liias demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be, "Shall the main question be now put?"

The motion by Senator Liias carried and the previous question was put by voice vote.

REMARKS BY THE PRESIDENT

President Habib: "By the way, the Secretary has just notified me that a correction has been sent out and while the President believes, therefore, Senator Short's motion would ordinarily be considered out of order, given the motion was to defer further consideration until the notification was sent. The notification was sent, so the motion is out of order. Nevertheless, I'm still going to have the vote take place on this as to not rile folks up."

The President declared the question before the Senate to be, the motion by Senator Short to defer further consideration of Engrossed Substitute Senate Bill No. 5093.

ROLL CALL

The Secretary called the roll on the motion by Senator Short to defer further consideration of Engrossed Substitute Senate Bill No. 5395, and the motion did not carry by the following vote: Yeas, 21; Nays, 27; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

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

Excused: Senator Hobbs

MOTION

Senator Liias demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be, "Shall the main question be now put?"

POINT OF ORDER

Senator Short: "Thank you, Mr. President. We had buttons pushed at the time that this whole thing happened to continue our opposition to that motion. And they had pressed their button ahead of the good senator making his motion to call the question."

REPLY BY THE PRESIDENT

President Habib: "Senator Short, let me walk through what just happened. Everyone calm down for just one second. Just hear me out. Here's what happened. There was a motion to defer consideration, and even as we tried to figure out the solution, and we did our best. And I think the email update was sent, and I've gotten confirmation that it was received. At that point, Senator Liias moved for the previous question. At that point I had no option under your rules but to go immediately, because that motion carried, but to go immediately to the vote on the motion to defer. So, that's the order of operations that just happened. In any case, the previous speaker on the merits of the concurrence was a Republican. And so it is my habit to alternate speakers. And it's also my habit to go to the majority floor leader, which is the long-standing custom of this body, that the majority floor leader is recognized first, before everyone else. That's been the case when it was Senator Fain and I was the Lieutenant Governor and it is also the case with Senator Liias. So, I recognized Senator Liias. He has now moved to call the previous question and so I ask is demand sustained by two additional members?"

The President declared the demand was sustained.

MOTION

Senator Schoesler moved to immediately adjourn.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the motion by Senator Schoesler to that the senate adjourn.

The Secretary called the roll on the motion by Senator Schoesler that the senate adjourn, and the motion did not carry by the following vote: Yeas, 21; Nays, 27; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

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

Excused: Senator Hobbs

On motion of Senator Liias, the motion by Senator Liias that the previous question be put was withdrawn.

REMARKS BY THE PRESIDENT

President Habib: "Alright, so everyone knows procedurally where we are. All of these motions have been dispensed with, except we are on the underlying motion to concur in the House amendments to Engrossed Substitute Senate Bill No. 5395. So, we are now to debate that, continue our debate on that question. Further remarks?"

PERSONAL PRIVILEGE

Senator Becker: "Thank you Mr. President. I can understand all the processes that have gone on here and maybe this is not the right time but I still feel it is the right time. You know this is a serious subject to all of us in here, and each and every side of this, whether you're a D or an R, as it has been pointed out. But Mr. President, what I find offensive is when we are making a motion, or we are making a statement, that I am hearing laughter and mockery from the other side."

President Habib: "There is no..."

Senator Becker: "And Mr. President, I cannot think that you would tolerate that. The decorum of this institution has always been one that is great and been one that we can all respect. And I would like to make sure that people are aware of that in this is not something that anyone should be laughing at. Thank you."

REPLY BY THE PRESIDENT

President Habib: "Thank you. It is true and I will, if that happens, there is a reason there are two brilliant attorneys up here with me. They are looking out and they will notify me if there is a failure of decorum in the Senate. As you know, Senator Becker, I've had no problem calling that out whether it is Democrat or Republican. Now I ask that we return to the question before us which is the motion to concur."

Senator Dhingra spoke in favor of the motion.

Senators Holy, Brown, Hawkins, O'Ban, Becker, Ericksen, Rivers and Wilson, L. spoke against the motion.

Senator Wilson, L.: "I had a couple of statements from some of the..."

REMARKS BY THE PRESIDENT

President Habib: "Senator Wilson, if they concern the House amendments and if you can speak specifically to the House amendments you can proceed with reading. Otherwise, I have given wide latitude, but honestly your remarks have not addressed the House amendments so far, and so if you want to read please read statements if you want to, if you want to identify the source, if they relate to House amendments."

Senator Wilson, L.: "Well, I was, I was actually addressing curricula that we are supposed to be..."

President Habib: "Right. Only the one, only changes from the Senate version that your just, that you voted on already. You already had a chance to vote on the senate bill. The question is the changes that were made in the House. If you would like to read, then, on the question of House amendments please proceed."

Senator Wilson, L., again spoke against the motion..

Senator Das spoke in favor of the motion.

Senators Zeiger and Fortunato spoke against the motion.

POINT OF ORDER

Senator Liias: "Thank you, Mr. President. I don't believe that my friend is speaking to the House amendments to this bill."

REPLY BY THE PRESIDENT

President Habib: "Senator Fortunato, please keep your remarks to the House amendments."

Senator Fortunato again spoke against the motion.

Senators Sheldon, Warnick, Honeyford, King, Wagoner, and Muzzall spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Wilson, C. that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5395.

The motion by Senator Wilson, C. carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5395 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5395, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5395, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Hobbs

ENGROSSED SUBSTITUTE SENATE BILL NO. 5395, as amended by the House, having received the constitutional

majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1261,
HOUSE BILL NO. 1347,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1608,
SECOND SUBSTITUTE HOUSE BILL NO. 1651,
THIRD SUBSTITUTE HOUSE BILL NO. 1660,
HOUSE BILL NO. 1755,
SUBSTITUTE HOUSE BILL NO. 2017,
SECOND SUBSTITUTE HOUSE BILL NO. 2066,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2265,
SUBSTITUTE HOUSE BILL NO. 2295,
SUBSTITUTE HOUSE BILL NO. 2417,
SUBSTITUTE HOUSE BILL NO. 2448,
SUBSTITUTE HOUSE BILL NO. 2483,
SUBSTITUTE HOUSE BILL NO. 2525,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2551,
SUBSTITUTE HOUSE BILL NO. 2567,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2576,
HOUSE BILL NO. 2602,
SUBSTITUTE HOUSE BILL NO. 2613,
SUBSTITUTE HOUSE BILL NO. 2614,
HOUSE BILL NO. 2617,
HOUSE BILL NO. 2619,
SUBSTITUTE HOUSE BILL NO. 2673,
ENGROSSED HOUSE BILL NO. 2755,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2783,
and HOUSE BILL NO. 2837.

MOTION

At 3:30 p.m., on motion of Senator Liias, the Senate adjourned until 10:00 o'clock a.m. Monday, March 9, 2020.

CYRUS HABIB, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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6084-S		6419-SE	
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6212		Confirmed	3
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6236		Confirmed	3
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6280-SE		Confirmed	2
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