EIGHTY SIXTH DAY

House Chamber, Olympia, Tuesday, April 8, 2025

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

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

RESOLUTION

HOUSE RESOLUTION NO. 2025-4651, by Representatives Stuebe, Schmidt, Street, Dent, Schmick, Nance, Chase, Klicker, Ryu, Burnett, Peterson, Orcutt, Kloba, Barnard, Eslick, and Dufault

WHEREAS, The East County Citizens' Alliance (ECCA) was founded in 2022 with the mission to support the community and public institutions of East Clark County; and

WHEREAS, The ECCA has demonstrated exceptional dedication to community service through various initiatives that promote environmental stewardship, community engagement, and educational opportunities for youth; and

WHEREAS, The ECCA organized a program to clean State Route 14 in Washougal and Camas, resulting in the removal of tens of thousands of pounds of trash from this scenic road, significantly enhancing the area's beauty and environmental health; and

WHEREAS, The ECCA spearheaded the idea to plant native wildflowers along a stretch of State Route 14, transforming the highway into a stunning corridor of local flora that benefits both the environment and the community; and

WHEREAS, The ECCA partnered with Washougal High School to develop the Community-School Partnership, a first-of-its-kind program locally that matches volunteers from the community with students who are struggling academically, helping them to thrive and reach their full potential through mentorship, support, and encouragement; and

WHEREAS, The ECCA's continued efforts serve as a model for community-led initiatives that positively impact both the environment and the individuals who live in East County, fostering a spirit of collaboration and volunteerism that strengthens the entire region; and

WHEREAS, The ECCA's work not only improves the quality of life in the region but also instills a strong sense of pride and connection among community members, while creating opportunities for growth, learning, and civic engagement for all involved;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize and commend the East County Citizens' Alliance for its outstanding contributions to East County, its role in fostering positive change through environmental stewardship, education, and volunteerism, and its dedication to creating a vibrant and healthy community; and

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to the East County Citizens' Alliance as an expression of gratitude and recognition for its commitment to building a better future for East County and its residents.

With the consent of the House, HOUSE RESOLUTION NO. 4651 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2025-4653, by Representatives Ryu, Scott, Thai, Santos, Bronoske, Leavitt, Peterson, Morgan, Dufault, Parshley, Thomas, Taylor, Reed, Zahn, Simmons, and Berg

WHEREAS, Kimchi is a traditional Korean dish with a long, rich history beginning over 2,000 years ago during the time of the three kingdoms of Korea; and

WHEREAS, "Kimjang," the process by which kimchi is prepared, has been recognized as an Intangible Cultural Heritage of Humanity by the United Nations Educational, Scientific, and Cultural Organization; and

WHEREAS, Kimchi is found for sale across the United States at major retailers and is becoming an international staple as an excellent source of probiotics, filate, beta-carotene, choline, potassium, calcium, and vitamins A, C, and K, many of which contribute to lower rates of stroke, cancer, and diabetes; and

WHEREAS, The growing interest in and popularity of kimchi as a dish in the United States, as evidenced by an increase in available kimchi-related products, menu items, and interest from non-Korean consumers, represents a positive example of multicultural exchange; and

WHEREAS, South Korea celebrates "National Kimchi Day" on November 22nd, representing the 11 major ingredients and 22 health benefits of the dish; and

WHEREAS, Washington state has the fifth highest concentration of Korean Americans in the United States and this growing community has greatly contributed to the vibrant, diverse culture of the state;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives celebrate November 22nd as Kimchi Day in recognition of the history and importance of a beloved food staple first introduced in Washington state by the Korean American community.

With the consent of the House, HOUSE RESOLUTION NO. 4653 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2025-4655, by Representatives Parshley, Eslick, Jacobsen, Dent, Bronoske, Kloba, Ryu, Taylor, Bernbaum, Stuebe, Dufault, and Callan

WHEREAS, Hollywood screenwriter Tab Murphy was raised in Olympia and attended Lincoln Elementary School, Washington Middle School, and Olympia High School, from which he graduated in 1975; and

WHEREAS, Tab lived in the historic South Water Street District, three blocks from the capitol, and served as a senate page at the age of 14. He also attended a "Bigfoot Rally" on the state capitol steps that began a lifelong obsession with Sasquatch; and

WHEREAS, Tab attended Washington State University before transferring to the University of Southern California (USC) Film School his sophomore year, though he will always be a "coug" at heart, to pursue his love for movies and storytelling through a career in the movie business; and

WHEREAS, While at the USC Film School, Tab took a course in screenwriting that cemented his determination, and with a clear path to breaking into a difficult business, Tab dropped out of film school and began writing screenplays, supporting himself by working various odd jobs; and

WHEREAS, Tab broke into the business as a screenwriter in 1983, writing several unproduced movies for Paramount Studios; and

WHEREAS, Tab's big break finally came in 1986 when he was hired by Warner Bros. to write a screenplay based on the life and death of Dian Fossey. The movie was named "Gorillas in the Mist" and was released in 1988, for which Tab received an Academy Award nomination for his work on the script; and

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WHEREAS, In 1994, Tab wrote and directed a modern western fantasy called "Last of the Dogmen," a nod to Tab's passion for Native American culture and history, which included over 70 nonactors from the Northern and Southern Cheyenne tribes; and

WHEREAS, In 1995, Tab embarked on a 10-year, multiproject journey with The Walt Disney Company, during which time, Tab wrote four animated features: "The Hunchback of Notre Dame," "Tarzan," "Atlantis: The Lost Empire," and "Brother Bear"; and

WHEREAS, Tab received numerous awards for his work with "Brother Bear," and was nominated for an Academy Award in the Best Animated Feature category; and

WHEREAS, Tab also delved into the world of superheroes for Warner Bros. Animation, adapting several popular graphic novels, including the revered "Batman: Year One" by Frank Miller; and

WHEREAS, In 2023, Tab received an Emmy nomination for best documentary for his work on a Netflix nature documentary entitled "Kangaroo Valley";

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives honor Tab Murphy for his many contributions in film that continue to bring smiles and joy to kids and adults alike.

With the consent of the House, HOUSE RESOLUTION NO. 4655 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2025-4657, by Representatives Jinkins and Thai

WHEREAS, John Hughes has diligently served the state of Washington, providing information and protecting the heritage of Washington for over 50 years; and

WHEREAS, John Hughes is a lifelong resident of Grays Harbor County, starting his career in journalism by delivering copies of the Aberdeen Daily World at age 9; and

WHEREAS, Hughes graduated from Aberdeen High School and Grays Harbor College before joining the United States Air Force in 1962 as an operations specialist, serving four years before being discharged as a sergeant in 1966; and

WHEREAS, During his military service, John continued to further his education by studying American history at the University of Puget Sound and the University of Maryland; and

WHEREAS, In 1966, John married Patricia "Patsy" Drescher in Hoquiam. The pair adopted their two daughters, Claire and Sarah, from Korea; and

WHEREAS, John began working at the Aberdeen Daily World as a sportswriter and photographer in 1966, and quickly rose through the ranks, becoming the City Editor in 1973; and

WHEREAS, In 1977, John became the Editor in Chief of the Aberdeen Daily World, a position he held until 2005, when he was promoted to Editor and Publisher; and

WHEREAS, In 2004, John was honored with the June Anderson Almquist Lifetime Achievement Award from the Society of Professional Journalists; and

WHEREAS, John served as a Representative on the Washington Bench Bar Press Committee for 20 years and as the president of both the Allied Daily Newspapers of Washington and the Associated Press Managing Editors; and

WHEREAS, Upon its founding in 2008, Hughes joined Legacy Washington as Chief Historian after being recruited by then Secretary of State Sam Reed to head the project as part of a proposed State Heritage Center on the Capitol Campus; and

WHEREAS, Washington's historic legalization of same-sex civil unions in 2009 was memorialized in time through John's work on the Marriage Equality Legacy Project; and

WHEREAS, John's work emphasizes the importance of oral histories, documenting almost 50 unique stories in this fashion; and

WHEREAS, John's work has focused on highlighting the contributions of notable Washingtonians, from Krist Novoselic to Carolyn Dimmick; and

WHEREAS, As Chief Historian, John and Legacy Washington published many books about the folks that made history in Washington as well as documenting the history of the state; and

WHEREAS, John's recent contributions to the preservation of Washington state history include "Lightning Boldt," a biography of federal judge George H. Boldt who issued the landmark decision upholding the fishing rights of Northwest treaty tribes in 1974, and "New Land," documenting the story of Southeast Asian refugees finding a home in Washington;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize and applaud the work of John Hughes in the preservation of Washington history; and

BE IT FURTHER RESOLVED, That, as his contributions to our great state are many and the importance of his work cannot be understated, we congratulate him on his well-deserved retirement.

With the consent of the House, HOUSE RESOLUTION NO. 4657 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2025-4658, by Representatives Duerr, Fitzgibbon, Zahn, Ramel, Chase, Berry, Parshley, Taylor, Abell, Walen, Doglio, Bronoske, Fosse, Scott, Ryu, Timmons, Stonier, Leavitt, and Berg

WHEREAS, The people of the State of Washington and the people of Denmark maintain a strong and enduring relationship, exemplified by visits from the Danish Crown Princess, Danish ambassadors, and the Danish Foreign Minister, who have all engaged with state, city, and municipal officials, including former Governor Inslee; and

WHEREAS, There are significant economic ties between the people of Washington and the people of Denmark, including Danish-supported initiatives involving industrial symbiosis projects in eastern Washington, substantial shipping activities through Washington ports by the Danish company Maersk, employment of approximately 3,000 workers by Danish businesses in the state, and annual exports from Washington to Denmark valued at approximately $48 million; and

WHEREAS, Educational collaborations between Washingtonians and Danes are robust, with student exchange programs linking the University of Washington and Danish universities, internships provided by Danish firms to Washington students, and visiting Danish educators at the University of Washington's Scandinavian Studies Department; and

WHEREAS, Cultural connections between both peoples are richly woven, encompassing live performances and exhibitions by Danish artists in Washington, as well as public outdoor works by the world-renowned Danish artist Thomas Dambo; and

WHEREAS, Washington is home to a significant Danish-American population, reflected in the Danish and Nordic organizations and the many Danish cultural celebrations that enhance and enrich life in the state; and

WHEREAS, Researchers from Washington developed a long-standing and collaborative scientific relationship with researchers from Denmark and from Greenland, focusing on the atmosphere, ocean, biology, sea ice, ice sheet dynamics, and the past climate of Greenland and the Arctic, with studies in these areas conducted alongside Danish colleagues for more than 40 years;

NOW, THEREFORE, BE IT RESOLVED, In appreciation of these myriad relationships, the House of Representatives reiterate their firm support for continued and strengthened governmental, economic, educational, and cultural ties between the people of Washington and the people of Denmark and of Greenland.

With the consent of the House, HOUSE RESOLUTION NO. 4658 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2025-4659, by Representatives Zahn, Timmons, Fitzgibbon, Ramel, Abell, Mena, Bernbaum, Parshley, Richards, Walen, Donaghy, Taylor, Rule, Thai, Doglio, Fosse, Bronoske, Scott, Dent, Ryu, Street, Cortes, Nance, Stonier, Callan, Pollet, Leavitt, and Paul

WHEREAS, As neighbors, the people of Washington and Canada have built a prosperous and exemplary relationship that is the envy of the world, driving economic growth, encouraging cultural transfer, and solving shared challenges together; and

WHEREAS, Washington state and British Columbia serve as a model for regional collaboration, reflecting a history of cooperation that continues to strengthen economic integration and shared innovation; and

WHEREAS, The ties between the people of Canada and the people of Washington state are woven into the fabric of each of our economies, with nearly 2.7 billion USD worth of goods and services traded each day; and

WHEREAS, The products traded support some of the industries we rely upon most, such as food, energy, manufacturing and agriculture, and millions of jobs for both Washingtonians and Canadians depend on this incredible partnership; and

WHEREAS, Commerce with the people of British Columbia maintains a deeply integrated trade relationship, with billions of dollars in goods and services exchanged annually, providing a critical market for exports and ensuring an efficient supply chain for key industries; and

WHEREAS, The relationship between the people of Washington state and Canada exemplifies a successful history of trust, mutual respect, and cooperation, buoying each other through periods of uncertainty, economic downturns, trade disputes, and a global pandemic; and

WHEREAS, The 2026 FIFA Men's World Cup games in Washington state and British Columbia will benefit communities across the Pacific Northwest, and particularly our tourism, emerging industries, and small businesses; and

WHEREAS, The shared economic interdependence across multiple sectors, including agriculture, energy, manufacturing, technology, and transportation ensures continued job creation, business expansion, and global market shifts to maintain economic stability; and

WHEREAS, With honor, respect, and acknowledgment, the people of Canada and the people of Washington state share a deep and enduring connection with the First Nations and Tribes, the first peoples of both nations, who have upheld agreements with federal governments in recognition of their sovereignty and inherent rights, whose bloodlines, culture, and traditional laws have sustained these lands since time immemorial, and who continue to be essential partners and leaders in economic sustainability; and

WHEREAS, The strong relationship between the people of Canada and the people of Washington state is reflected in the communities that span the border, which are deeply rooted in shared traditions and cultural exchanges; and

WHEREAS, Point Roberts, Washington exemplifies the deep interconnection between the people of Washington state and British Columbia, depending on cross-border access to essential resources; and

WHEREAS, Our shared leadership in addressing climate change and sustainable energy resources has resulted in real progress to advance clean technologies, explore solutions to complex challenges, and ensure a healthy and resilient world for our future generations; and

WHEREAS, Our Canadian neighbors provide aid to Washington state in times of crisis, lending supplies and volunteers during the Nooksack floods, sending water bombers to combat wildfires, and allowing stranded passengers and planes to take refuge on September 11, 2001;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives reaffirm our commitment to collaboration, fostering consistent, open dialogue between public and private sectors, and strengthening the bonds we have shared with the people of Canada for over 150 years, and to unite to solve common challenges and build mutual prosperity through collaboration that enables our region to advance practical solutions that create long lasting benefits for us all.

With the consent of the House, HOUSE RESOLUTION NO. 4659 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2025-4660, by Representatives Santos and Obras

WHEREAS, On August 12, 1931, Dolores Dasalla Estigoy was born on Vashon Island to Maria Dasalla and Victoriano Estigoy, but was raised among the *manongs* in the Chinatown International District of Seattle where the family owned and operated the Estigoy Café; and

WHEREAS, Dolores fondly credits the community of Filipino immigrant laborers who frequented the Café, as well as the hotels, barbershops, and gambling halls of Chinatown, for providing her with a sense of belonging and identity, and for teaching her to embrace hope, determination, and respect for all in her endeavors; and

WHEREAS, Torn between desire and destiny, young Dolores abandoned her dreams of becoming a violin teacher, instead pursuing a career in journalism with the encouragement of her mother who deeply admired Victor Velasco, the editor and publisher of the *Filipino Forum*, a valued community-based newspaper which Dolores and her husband Martin Sibonga later purchased; and

WHEREAS, In 1952, Dolores graduated from the University of Washington with a degree in journalism, one of the first Filipinos to earn this distinction, thus beginning a lifetime of "firsts" for her and the communities and causes with which she identified, including being the first Filipina admitted to the Washington State Bar Association and serving as the first woman of color to serve on the Seattle City Council; and

WHEREAS, Throughout her exemplary career, Dolores demonstrated how to lead with conviction, compassion, and courage, once being arrested with her son after joining a protest at SeaTac airport while covering the story for the *Filipino Forum*; and

WHEREAS, Dolores' public service career spans, not only three terms as an elected member of the Seattle City Council, but also service as a public defender, a legislative analyst for the King County Council, the operations manager in the Office for Civil Rights, Commissioner of the Washington State Human Rights Commission, Commissioner of the state Horse Racing Commission, and – currently, as a nonagenarian – a hearing examiner for the King County Board of Appeals and Equalization, leaving an unparalleled legacy of accomplishments and achievements; and

WHEREAS, Known for her generous and gracious mentorship of young leaders and of community organizations, Dolores has bequeathed values of hope, humility, and home to the next generation of civic stewards, thereby honoring the treasured teachings of her beloved *manongs*;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives recognize and commend Dolores Sibonga for her extraordinary lifetime of public service, political activism, and community leadership in pursuit of justice and equality for all Washingtonians.

With the consent of the House, HOUSE RESOLUTION NO. 4660 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2025-4661, by Representatives Santos, Salahuddin, Farivar, Duerr, Scott, Walen, Cortes, Taylor, Callan, Zahn, Fitzgibbon, Doglio, Parshley, Reed, Ryu, Berg, Obras, Donaghy, Tharinger, Macri, Pollet, Mena, Jinkins, Street, and Bergquist

WHEREAS, Ayşenur Ezgi Eygi was born in Turkey on July 27, 1998, but was raised in Seattle, Washington where she attended West Seattle High School as well as the Ida B. Wells School for Social Justice, an alternative Seattle Public Schools college preparatory program at the University of Washington campus; and

WHEREAS, Eygi possessed a profound sense of peace and justice which cultivated her enduring personal commitment to social and environmental activism as a tireless community leader who organized peaceful protests including a 2016 mass student walkout against xenophobia and for religious freedom in Seattle,

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who stood in solidarity with indigenous, displaced, and marginalized communities across the country, who spent time supporting the elderly and individuals with disabilities, and who worked as a behavioral technician to serve children on the autism spectrum and their families; and

WHEREAS, Eygi was equally enthusiastic and energetic about engaging in global movements for peace and sustainability, devoting herself to the mutual advancement of climate justice and human rights through her understanding of the interdependence of healthy ecosystems and thriving societies whether supporting physical therapy and eco building projects in Myanmar, participating in coral reef restoration in Australia, or transforming recycled plastics into usable fuel in Indonesia; and

WHEREAS, Eygi ardently advocated against human displacement in the United States and internationally, supporting refugees and immigrants who resettled in Seattle by assisting with administrative paperwork, finding housing, as well as securing food and other basic human needs, and volunteering to serve as a human rights observer in embattled regions of the globe; and

WHEREAS, Eygi graduated from the School of Psychology at the University of Washington in June 2024 with plans to pursue a Ph.D. in anthropology and with dreams to serve American immigrant communities through original research and with clinical counseling, but on September 6, 2024, her dreams and her life were tragically cut short by a sniper bullet as she bore witness to events unfolding in the Middle East; and

WHEREAS, In honor of Ayşenur Ezgi Eygi as a human rights advocate, community organizer, and university alumna, the University of Washington Middle East Center established a public lecture series in her name to foster public education, dialogue, and civic engagement on issues of international human rights, global peace, and environmental sustainability;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives posthumously recognize the extraordinary life of Ayşenur Ezgi Eygi and commend her legacy of activism which continues to inspire other Washingtonians to fight for social and environmental justice and to work for a more equitable, sustainable world; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the family of Ayşenur Ezgi Eygi.

With the consent of the House, HOUSE RESOLUTION NO. 4661 was adopted.

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

MESSAGE FROM THE SENATE

Monday, April 7, 2025

Mme. Speaker:

The Senate has passed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1174
HOUSE BILL NO. 1215
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1414
SUBSTITUTE HOUSE BILL NO. 1490
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1549
SUBSTITUTE HOUSE BILL NO. 1606
HOUSE BILL NO. 1760

and the same are herewith transmitted.

Colleen Pehar, Deputy Secretary

MESSAGE FROM THE SENATE

Monday, April 7, 2025

Mme. Speaker:

The President has signed:

HOUSE BILL NO. 1003
HOUSE BILL NO. 1007
HOUSE BILL NO. 1054
HOUSE BILL NO. 1075
HOUSE BILL NO. 1112
HOUSE BILL NO. 1157
HOUSE BILL NO. 1172
ENGROSSED HOUSE BILL NO. 1191
HOUSE BILL NO. 1304
HOUSE BILL NO. 1361
HOUSE BILL NO. 1457
HOUSE BILL NO. 1553
HOUSE BILL NO. 1556
HOUSE BILL NO. 1947

and the same are herewith transmitted.

Colleen Pehar, Deputy Secretary

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

INTRODUCTION & FIRST READING

HB 2071 by Representatives Davis and Scott

AN ACT Relating to generating resources to combat domestic violence by imposing an excise tax on owners of online dating applications; adding a new chapter to Title 82 RCW; and providing an effective date.

Referred to Committee on Finance.

HB 2072 by Representatives Davis, Pollet and Scott

AN ACT Relating to sustaining and expanding behavioral health services by levying an opioid impact fee on opioid manufacturers; amending RCW 70.225.040; adding a new chapter to Title 69 RCW; and providing an effective date.

Referred to Committee on Appropriations.

HB 2073 by Representatives Parshley, Macri and Scott

AN ACT Relating to funding for health insurance premium assistance; adding a new section to chapter 48.43 RCW; creating a new section; and providing an effective date.

Referred to Committee on Appropriations.

SSB 5194 by Senate Committee on Ways & Means (originally sponsored by Trudeau, Schoesler, Chapman, Dozier and Nobles)

AN ACT Relating to state general obligation bonds and related accounts; adding new sections to chapter 43.100A RCW; and declaring an emergency.

SSB 5195 by Senate Committee on Ways & Means (originally sponsored by Trudeau, Schoesler, Chapman, Dozier and Nobles)

AN ACT Relating to the capital budget; amending RCW 79A.25.210, 28A.525.159, 28B.20.725, 28B.15.210, 28B.15.310, 28B.30.750, 28B.35.370, 28B.50.360, 39.35D.030, 43.19.125, 43.63A.125, 43.63A.750, 43.88.030, 43.88D.010, 43.99N.060, 43.330.400, 70A.305.190, and 79.24.720; amending 2023 c 474 ss 6005, 6013, 6014, 6021, 6023, 6024, 6033, 6074, 6087, 1044, 1066, 2032, 2036, 6162, 6244, 6251, 6252, 6310, 3007, 3032, 3041, 6344, 6345, 6359, 3134, 6537, 6492, 6505, 5080, 5083, and 8019, and 2024 c 375 ss 6012, 6009, 1009, 1005, 1007, 1010, 1011, 1016, 1018, 1023, 1025, 1033, 6018, 1035, 1044, 1047, 2011, 6023, 3019, 3039, and 5002 (uncodified); reenacting and amending RCW

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43.83B.430 and 43.155.050; adding new sections to 2023 c 474 (uncodified); creating new sections; repealing 2024 c 375 ss 1004 and 3020, and 2023 c 474 ss 1033, 2030, 6061, 6071, and 6088 (uncodified); making appropriations; providing a contingent effective date; and declaring an emergency.

There being no objection, the bills listed on the day's introduction sheet will be considered first reading under the fourth order of business and will be referred to the committees so designated, with the exception of SUBSTITUTE SENATE BILL NO. 5194 and SUBSTITUTE SENATE BILL NO. 5195 which will be placed on the second reading calendar.

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

REPORTS OF STANDING COMMITTEES

April 3, 2025

HB 2034 Prime Sponsor, Representative Ormsby: Concerning termination and restatement of plan 1 of the law enforcement officers' and firefighters' retirement system. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Doglio; Dye; Keaton; Manjarrez; and Marshall.

Referred to Committee on Rules for second reading

April 5, 2025

HB 2041 Prime Sponsor, Representative Macri: Concerning postpartum coverage. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; and Marshall.

Referred to Committee on Rules for second reading

April 5, 2025

HB 2047 Prime Sponsor, Representative Richards: Eliminating the Washington employee ownership program. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Corry; Dye; Manjarrez; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representatives Couture, Ranking Minority Member; Caldier; Doglio; and Keaton.

Referred to Committee on Rules for second reading

April 5, 2025

HB 2048 Prime Sponsor, Representative Rule: Eliminating the Washington state leadership board. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Corry; Dye; Keaton; Manjarrez; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representative Caldier.

Referred to Committee on Rules for second reading

April 5, 2025

HB 2050 Prime Sponsor, Representative Ormsby: Implementing K-12 savings and efficiencies. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; and Marshall.

Referred to Committee on Rules for second reading

April 5, 2025

HB 2051 Prime Sponsor, Representative Gregerson: Concerning payment to acute care hospitals for difficult to discharge medicaid patients. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by

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Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; and Marshall.

Referred to Committee on Rules for second reading

April 5, 2025

SSB 5033 Prime Sponsor, Environment, Energy & Technology: Concerning sampling or testing of biosolids for PFAS chemicals. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70A.226.005 and 1992 c 174 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Municipal sewage sludge is an unavoidable by-product of the wastewater treatment process;

(b) Population ((~~increases~~))growth and technological improvements in wastewater treatment processes will ((~~double the amount of sludge generated within the next ten years~~))increase the production of biosolids in the future;

(c) Sludge management is often a financial burden to municipalities and to ratepayers;

(d) Properly managed municipal sewage sludge is a valuable commodity and can be beneficially used in agriculture, silviculture, and in landscapes as a soil conditioner; and

(e) Municipal sewage sludge can contain metals and microorganisms that, under certain circumstances, may pose a risk to public health.

(2) The legislature declares that a program shall be established to manage municipal sewage sludge and that the program shall, to the maximum extent possible, ensure that municipal sewage sludge is reused as a beneficial commodity and is managed in a manner that minimizes risk to public health and the environment.

Sec. 2. RCW 70A.226.007 and 1992 c 174 s 2 are each amended to read as follows:

The purpose of this chapter is to provide the department ((~~of ecology~~)) and local governments with the authority and direction to meet federal regulatory requirements for municipal sewage sludge. The department ((~~of ecology~~)) may seek delegation and administer the sludge permit program required by the federal clean water act as it existed ((~~February 4, 1987~~))on the effective date of this section.

Sec. 3. RCW 70A.226.010 and 2020 c 20 s 1239 are each amended to read as follows:

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

(1) "Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all requirements under this chapter. For the purposes of this chapter, "biosolids" includes septic tank sludge, also known as septage, that can be beneficially recycled and meets all requirements under this chapter.

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

(3) "Local health department" has the same meaning as "jurisdictional health department" in RCW 70A.205.015.

(4) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(5) "PFAS chemicals" has the same meaning as defined in RCW 70A.350.010.

Sec. 4. RCW 70A.226.020 and 1992 c 174 s 4 are each amended to read as follows:

(1) The department shall adopt rules to implement a biosolid management program within ((~~twelve~~))12 months of the adoption of federal rules, 40 C.F.R. ((~~Sec.~~))Part 503, relating to technical standards for the use and disposal of sewage sludge. The biosolid management program shall, at a minimum, conform with all applicable federal rules adopted pursuant to the federal clean water act as it existed on ((~~February 4, 1987~~))the effective date of this section.

(2) In addition to any federal requirements, the state biosolid management program may include, but not be limited to, an education program to provide relevant legal and scientific information to local governments and citizen groups.

(3) Rules adopted by the department under this section shall provide for public input and involvement for all state and local permits.

(4) Materials that have received a permit as a biosolid shall be regulated pursuant to this chapter.

(5) The transportation of biosolids and municipal sewage sludge shall be governed by Title 81 RCW. Certificates issued by the utilities and transportation commission before June 11, 1992, that include or authorize transportation of municipal sewage sludge shall continue in force and effect and be interpreted to include biosolids.

(6)(a) By July 1, 2026, the department must publish guidance to clarify PFAS chemical sampling requirements, including frequency and methodology, for facilities generating biosolids.

(b) Facilities generating biosolids regulated under this chapter must sample for PFAS chemical in accordance with the department's guidance and have the biosolids analyzed by an accredited laboratory for PFAS chemicals using the United States environmental protection agency method 1633A

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as it existed in December 2024, no more than quarterly starting no later than January 1, 2027, and ending by June 30, 2028.

(c) Facilities that are required to sample their biosolids for PFAS must provide all sampling results to the department no later than September 30, 2028.

(d) By July 1, 2029, the department must submit a report to the appropriate committees of the legislature and the public with a summary of the analysis of the levels of PFAS chemicals in biosolids produced in and/or land applied in Washington state and recommendations on how to proceed based on the analysis.

(e) In developing the recommendations under (d) of this subsection, the department must consult with the advisory committee created in section 6 of this act.

(f) For the purposes of this subsection, "biosolids" do not include septic tank sludge, also known as septage.

Sec. 5. RCW 70A.226.030 and 2014 c 76 s 7 are each amended to read as follows:

(1) The department shall establish annual fees to collect expenses for issuing and administering biosolids permits under this chapter. An initial fee schedule shall be established by rule and shall be adjusted no more often than once every two years. This fee schedule applies to all permits, regardless of date of issuance, and fees shall be assessed prospectively. Fees shall be established in amounts to recover expenses incurred by the department in processing permit applications and modifications, reviewing related plans and documents, monitoring, evaluating, conducting inspections, overseeing performance of delegated program elements, sampling or testing, and providing technical assistance and supporting overhead expenses that are directly related to these activities.

(2) The annual fee paid by a permittee for any permit issued under this chapter shall be determined by the number of residences or residential equivalents contributing to the permittee's biosolids management system. If residences or residential equivalents cannot be determined or reasonably estimated, fees shall be based on other appropriate criteria.

(3) The biosolids permit account is created in the state treasury. All receipts from fees under this section 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 purposes of administering permits under this chapter.

(4) The department shall make available on the department's website information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.

(5) The department shall work with the regulated community and local health departments to study the feasibility of modifying the fee schedule to support delegated local health departments and reduce local health department fees paid by biosolids permittees.

NEW SECTION. **Sec. 6.** A new section is added to chapter 70A.226 RCW to read as follows:

(1) By September 30, 2028, and before developing the report required in RCW 70A.226.020(6)(d), the department must convene and consult with an advisory committee of representatives from:

(a) The farming community;

(b) Toxicologists;

(c) Utilities that produce soil amendments, including special purpose districts, municipal utility providers, and public utility districts;

(d) Local governments;

(e) Experts;

(f) Interested parties; and

(g) Other similar stakeholders.

(2) The purpose of consultation required under this section is to ensure that the department is soliciting and receiving sufficient input on requirements and standards for sampling or testing biosolids for PFAS chemicals.

(3) For the purposes of this section, "biosolids" do not include septic tank sludge, also known as septage."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2025

SB 5079 Prime Sponsor, Senator Muzzall: Addressing the burden of unintentional overpayments on older adults and adults with disabilities served by the department of social and health services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Early Learning & Human Services. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 5, 2025

SB 5110 Prime Sponsor, Senator Kauffman: Providing tuition waivers for tribal elders at Washington’s community and technical colleges. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Connors, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member;

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Berg; Bergquist; Callan; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Couture, Ranking Minority Member; Penner, Assistant Ranking Minority Member; Burnett; Caldier; Corry; and Marshall.

Referred to Committee on Rules for second reading

April 5, 2025

E2SSB 5175 Prime Sponsor, Ways & Means: Concerning the photovoltaic module stewardship and takeback program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Corry; Dye; Keaton; Manjarrez; and Marshall.

Referred to Committee on Rules for second reading

April 5, 2025

SSB 5191 Prime Sponsor, Labor & Commerce: Concerning paid family and medical leave premium collection for dockworkers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2025

ESSB 5281 Prime Sponsor, Transportation: Changing the vessel length requirement in obtaining nonresident vessel permits. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Mendoza, Assistant Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Bronoske; Dent; Duerr; Entenman; Griffey; Hunt; Klicker; Ley; Nance; Orcutt; Paul; Ramel; Richards; Stuebe; Taylor; Timmons; Volz and Zahn.

Referred to Committee on Rules for second reading

April 7, 2025

SB 5315 Prime Sponsor, Senator Gildon: Standardizing notification provisions relating to local tax rate changes and shared taxes administered by the department. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Abell; Chase; Mena; Parshley; Penner; Ramel; Scott; Springer; Walen and Wylie.

Referred to Committee on Rules for second reading

April 5, 2025

SSB 5351 Prime Sponsor, Health & Long-Term Care: Ensuring patient choice and access to care by prohibiting unfair and deceptive dental insurance practices. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2025

ESSB 5390 Prime Sponsor, Ways & Means: Concerning the discover pass and distributions. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that both visitors and residents of Washington state enjoy the opportunity to recreate and experience the beauty of state-owned public lands, like state parks. The legislature also finds that the costs to provide access to these lands has been successfully supported by user-based recreation fees and that the costs of continued support and access has outpaced the revenue generated by fees. The discover pass and day-use permits that are used to gain access to state-owned lands have been in place since 2011, and the cost for the discover pass and permits has not changed since then. However, the costs to maintain recreational access have steadily increased. The original legislation anticipated the potential need to consider adjustment in the cost of both the discover pass and day-use permits. The legislature intends to maintain recreational access for all by updating the cost of the discover pass commensurate with the inflationary costs to carry out state recreational programs.

Sec. 2. RCW 79A.80.020 and 2017 c 121 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, a discover pass is required for any motor vehicle to:

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(a) Park at any recreation site or lands; or

(b) Operate on any recreation site or lands.

(2) Except as provided in RCW 79A.80.110, the cost of a discover pass is ((~~thirty dollars~~))$45. Every four years the office of financial management must review the cost of the discover pass and, if necessary, recommend to the legislature an adjustment to the cost of the discover pass to account for inflation.

(3) A discover pass is valid for one year beginning from the date that the discover pass is marked for activation. The activation date may differ from the purchase date pursuant to any policies developed by the agencies.

(4) Sales of discover passes must be consistent with RCW 79A.80.100.

(5) The discover pass must contain space for two motor vehicle license plate numbers. A discover pass is valid only for those vehicle license plate numbers written on the pass. However, the agencies may offer for sale a family discover pass that is fully transferable among vehicles and does not require the placement of a license plate number on the pass to be valid. The agencies must collectively set a price for the sale of a family discover pass that is no more than ((~~fifty dollars~~))$50. A discover pass is valid only for use with one motor vehicle at any one time.

(6)(a) One complimentary discover pass must be provided to a volunteer who performed ((~~twenty-four~~))24 hours of service on agency-sanctioned volunteer projects in a year. The agency must provide vouchers to volunteers identifying the number of volunteer hours they have provided for each project. The vouchers may be brought to an agency to be redeemed for a discover pass.

(b) Married spouses under chapter 26.04 RCW may present an agency with combined vouchers demonstrating the collective performance of ((~~twenty-four~~))24 hours of service on agency-sanctioned volunteer projects in a year to be redeemed for a single complimentary discover pass.

(7) A lifetime disabled veteran pass issued under RCW 79A.05.065(3) is the equivalent of a discover pass for purposes of this chapter, as long as the person to whom the pass was issued is a driver or passenger in the vehicle when accessing a site or lands.

Sec. 3. RCW 79A.80.090 and 2020 c 148 s 27 are each amended to read as follows:

(1) The recreation access pass account is created in the state treasury. All moneys received from the sale of discover passes and day-use permits must be deposited into the account.

(2) Each fiscal biennium, the first ((~~seventy-one million dollars~~))$85,000,000 in revenue must be distributed to the agencies in the following manner:

(a) Eight percent to the department of fish and wildlife and deposited into the limited fish and wildlife account created in RCW 77.12.170(1);

(b) Eight percent to the department of natural resources and deposited into the parkland trust revolving fund created in RCW 43.30.385;

(c) Eighty-four percent to the state parks and recreation commission and deposited into the state parks renewal and stewardship account created in RCW 79A.05.215;

(d) During the 2015-2017 fiscal biennium, expenditures from the recreation access pass account may be used for Skamania county court costs. During the 2015-2017 and 2017-2019 fiscal biennia, expenditures from the recreation access pass account may be used for the state parks and recreation commission, in partnership with the departments of fish and wildlife and natural resources, to develop options and recommendations to improve recreational access fee systems.

(3) Each fiscal biennium, revenues in excess of ((~~seventy-one million dollars~~))$85,000,000 must be distributed equally among the agencies to the accounts identified in subsection (2) of this section.

Sec. 4. RCW 79A.80.080 and 2013 2nd sp.s. c 15 s 3 are each amended to read as follows:

(1) A discover pass, vehicle access pass, lifetime disabled veteran pass, or day-use permit must be visibly displayed in the front windshield, or otherwise in a prominent location for motor vehicles without a windshield, of any motor vehicle:

(a) Operating on any recreation site or lands; or

(b) Parking at any recreation site or lands.

(2) The discover pass, the vehicle access pass, lifetime disabled veteran pass, or the day-use permit is not required:

(a) On private lands, state-owned aquatic lands other than water access areas, or at agency offices, hatcheries, or other facilities where public business is conducted;

(b) For persons who use, possess, or enter lands owned or managed by the agencies for nonrecreational purposes consistent with a written authorization from the agency, including but not limited to leases, contracts, and easements;

(c) On department of fish and wildlife lands only, for persons possessing a current vehicle access pass pursuant to RCW 79A.80.040; ((~~or~~))

(d) When operating on a road managed by the department of natural resources or the department of fish and wildlife, including a forest or land management road, that is not blocked by a gate; or

(e) For motor vehicles used for off-road recreation that have been transported to a recreation site or lands managed for off-road recreation by another motor vehicle that: (i) Remains parked at the recreation site or lands; and (ii) displays a pass or permit consistent with the requirements of this chapter.

(3)(a) An agency may waive the requirements of this section for any person who has secured the ability to access specific recreational land through the provision of monetary consideration to the

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agency or for any person attending an event or function that required the provision of monetary compensation to the agency.

(b) Special events and group activities are core recreational activities and major public service opportunities within state parks. When waiving the requirements of this section for special events, the state parks and recreation commission must consider the direct and indirect costs and benefits to the state, local market rental rates, the public service functions of the event sponsor, and other public interest factors when setting appropriate fees for each event or activity.

(4) Failure to comply with subsection (1) of this section is a natural resource infraction under chapter 7.84 RCW. An agency is authorized to issue a notice of infraction to any person who fails to comply with subsection (1)(a) of this section or to any motor vehicle that fails to comply with subsection (1)(b) of this section.

(5) The penalty for failure to comply with the requirements of this section is ((~~ninety-nine dollars~~))$99. This penalty must be reduced to ((~~fifty-nine dollars~~))$59 if an individual provides, within 15 days after the issuance of the notice of violation, proof of purchase of a discover pass to the court ((~~within fifteen days after the issuance of the notice of violation~~))or evidence that the individual has obtained a lifetime disabled veteran pass under RCW 79A.05.065(3).

Sec. 5. RCW 79A.05.065 and 2011 c 171 s 115 are each amended to read as follows:

(1)(a) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall: (i) Entitle such a person, and members of his or her camping unit, to a ((~~fifty~~))50 percent reduction in the campsite rental fee prescribed by the commission; and (ii) entitle such a person to free admission to any state park.

(b) The commission shall grant a senior citizen's pass to any person who applies for the senior citizen's pass and who meets the following requirements:

(i) The person is at least ((~~sixty-two~~))62 years of age;

(ii) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(iii) The person and his or her spouse have a combined income that would qualify the person for a property tax exemption pursuant to RCW 84.36.381. The financial eligibility requirements of this subsection (1)(b)(iii) apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(c) Each senior citizen's pass granted pursuant to this section is valid as long as the senior citizen meets the requirements of (b)(ii) of this subsection. A senior citizen meeting the eligibility requirements of this section may make a voluntary donation for the upkeep and maintenance of state parks.

(d) A holder of a senior citizen's pass shall surrender the pass upon request of a commission employee when the employee has reason to believe the holder fails to meet the criteria in (b) of this subsection. The holder shall have the pass returned upon providing proof to the satisfaction of the director that the holder meets the eligibility criteria for obtaining the senior citizen's pass.

(2)(a) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW 71A.10.020((~~(3)~~))(6) due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.19.010 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall: (i) Entitle such a person, and members of his or her camping unit, to a ((~~fifty~~))50 percent reduction in the campsite rental fee prescribed by the commission; and (ii) entitle such a person to free admission to any state park.

(b) A card, decal, or special license plate issued for a permanent disability under RCW 46.19.010 may serve as a pass for the holder to entitle that person and members of the person's camping unit to a ((~~fifty~~))50 percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(3) Any resident of Washington who is a veteran and has a service-connected disability of at least ((~~thirty~~))30 percent shall be entitled to receive a lifetime ((~~veteran's disability~~))disabled veteran pass at no cost to the holder. The pass shall: (a) Entitle such a person, and members of his or her camping unit, to free use of any campsite within any state park; and (b) entitle such a person to free admission to any state ((~~park; and (c) entitle such a person to an exemption from any reservation fees~~))recreation site or lands, as defined in RCW 79A.80.010. A lifetime disabled veteran pass entitles the holder to all of the benefits of a discover pass under chapter 79A.80 RCW.

(4)(a) Any Washington state resident who provides out-of-home care to a child, as either a licensed foster family home or a person related to the child, is entitled to a foster home pass.

(b) An applicant for a foster home pass must request a pass in the manner required by the commission. Upon receipt of a properly submitted request, the commission shall verify with the department of social and health services that the applicant qualifies under (a) of this subsection. Once issued, a foster home pass is valid for the period, which may not be less than one year, designated by the commission.

(c) When accompanied by a child receiving out-of-home care from the pass holder, a

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foster home pass: (i) Entitles such a person, and members of his or her camping unit, to free use of any campsite within any state park; and (ii) entitles such a person to free admission to any state park.

(d) For the purposes of this subsection (4):

(i) "Out-of-home care" means placement in a foster family home or with a person related to the child under the authority of chapter 13.32A, 13.34, or 74.13 RCW;

(ii) "Foster family home" has the same meaning as defined in RCW 74.15.020; and

(iii) "Person related to the child" means those persons referred to in RCW 74.15.020(2)(a) (i) through (vi).

(5) All passes issued pursuant to this section are valid at all parks any time during the year. However, the pass is not valid for admission to concessionaire operated facilities.

(6) The commission shall negotiate payment and costs, to allow holders of a foster home pass free access and usage of park campsites, with the following nonoperated, nonstate-owned parks: Central Ferry, Chief Timothy, Crow Butte, and Lyons Ferry. The commission shall seek state general fund reimbursement on a biennial basis.

(7) The commission may deny or revoke any Washington state park pass issued under this section at any time for cause, including but not limited to the following:

(a) Residency outside the state of Washington;

(b) Violation of laws or state park rules resulting in eviction from a state park;

(c) Intimidating, obstructing, or assaulting a park employee or park volunteer who is engaged in the performance of official duties;

(d) Fraudulent use of a pass;

(e) Providing false information or documentation in the application for a state parks pass;

(f) Refusing to display or show the pass to park employees when requested; or

(g) Failing to provide current eligibility information upon request by the agency or when eligibility ceases or changes.

(8) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(9) The commission may engage in a mutually agreed upon reciprocal or discounted program for all or specific pass programs with other outdoor recreation agencies.

(10) The commission shall adopt those rules as it finds appropriate for the administration of this section. Among other things, the rules shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a pass to stay at the campsite rented by such a person, a minimum Washington residency requirement for applicants for a senior citizen's pass, and an application form to be completed by applicants for a senior citizen's pass."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 5, 2025

SB 5485 Prime Sponsor, Senator Warnick: Concerning livestock identification. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2025

SSB 5494 Prime Sponsor, Ways & Means: Protecting Washington communities from lead-based paint. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Penner, Assistant Ranking Minority Member; Berg; Bergquist; Callan; Corry; Cortes; Doglio; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Connors, Assistant Ranking Minority Member; Burnett; Caldier; Dye; and Marshall.

Referred to Committee on Rules for second reading

April 5, 2025

SB 5543 Prime Sponsor, Senator Boehnke: Providing equity in eligibility for the college bound scholarship. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Callan; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

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MINORITY recommendation: Do not pass. Signed by Representatives Caldier; and Corry.

MINORITY recommendation: Without recommendation. Signed by Representative Marshall.

Referred to Committee on Rules for second reading

April 4, 2025

SSB 5556 Prime Sponsor, Transportation: Modernizing the adopt-a-highway program to improve its ability to meet its original purpose within existing fiscal limitations. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Mendoza, Assistant Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Bronoske; Dent; Duerr; Entenman; Griffey; Hunt; Klicker; Ley; Nance; Orcutt; Paul; Ramel; Richards; Stuebe; Taylor; Timmons; Volz and Zahn.

Referred to Committee on Rules for second reading

April 5, 2025

SSB 5583 Prime Sponsor, Ways & Means: Concerning recreational fishing and hunting licenses. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representative Leavitt.

Referred to Committee on Rules for second reading

April 5, 2025

ESSB 5677 Prime Sponsor, Business, Financial Services & Trade: Concerning associate development organizations. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Technology, Economic Development, & Veterans.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.330.082 and 2014 c 112 s 112 are each amended to read as follows:

(1)((~~(a)~~)) Contracting associate development organizations must provide the department with measures of their performance and a summary of best practices shared and implemented by the contracting organizations. Annual reports must include the following information to show the contracting organization's impact on employment and overall changes in employment: Current employment and economic information for the community or regional area produced by the employment security department; the net change from the previous year's employment and economic information using data produced by the employment security department; other relevant information on the community or regional area; the amount of funds received by the contracting organization through its contract with the department; the amount of funds received by the contracting organization through all sources; and the contracting organization's impact on employment through all funding sources. Annual reports may include the impact of the contracting organization on wages, exports, tax revenue, small business creation, foreign direct investment, business relocations, expansions, terminations, and capital investment. Data must be input into a common web-based business information system managed by the department. Specific measures, data standards, and data definitions must be developed in the contracting process between the department and the contracting organization every two years. ((~~Except as provided in (b) of this subsection, performance~~))Performance measures should be consistent across regions to allow for statewide evaluation.

((~~(b) In addition to the measures required in (a) of this subsection, contracting associate development organizations in counties with a population greater than one million five hundred thousand persons must include the following measures in reports to the department:~~

~~(i) The number of small businesses that received retention and expansion services, and the outcome of those services;~~

~~(ii) The number of businesses located outside of the boundaries of the largest city within the contracting associate development organization's region that received recruitment, retention, and expansion services, and the outcome of those services.~~))

(2)(a) The department and contracting associate development organizations must agree upon specific target levels for the performance measures in subsection (1) of this section. Comparison of agreed thresholds and actual performance must occur annually.

(b) Contracting organizations that fail to achieve the agreed performance targets in more than one-half of the agreed measures must develop remediation plans to address performance gaps. The remediation plans must include revised performance thresholds specifically chosen to provide evidence of progress in making the identified service changes.

(c) Contracts and state funding must be terminated for one year for organizations that fail to achieve the agreed upon progress toward improved performance defined under (b) of this subsection. During the year in which termination for nonperformance is in effect, organizations must review alternative delivery strategies to include reorganization of the contracting

organization, merging of previous efforts with existing regional partners, and other specific steps toward improved performance. At the end of the period of termination, the department may contract with the associate development organization or its successor as it deems appropriate.

(3) The department must submit a final report to the appropriate committees of the legislature by December 31st of each even-numbered year on the performance results of the contracts with associate development organizations."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representative Corry.

Referred to Committee on Rules for second reading

April 7, 2025

SB 5682 Prime Sponsor, Senator Warnick: Concerning the Washington customized employment training program. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Abell; Chase; Mena; Parshley; Penner; Ramel; Scott; Springer; Walen and Wylie.

Referred to Committee on Rules for second reading

April 4, 2025

SSB 5690 Prime Sponsor, Transportation: Concerning actions of the department of transportation to notify utility owners of projects and seek federal funding for utility relocation costs. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.44.160 and 2021 c 258 s 5 are each amended to read as follows:

(1) The department is directed to adopt and maintain an agency policy that requires the department to proactively provide broadband facility and utility owners with information about planned state highway projects to enable collaboration between broadband facility and utility owners and the department to identify opportunities for the installation of broadband facilities and utilities during the appropriate phase of these projects when such opportunities exist.

(2) If no owners are ready or able to participate in coordination of the installation of broadband infrastructure concurrently with state highway projects, the department may enlist its contractors to install broadband conduit as part of road construction projects in order to directly benefit the transportation system and motor vehicle users by:

(a) Reducing future traffic impacts to the traveling public on the roadway;

(b) Supporting the vehicle miles traveled reduction and congestion management goals of the state by allowing for more telework; or

(c) Proactively preparing the transportation system for the widespread development and use of autonomous vehicles.

(3) Broadband facility owners must first obtain a franchise granted by the department pursuant to RCW 47.44.010 and 47.44.020 before installing broadband facilities within the department's conduit. The costs for installation and maintenance of such broadband facilities shall be the responsibility of the broadband facility owner. The department may adopt rules establishing a fee schedule for occupancy of broadband facilities within the department's conduit consistent with federal law.

(4) The department is directed to adopt and maintain agency procedures for the department to proactively provide owners of a utility with information about planned state fish barrier removal projects with at least one year of advance notice whenever feasible. When the department requests available federal funding for fish barrier removal projects, it shall include utility relocation costs within the request if such costs are an eligible use under federal rules and regulations. The department must report to the transportation committees of the legislature and the office of financial management by December 15, 2026, with the following: (a) Information about any requests made for federal funding under this section and any awards received; and (b) recommendations for changes to state law, rules, or policies that would allow the department to receive competitive federal grant funding or reimbursements for utility relocation to the extent permitted by the terms of federal programs and applicable federal regulations.

(5) As used in this section:

(a) "Broadband conduit" means a conduit used to support broadband infrastructure, including fiber optic cables.

(b) "Broadband infrastructure" has the same meaning as in RCW 43.330.530."

Correct the title.

Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Mendoza, Assistant Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Bronoske; Dent; Duerr; Entenman; Griffey; Hunt; Klicker; Ley; Nance; Orcutt; Paul; Ramel; Richards; Stuebe; Taylor; Timmons; Volz and Zahn.

Referred to Committee on Rules for second reading

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

Draft

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

MOTION

There being no objection, the Committee on Rules was relieved of the following bills and memorials and the bills and memorials were placed on the second reading calendar:

HOUSE BILL NO. 1552
HOUSE BILL NO. 1607
HOUSE BILL NO. 1848
HOUSE BILL NO. 2003
SENATE BILL NO. 5021
ENGROSSED SENATE BILL NO. 5065
SUBSTITUTE SENATE BILL NO. 5074
SUBSTITUTE SENATE BILL NO. 5076
SENATE BILL NO. 5138
SUBSTITUTE SENATE BILL NO. 5139
ENGROSSED SUBSTITUTE SENATE BILL NO. 5142
SUBSTITUTE SENATE BILL NO. 5157
SENATE BILL NO. 5158
SUBSTITUTE SENATE BILL NO. 5169
ENGROSSED SUBSTITUTE SENATE BILL NO. 5184
ENGROSSED SUBSTITUTE SENATE BILL NO. 5200
ENGROSSED SUBSTITUTE SENATE BILL NO. 5202
SUBSTITUTE SENATE BILL NO. 5212
SUBSTITUTE SENATE BILL NO. 5214
SUBSTITUTE SENATE BILL NO. 5221
SUBSTITUTE SENATE BILL NO. 5238
SUBSTITUTE SENATE BILL NO. 5239
SUBSTITUTE SENATE BILL NO. 5245
SUBSTITUTE SENATE BILL NO. 5265
SENATE BILL NO. 5288
SUBSTITUTE SENATE BILL NO. 5298
SENATE BILL NO. 5306
SENATE BILL NO. 5317
SUBSTITUTE SENATE BILL NO. 5323
SENATE BILL NO. 5334
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5355
SUBSTITUTE SENATE BILL NO. 5370
SENATE BILL NO. 5391
ENGROSSED SUBSTITUTE SENATE BILL NO. 5403
SENATE BILL NO. 5414
SUBSTITUTE SENATE BILL NO. 5431
SENATE BILL NO. 5455
SENATE BILL NO. 5467
ENGROSSED SUBSTITUTE SENATE BILL NO. 5480
SUBSTITUTE SENATE BILL NO. 5492
SUBSTITUTE SENATE BILL NO. 5493
SENATE BILL NO. 5498
SUBSTITUTE SENATE BILL NO. 5501
ENGROSSED SUBSTITUTE SENATE BILL NO. 5525
SUBSTITUTE SENATE BILL NO. 5528
ENGROSSED SUBSTITUTE SENATE BILL NO. 5557
SUBSTITUTE SENATE BILL NO. 5558
SENATE BILL NO. 5571
SUBSTITUTE SENATE BILL NO. 5579
ENGROSSED SUBSTITUTE SENATE BILL NO. 5611
SENATE BILL NO. 5641
SUBSTITUTE SENATE BILL NO. 5655
SENATE BILL NO. 5656
ENGROSSED SENATE BILL NO. 5662
SENATE BILL NO. 5669
SENATE BILL NO. 5680
SENATE BILL NO. 5696
SUBSTITUTE SENATE BILL NO. 5714
ENGROSSED SENATE BILL NO. 5721
SENATE BILL NO. 5764
SENATE JOINT MEMORIAL NO. 8002
SUBSTITUTE SENATE JOINT MEMORIAL NO. 8003
SENATE JOINT MEMORIAL NO. 8004
SENATE JOINT MEMORIAL NO. 8008

The Speaker (Representative Timmons presiding) called upon Representative Fitzgibbon to preside.

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

FORMAT CHANGED TO ACCOMMODATE TEXT

FIRST SUPPLEMENTAL REPORT OF STANDING COMMITTEES

April 2, 2025

HB 1468 Prime Sponsor, Representative Macri: Concerning accounts. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 8, 2025

HB 2040 Prime Sponsor, Representative Macri: Concerning the recovery of the aged, blind, or disabled assistance program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 7, 2025

SSB 5030 Prime Sponsor, Early Learning & K-12 Education: Improving access to educational services by reducing barriers to obtaining vital records and allowing alternative forms of documentation. Reported by Committee on Appropriations

draft

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Penner, Assistant Ranking Minority Member; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Manjarrez; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Dye; Marshall; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representatives Burnett; Caldier; Corry; and Keaton.

Referred to Committee on Rules for second reading

April 8, 2025

SB 5036 Prime Sponsor, Senator Boehnke: Strengthening Washington's leadership and accountability on climate policy by transitioning to annual reporting of statewide emissions data. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Environment & Energy. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

SSB 5040 Prime Sponsor, Labor & Commerce: Expanding the definition of uniformed personnel to all law enforcement officers employed by a city, town, county, or governing body of a municipal airport operating under the provisions of chapter 14.08 RCW. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 7, 2025

ESSB 5041 Prime Sponsor, Labor & Commerce: Concerning unemployment insurance benefits for striking or lockout workers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Stonier; Street and Thai.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Corry; Dye; Keaton; Manjarrez; Marshall; Rude; Springer; and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representative Caldier.

Referred to Committee on Rules for second reading

April 7, 2025

SB 5077 Prime Sponsor, Senator Valdez: Concerning expansion of voter registration services by government agencies. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 7, 2025

E2SSB 5098 Prime Sponsor, Transportation: Restricting the possession of weapons on the premises of state or local public buildings, parks or playground facilities where children are likely to be present, and county fairs and county fair facilities. Reported by Committee on Appropriations

Draft

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Civil Rights & Judiciary.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.41.300 and 2024 c 285 s 1 are each amended to read as follows:

(1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon:

(a) The restricted access areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person (i) arrested for, charged with, or convicted of an offense, (ii) held for extradition or as a material witness, or (iii) otherwise confined pursuant to an order of a court, except an order under chapter 13.32A or 13.34 RCW. Restricted access areas do not include common areas of egress or ingress open to the general public;

(b) Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection (1)(b).

((~~For purposes of this subsection (1)(b), "weapon" means any firearm, explosive as defined in RCW 70.74.010, or any weapon of the kind usually known as slungshot, sand club, or metal knuckles, or any knife, dagger, dirk, or other similar weapon that is capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury.~~))

In addition, the local legislative authority shall provide either a stationary locked box sufficient in size for pistols and key to a weapon owner for weapon storage, or shall designate an official to receive weapons for safekeeping, during the owner's visit to restricted areas of the building. The locked box or designated official shall be located within the same building used in connection with court proceedings. The local legislative authority shall be liable for any negligence causing damage to or loss of a weapon either placed in a locked box or left with an official during the owner's visit to restricted areas of the building.

The local judicial authority shall designate and clearly mark those areas where weapons are prohibited, and shall post notices at each entrance to the building of the prohibition against weapons in the restricted areas;

(c) The restricted access areas of a public mental health facility licensed or certified by the department of health for inpatient hospital care and state institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public;

(d) That portion of an establishment classified by the state liquor and cannabis board as off-limits to persons under 21 years of age;

(e) The restricted access areas of a commercial service airport designated in the airport security plan approved by the federal transportation security administration, including passenger screening checkpoints at or beyond the point at which a passenger initiates the screening process. These areas do not include airport drives, general parking areas and walkways, and shops and areas of the terminal that are outside the screening checkpoints and that are normally open to unscreened passengers or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs indicating that firearms and other weapons are prohibited in the area;

(f) The premises of a library established or maintained pursuant to the authority of chapter 27.12 RCW;

(g) The premises of a zoo or aquarium accredited or certified by the association of zoos and aquariums or the zoological association of America or a facility with a current signed memorandum of participation with an association of zoos and aquariums species survival plan; ((~~or~~))

(h) The premises of a transit station or transit facility. For purposes of this subsection, "transit station" and "transit facility" have the same meaning as defined in RCW 9.91.025. "Transit station" and "transit facility" do not include any "transit vehicle" as that term is defined in RCW 9.91.025;

(i) The premises of a city's, town's, county's, or other municipality's neighborhood, community, or regional park facilities where children are likely to be present. Cities, towns, counties, and other municipalities shall designate the park facilities within its boundaries where children are likely to be present and post appropriate signage at common access points of the park facility's premises to notify the public that weapons are prohibited within the park facility. Park facilities where children are likely to be present include, but are not limited to, park facilities that have: Playgrounds or children's play areas; sports fields; swim beaches or water play areas; teen centers, community centers, or performing arts centers; skate parks; and other recreational facilities likely to be used by children;

(j) The premises of a state or local public building. A "state or local public building" means a building or part of a building owned, leased, held, or used by the governmental

entity of a city, town, county, or other municipality or by the state of Washington, if state or local public employees are regularly present for the purposes of performing their official duties and that is not regularly used, and not intended to be used, by state or local public employees as a place of residence. A state or local public building does not include Washington state department of transportation properties and facilities such as ferry terminals, ferry holding lanes, safety rest areas, and train depots which are used primarily by the general traveling public; in such areas weapons must remain in locked cases or remain in a locked portion of a vehicle; or

(k) The premises of county fairs and county fair facilities during the hours of operation in which the fair is open to the public. For the purpose of this subsection, "county fair" means fairs organized to serve the interests of single counties and are under county commissioner jurisdiction. This prohibition does not apply to: (i) Gun shows operating on county fairgrounds, or (ii) any knife or related tool used on county fairgrounds in connection with Future Farmers of America, 4-H, or any other scholastic youth or development organization.

(2)(a) Except as provided in (c) of this subsection, it is unlawful for any person to knowingly open carry a firearm or other weapon while knowingly at any permitted demonstration. This subsection (2)(a) applies whether the person carries the firearm or other weapon on his or her person or in a vehicle.

(b) It is unlawful for any person to knowingly open carry a firearm or other weapon while knowingly within 250 feet of the perimeter of a permitted demonstration after a duly authorized state or local law enforcement officer advises the person of the permitted demonstration and directs the person to leave until he or she no longer possesses or controls the firearm or other weapon. This subsection (2)(b) does not apply to any person possessing or controlling any firearm or other weapon on private property owned or leased by that person.

(c) Duly authorized federal, state, and local law enforcement officers and personnel are exempt from the provisions of this subsection (2) when carrying a firearm or other weapon in conformance with their employing agency's policy. Members of the armed forces of the United States or the state of Washington are exempt from the provisions of this subsection (2) when carrying a firearm or other weapon in the discharge of official duty or traveling to or from official duty.

(d) For purposes of this subsection, the following definitions apply:

(i) "Permitted demonstration" means either: (A) A gathering for which a permit has been issued by a federal agency, state agency, or local government; or (B) a gathering of 15 or more people who are assembled for a single event at a public place that has been declared as permitted by the chief executive, sheriff, or chief of police of a local government in which the gathering occurs. A "gathering" means a demonstration, march, rally, vigil, sit-in, protest, picketing, or similar public assembly.

(ii) "Public place" means any site accessible to the general public for business, entertainment, or another lawful purpose. A "public place" includes, but is not limited to, the front, immediate area, or parking lot of any store, shop, restaurant, tavern, shopping center, or other place of business; any public building, its grounds, or surrounding area; or any public parking lot, street, right-of-way, sidewalk, public park, or other public grounds.

((~~(iii) "Weapon" has the same meaning given in subsection (1)(b) of this section.~~))

(e) Nothing in this subsection applies to the lawful concealed carry of a firearm by a person who has a valid concealed pistol license.

(3) Cities, towns, counties, and other municipalities may enact laws and ordinances:

(a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and

(b) Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, except that such restrictions shall not apply to:

(i) Any pistol in the possession of a person licensed under RCW 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

(ii) Any showing, demonstration, or lecture involving the exhibition of firearms.

(4)(a) Cities, towns, and counties may enact ordinances restricting the areas in their respective jurisdictions in which firearms may be sold, but, except as provided in (b) of this subsection, a business selling firearms may not be treated more restrictively than other businesses located within the same zone. An ordinance requiring the cessation of business within a zone shall not have a shorter grandfather period for businesses selling firearms than for any other businesses within the zone.

(b) Cities, towns, and counties may restrict the location of a business selling firearms to not less than 500 feet from primary or secondary school grounds, if the business has a storefront, has hours during which it is open for business, and posts advertisements or signs observable to passersby that firearms are available for sale. A business selling firearms that exists as of the date a restriction is enacted under this subsection (4)(b) shall be grandfathered according to existing law.

(5) Violations of local ordinances adopted under subsection (3) of this section must have the same penalty as provided for by state law.

(6) ((~~The~~))As soon as practicable, the perimeter of the premises of any specific location covered by subsection (1) of this section shall be posted at ((~~reasonable intervals~~))common

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public access points to alert the public as to the existence of any law restricting the possession of firearms on the premises.

(7) Subsection (1) of this section does not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;

(b) Law enforcement personnel, except that subsection (1)(b) of this section does apply to a law enforcement officer who is present at a courthouse building as a party to an antiharassment protection order action or a domestic violence protection order action under chapter 7.105 or 10.99 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 7.105.010; ((~~or~~))

(c) Security personnel while engaged in official duties((~~.~~

~~(8) Subsection (1)(a), (b), (c), (e), (f), (g), and (h) of this section does not apply to correctional~~)); or

(d) Correctional personnel or community corrections officers, as long as they are employed as such, who have completed government-sponsored law enforcement firearms training, except that subsection (1)(b) of this section does apply to a correctional employee or community corrections officer who is present at a courthouse building as a party to an antiharassment protection order action or a domestic violence protection order action under chapter 7.105 or 10.99 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 7.105.010.

((~~(9)~~))(8) Subsection (1) of this section does not apply to firearms either on loan or that are part of a museum collection that may be in the possession of museum staff, volunteers, or contractors when they are on the premises and engaging in activities directly related to their official museum duties. This includes, but is not limited to, work in support of or related to exhibitions, curation, collections management, educational programming, or other standard practices expected within the museum industry. Additionally, subsection (1) of this section does not apply to individuals bringing a firearm at a preapproved date and time to a museum for loan or donation to the museum.

(9) Subsection (1)(a) of this section does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

(10) Subsection (1)(c) of this section does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

(11) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

(12) Subsection (1)(g) of this section does not apply to employees of a zoo, aquarium, or animal sanctuary, while engaged in their employment if the weapon is owned by the zoo, aquarium, or animal sanctuary and maintained for the purpose of protecting its employees, animals, or the visiting public.

(13) Subsection (1)(f), (g), ((~~and~~)) (h), (i), (j), and (k) of this section does not apply to the activities of color guards and honor guards affiliated with the United States military, Washington state national guard, or Washington department of veterans' affairs related to burial or interment ceremonies including, but not limited to, any staging and logistical requirements of the color guard or honor guard.

(14) Subsection (1)(i), (j), and (k) of this section does not apply to the activities of color guards and honor guards affiliated with the United States military, Washington state national guard, or Washington department of veterans affairs related to permitted events where military rifle honors are customarily conducted, including but not limited to permitted events for Memorial Day, Veterans Day, Independence Day, Juneteenth, and Presidents' Day. This exemption also applies to any staging and logistical requirements of the color guard or honor guard.

(15) Subsection (1)(i), (j), and (k) of this section does not apply to any firing range certified by the Washington state patrol for firearms safety training and live fire exercises for the purpose of completing a firearm safety training program to obtain a permit to purchase a firearm pursuant to chapter . . ., Laws of 2025 (Engrossed Second Substitute House Bill No. 1163).

(16) Subsection (1)(i) and (k) of this section does not apply to any person possessing or controlling a hunting or fishing knife carried for sports use, or a knife commonly used for food preparation, on the premises of a park facility or county fairground.

(17) Subsection (1)(f), (g), ((~~and~~)) (h), (i), (j), and (k) of this section does not apply to a person licensed to carry a concealed firearm pursuant to RCW 9.41.070.

((~~(15)~~))(18) Government-sponsored law enforcement firearms training must be training that correctional personnel and community corrections officers receive as part of their job requirement and reference to such training does not constitute a mandate that it be provided by the correctional facility.

((~~(16)~~))(19) Any person violating subsection (1) or (2) of this section is guilty of a gross misdemeanor.

((~~(17)~~))(20) "Weapon" as used in this section means ((~~any firearm, explosive as defined in RCW 70.74.010, or instrument or weapon listed in RCW 9.41.250~~))any firearm, explosive as defined in RCW 70.74.010, or any instrument of the kind usually known as slungshot, sand club, or metal knuckles, or any knife, dagger, dirk, or other similar instrument that is

capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 5, 2025

SSB 5104 Prime Sponsor, Labor & Commerce: Protecting employees from coercion in the workplace based on immigration status. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Corry; Dye; Keaton; Manjarrez; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representative Caldier.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5124 Prime Sponsor, Health & Long-Term Care: Establishing network adequacy standards for skilled nursing facilities and rehabilitation hospitals. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

SSB 5163 Prime Sponsor, Human Services: Modernizing the child fatality statute. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Berg; Bergquist; Caldier; Callan; Corry; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Manjarrez; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Marshall; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representatives Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Dye; and Keaton.

Referred to Committee on Rules for second reading

April 7, 2025

ESSB 5219 Prime Sponsor, Human Services: Concerning partial confinement eligibility and alignment. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes that partial confinement programs play a critical role in rehabilitation and the reduction of recidivism. The legislature finds that different partial confinement programs can meet the rehabilitative needs of different individuals. The legislature finds that aligning participation timelines for programs will allow incarcerated individuals to engage in the program best suited for their individual circumstances.

Sec. 2. RCW 9.94A.030 and 2022 c 231 s 11 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within 880 feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon. However, when a defendant is charged with a recidivist offense, "criminal history" includes a vacated prior conviction for the sole purpose of establishing that such vacated prior conviction constitutes an element of the present recidivist offense as provided in RCW 9.94A.640(4)(b) and 9.96.060((~~(7)~~))(8)(c).

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

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(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

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

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20)(a) "Domestic violence" has the same meaning as defined in RCW 10.99.020.

(b) "Domestic violence" also means: (i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, sexual assault, or stalking, as defined in RCW 9A.46.110, of one intimate partner by another intimate partner as defined in RCW 10.99.020; or (ii) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, sexual assault, or stalking, as defined in RCW 9A.46.110, of one family or household member by another family or household member as defined in RCW 10.99.020.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location and which may also include electronic monitoring with victim notification technology that is capable of notifying a victim or protected party, either directly or through a monitoring agency, if the monitored individual enters within the restricted distance of a victim or protected party, or within the restricted distance of a designated location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence 24

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hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age 14;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Sexual exploitation;

(p) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(q) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(r) Any other class B felony offense with a finding of sexual motivation;

(s) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(t) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(u)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of 14; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(v) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was 10 years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(33) "Nonviolent offense" means an offense which is not a violent offense.

(34) "Offender" means a person who has committed a felony established by state law and is 18 years of age or older or is less than 18 years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanant or gross misdemeanant probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

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(35) "Partial confinement" means confinement ((~~for no more than one year~~))up to 18 months in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(36) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Hate Crime (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person 18 years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(37) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (37)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was 16 years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was 18 years of age or older when the offender committed the offense.

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(38) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(39) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(40) "Public school" has the same meaning as in RCW 28A.150.010.

(41) "Recidivist offense" means a felony offense where a prior conviction of the same offense or other specified offense is an element of the crime including, but not limited to:

(a) Assault in the fourth degree where domestic violence is pleaded and proven, RCW 9A.36.041(3);

(b) Cyber harassment, RCW 9A.90.120(2)(b)(i);

(c) Harassment, RCW 9A.46.020(2)(b)(i);

(d) Indecent exposure, RCW 9A.88.010(2)(c);

(e) Stalking, RCW 9A.46.110(5)(b) (i) and (iii);

(f) Telephone harassment, RCW 9.61.230(2)(a); and

(g) Violation of a no-contact or protection order, RCW 7.105.450 or former RCW 26.50.110(5).

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or violation of a domestic violence protection order under chapter 7.105 RCW, that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

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(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender 24 hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(55) "Victim of domestic violence" means an intimate partner or household member who has been subjected to the infliction of physical harm or sexual and psychological abuse by an intimate partner or household member as part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that intimate partner or household member. Domestic violence includes, but is not limited to, the offenses listed in RCW 10.99.020 and 26.50.010 committed by an intimate partner or household member against a victim who is an intimate partner or household member.

(56) "Victim of sex trafficking, prostitution, or commercial sexual abuse of a minor" means a person who has been forced or coerced to perform a commercial sex act including, but not limited to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070, 9.68A.101, and the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a commercial sex act when they were less than 18 years of age including but not limited to the offenses defined in chapter 9.68A RCW.

(57) "Victim of sexual assault" means any person who is a victim of a sexual assault offense, nonconsensual sexual conduct, or nonconsensual sexual penetration and as a result suffers physical, emotional, financial, or psychological impacts. Sexual assault offenses include, but are not limited to, the offenses defined in chapter 9A.44 RCW.

(58) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(59) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(60) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences,

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character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(61) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 3. RCW 9.94A.030 and 2024 c 306 s 2 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within 880 feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon. However, when a defendant is charged with a recidivist offense, "criminal history" includes a vacated prior conviction for the sole purpose of establishing that such vacated prior conviction constitutes an element of the present recidivist offense as provided in RCW 9.94A.640(4)(b) and 9.96.060((~~(7)~~))(8)(c).

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

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

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20)(a) "Domestic violence" has the same meaning as defined in RCW 10.99.020.

(b) "Domestic violence" also means: (i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, sexual assault, or stalking, as defined in RCW 9A.46.110, of one intimate partner by another intimate partner as defined in RCW 10.99.020; or (ii) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, sexual assault, or stalking, as defined in RCW 9A.46.110, of one family or household member by another family or household member as defined in RCW 10.99.020.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense who are eligible for the option under RCW 9.94A.660.

(22) "Drug offender sentencing alternative for driving under the influence" is a sentencing option available to persons convicted of felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6) who are eligible under RCW 9.94A.661.

(23) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(24) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(25) "Electronic monitoring" means tracking the location of an individual through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location and which may also include electronic monitoring with victim notification technology that is capable of notifying a victim or protected party, either directly or through a monitoring agency, if the monitored individual enters within the restricted distance of a victim or protected party, or within the restricted distance of a designated location.

(26) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(27) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony

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driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(28) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(29) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(30) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence 24 hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(31) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(32) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(33) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age 14;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Sexual exploitation;

(p) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(q) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(r) Any other class B felony offense with a finding of sexual motivation;

(s) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(t) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(u)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of 14; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(v) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was 10 years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-

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of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(34) "Nonviolent offense" means an offense which is not a violent offense.

(35) "Offender" means a person who has committed a felony established by state law and is 18 years of age or older or is less than 18 years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanant or gross misdemeanant probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(36) "Partial confinement" means confinement ((~~for no more than one year~~))up to 18 months in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(37) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Hate Crime (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person 18 years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(38) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second

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degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (38)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was 16 years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was 18 years of age or older when the offender committed the offense.

(39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(41) "Public school" has the same meaning as in RCW 28A.150.010.

(42) "Recidivist offense" means a felony offense where a prior conviction of the same offense or other specified offense is an element of the crime including, but not limited to:

(a) Assault in the fourth degree where domestic violence is pleaded and proven, RCW 9A.36.041(3);

(b) Cyber harassment, RCW 9A.90.120(2)(b)(i);

(c) Harassment, RCW 9A.46.020(2)(b)(i);

(d) Indecent exposure, RCW 9A.88.010(2)(c);

(e) Stalking, RCW 9A.46.110(5)(b) (i) and (iii);

(f) Telephone harassment, RCW 9.61.230(2)(a); and

(g) Violation of a no-contact or protection order, RCW 7.105.450 or former RCW 26.50.110(5).

(43) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or violation of a domestic violence protection order under chapter 7.105 RCW, that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(44) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(45) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(46) "Serious traffic offense" means:

(a)(i) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502);

(ii) Nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504);

(iii) Reckless driving (RCW 46.61.500);

(iv) Negligent driving if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522 while under the influence of intoxicating liquor or any drug (RCW 46.61.5249);

(v) Reckless endangerment if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522 while under the influence of intoxicating liquor or any drug (RCW 9A.36.050); or

(vi) Hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(c) This definition applies for the purpose of a personal driver's license only and does not apply to violations related to a commercial motor vehicle under RCW 46.25.090.

(47) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(48) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(49) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(50) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(51) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(52) "Stranger" means that the victim did not know the offender 24 hours before the offense.

(53) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(54) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(55) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(56) "Victim of domestic violence" means an intimate partner or household member who has been subjected to the infliction of physical harm or sexual and psychological abuse by an intimate partner or household member as part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that intimate partner or household member. Domestic violence includes, but is not limited to, the offenses listed in RCW 10.99.020 and 26.50.010 committed by an intimate partner or household member against a victim who is an intimate partner or household member.

(57) "Victim of sex trafficking, prostitution, or commercial sexual abuse of a minor" means a person who has been forced or coerced to perform a commercial sex act including, but not limited to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070, 9.68A.101, and the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a commercial sex act when they were less than 18 years of age including but not limited to the offenses defined in chapter 9.68A RCW.

(58) "Victim of sexual assault" means any person who is a victim of a sexual assault offense, nonconsensual sexual conduct, or nonconsensual sexual penetration and as a result suffers physical, emotional, financial, or psychological impacts. Sexual assault offenses include, but are not limited to, the offenses defined in chapter 9A.44 RCW.

(59) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

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(v) Indecent liberties if committed by forcible compulsion;
(vi) Kidnapping in the second degree;
(vii) Arson in the second degree;
(viii) Assault in the second degree;
(ix) Assault of a child in the second degree;
(x) Extortion in the first degree;
(xi) Robbery in the second degree;
(xii) Drive-by shooting;
(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and
(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and
(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.
(60) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.
(61) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.
(62) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 4. RCW 9.94A.6551 and 2024 c 193 s 1 are each amended to read as follows:
(1)((~~(a) Except as provided in (b) of this subsection, for~~))For an incarcerated individual not sentenced under RCW 9.94A.655, but otherwise eligible under this section, no more than the final ((~~12~~))18 months of the incarcerated individual's term of confinement may be served in partial confinement as home detention as part of the parenting program developed by the department.
((~~(b) For an incarcerated individual not sentenced under RCW 9.94A.655, but otherwise eligible under this section, who is participating in the residential parenting program at the department, no more than the final 18 months of the incarcerated individual's term of confinement may be served in partial confinement as home detention as part of the parenting program developed by the department.~~))
(2) The secretary may transfer an incarcerated individual from a correctional facility to home detention in the community if it is determined that the parenting program is an appropriate placement and when all of the following conditions exist:
(a) The incarcerated individual is serving a sentence in which the high end of the range is greater than one year;
(b) The incarcerated individual has no current conviction for a felony that is classified as a sex offense or a serious violent offense;
(c) The incarcerated individual has no current conviction for a violent offense, or where the incarcerated individual has a current conviction for a violent offense, he or she has not been determined to be a high risk to reoffend;
(d) The incarcerated individual signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court;
(e) The incarcerated individual is:
(i) A parent with guardianship or legal custody of a minor child;
(ii) An expectant parent; ((~~or~~))
(iii) A biological parent, adoptive parent, custodian, caregiver, or stepparent with a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense; or
(iv) An individual expected to take over the duties of a caregiver or parent and be responsible for exercising the day-to-day care and control of a minor child, who has a proven, established, ongoing, and substantial relationship with the minor child, and who is not prohibited from contact with a minor child by any law, court order, or any other restriction; and
(f) The department determines that the incarcerated individual's participation in the parenting program is in the best interests of the child. Nothing in this section provides the department with authority to determine placement of a minor child.
(3) Except for sex offenses and serious violent offenses, prior juvenile adjudications are not considered offenses when considering eligibility for the parenting program developed by the department.
(4) When the department is considering partial confinement as part of the parenting program for an incarcerated individual, the department shall inquire of the individual and the department of children, youth, and families whether the agency has an open child welfare case or prior substantiated referral for abuse or neglect involving the incarcerated individual.

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(5) If the department of children, youth, and families or a tribal jurisdiction has an open child welfare case, the department will seek input from the department of children, youth, and families or the involved tribal jurisdiction as to: (a) The status of the child welfare case; and (b) recommendations regarding placement of the incarcerated individual, services agreed to by the incarcerated individual working voluntarily with the department, or services ordered by the court within the incarcerated individual's child welfare case. The department and its officers, agents, and employees are not liable for the acts of incarcerated individuals participating in the parenting program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(6) All incarcerated individuals placed on home detention as part of the parenting program shall provide an approved residence and living arrangement prior to transfer to home detention.

(7) The department may not transfer an incarcerated individual to participate in the parenting program until the department has a clinically appropriate evaluation for substance use disorder. If the incarcerated individual is diagnosed to have a substance use disorder, the department shall assist the incarcerated individual in enrolling in substance use disorder treatment services at the level deemed clinically appropriate. Individuals transferred to participate in the parenting program, and diagnosed with a substance use disorder, must begin receiving substance use disorder treatment services as soon as practicable after transfer to avoid any delays in treatment. Substance use disorder treatment services shall include, as deemed necessary by the evaluation, access to medication-assisted treatment and counseling programs. Upon transfer to the parenting program, when clinically appropriate, individuals must be provided with access to self-administered fentanyl testing supplies and medications designed to reverse the effects of opioid overdose.

(8) While in the community on home detention as part of the parenting program, the department shall:

(a) Require the individual to be placed on electronic home monitoring;

(b) Require the individual to participate in programming and treatment that the department determines is needed after consideration of the individual's stated needs;

(c) Assign a community corrections officer who will monitor the individual's compliance with conditions of partial confinement and programming requirements; and

(d) If the individual has an open child welfare case with the department of children, youth, and families, collaborate and communicate with the identified social worker in the provision of services.

((~~(8)~~))(9) The department has the authority to return any incarcerated individual serving partial confinement in the parenting program to total confinement if the individual is not complying with sentence requirements.

((~~(9)~~))(10) If the individual's earned release date changes after placement in partial confinement under this section, the department may extend the duration of participation in the alternative program by no more than six months or up to the earned release date, whichever comes first.

(11) For the purposes of this section:

(a) "Expectant parent" means a pregnant or other parent awaiting the birth of his or her child, or an adoptive parent or person in the process of a final adoption.

(b) "Minor child" means a child under the age of ((~~eighteen~~))18.

((~~(c) "Residential parenting program" means a correctional nursery program administered by the department that allows pregnant, minimum security incarcerated individuals that meet eligibility criteria established by the department to keep their newborn children with them after giving birth in a designated unit and receive support and education in alliance with skilled early childhood educators.~~))

Sec. 5. RCW 9.94A.733 and 2023 c 405 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, an ((~~offender~~))incarcerated individual may not participate in the graduated reentry program under this subsection unless he or she has served at least six months in total confinement in a state correctional facility.

(i) An ((~~offender~~))incarcerated individual subject to (a) of this subsection may serve no more than the final ((~~five~~))nine months of the ((~~offender's~~))incarcerated individual's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under (a) of this subsection may not be imposed for individuals subject to a deportation order, civil commitment, or the interstate compact for adult offender supervision under RCW 9.94A.745.

(b) For ((~~offenders~~))incarcerated individuals who meet the requirements of (b)(iii) of this subsection, an ((~~offender~~))incarcerated individual may not participate in the graduated reentry program unless he or she has served at least ((~~four~~))three months in total confinement in a state correctional facility.

(i) An ((~~offender~~))incarcerated individual under this subsection (1)(b) may serve no more than the final 18 months of the ((~~offender's~~))incarcerated individual's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under this subsection (1)(b) may not be imposed for individuals subject to a deportation order or subject to the jurisdiction of the indeterminate sentence review board.

(iii) Home detention under this subsection (1)(b) may not be imposed for ((~~offenders~~))incarcerated individuals currently serving a term of confinement for the following offenses:

(A) Any sex offense;

(B) Any violent offense; or

(C) Any crime against a person offense in accordance with the categorization of crimes against persons outlined in RCW 9.94A.411(2).

(2) The secretary of the department may transfer an ((~~offender~~))incarcerated individual from a department correctional facility to home detention in the community if it is determined that the graduated reentry program is an appropriate placement and must assist the ((~~offender's~~))incarcerated individual's transition from confinement to the community.

(3) The department and its officers, agents, and employees are not liable for the acts of ((~~offenders~~))individuals participating in the graduated reentry program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(4)(a) All ((~~offenders~~))incarcerated individuals placed on home detention as part of the graduated reentry program must provide an approved residence and living arrangement prior to transfer to home detention.

(b) The department may not transfer an ((~~offender~~))incarcerated individual to participate in the graduated reentry program until the department has ((~~conducted~~)) a ((~~comprehensive assessment~~))clinically appropriate evaluation for substance use disorder. If the ((~~offender~~))incarcerated individual is ((~~assessed~~))diagnosed to have a substance use disorder, the department shall assist the ((~~offender~~))incarcerated individual in enrolling in substance use disorder treatment services at the level deemed clinically appropriate ((~~by the assessment~~)). ((~~Offenders~~))Individuals transferred to participate in the graduated reentry program, and diagnosed with a substance use disorder, must begin receiving substance use disorder treatment services as soon as practicable after transfer to avoid any delays in treatment. Substance use disorder treatment services shall include, as deemed necessary by the ((~~assessment~~))evaluation, access to medication-assisted treatment and counseling programs. Upon transfer to the graduated reentry program, when clinically appropriate, individuals must be provided with access to self-administered fentanyl testing supplies and medications designed to reverse the effects of opioid overdose.

(5) While in the community on home detention as part of the graduated reentry program, the department must:

(a) Require the ((~~offender~~))individual to be placed on electronic home monitoring;

(b) Require the ((~~offender~~))individual to participate in programming and treatment that the department shall assign based on an ((~~offender's~~))individual's assessed need; and

(c) Assign a community corrections officer who will monitor the ((~~offender's~~))individual's compliance with conditions of partial confinement and programming requirements.

(6) The department retains the authority to return any ((~~offender~~))individual serving partial confinement in the graduated reentry program to total confinement for any reason including, but not limited to, the ((~~offender's~~))individual's noncompliance with any sentence requirement.

(7) The department may issue rental vouchers for a period not to exceed six months for those transferring to partial confinement under this section if an approved address cannot be obtained without the assistance of a voucher.

(8) In the selection of ((~~offenders~~))incarcerated individuals to participate in the graduated reentry program, and in setting, modifying, and enforcing the requirements of the graduated reentry program, the department is deemed to be performing a quasi-judicial function.

(9) The department shall publish a monthly report on its website with the number of ((~~offenders~~))incarcerated individuals who were transferred during the month to home detention as part of the graduated reentry program. The department shall submit an annual report by December 1st to the appropriate committees of the legislature with the number of ((~~offenders~~))incarcerated individuals who were transferred to home detention as part of the graduated reentry program during the prior year.

(10)(a) Beginning July 1, 2023, the following data must be collected and posted to the department's website on a monthly basis:

(i) The number of ((~~offenders~~))incarcerated individuals who were transferred to the graduated reentry program who were assessed to have a substance use disorder during the prior calendar month; and

(ii) The number of ((~~offenders~~))individuals in the graduated reentry program who received during the prior 12 months:

(A) Outpatient substance use disorder treatment;

(B) Inpatient substance use disorder treatment; and

(C) Both outpatient and inpatient substance use disorder treatment.

(b) Beginning July 1, 2023, the health care authority must report monthly to the department on the number of ((~~offenders~~))individuals in the graduated reentry program who received substance use disorder outpatient treatment, while in the community, during the prior 12 months.

(11) The department must share data with the health care authority on ((~~offenders~~))individuals participating in the graduated reentry program.

Sec. 6. RCW 9.94A.728 and 2023 c 358 s 1 are each amended to read as follows:

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(1) No incarcerated individual serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(a) An incarcerated individual may earn early release time as authorized by RCW 9.94A.729;

(b) An incarcerated individual may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, incarcerated individuals may leave a correctional facility when in the custody of a corrections officer or officers;

(c)(i) The secretary may authorize an extraordinary medical placement for an incarcerated individual when all of the following conditions exist:

(A) The incarcerated individual has been assessed by two physicians and is determined to be one of the following:

(I) Affected by a permanent or degenerative medical condition to such a degree that the individual does not presently, and likely will not in the future, pose a threat to public safety; or

(II) In ill health and is expected to die within six months and does not presently, and likely will not in the future, pose a threat to public safety;

(B) The incarcerated individual has been assessed as low risk to the community at the time of release; and

(C) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(ii) An incarcerated individual sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(iii) The secretary shall require electronic monitoring for all individuals in extraordinary medical placement unless the electronic monitoring equipment is detrimental to the individual's health, interferes with the function of the individual's medical equipment, or results in the loss of funding for the individual's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

(v) Persistent offenders are not eligible for extraordinary medical placement;

(d) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(e) No more than the final ((~~12~~))18 months of the incarcerated individual's term of confinement may be served in partial confinement for aiding the incarcerated individual with: Finding work as part of the work release program under chapter 72.65 RCW; ((~~or~~)) reestablishing himself or herself in the community as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(f)(i) No more than the final ((~~five~~))nine months of the incarcerated individual's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department under RCW 9.94A.733(1)(a);

(ii) For eligible incarcerated individuals under RCW 9.94A.733(1)(b), after serving at least ((~~four~~))three months in total confinement in a state correctional facility, an incarcerated individual may serve no more than the final 18 months of the incarcerated individual's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department;

(g) The governor may pardon any incarcerated individual;

(h) The department may release an incarcerated individual from confinement any time within 10 days before a release date calculated under this section;

(i) An incarcerated individual may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870;

(j) Notwithstanding any other provisions of this section, an incarcerated individual sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540; and

(k) Any individual convicted of one or more crimes committed prior to the individual's 18th birthday may be released from confinement pursuant to RCW 9.94A.730.

(2) Notwithstanding any other provision of this section, an incarcerated individual entitled to vacation of a conviction or the recalculation of his or her offender score pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), may be released from confinement pursuant to a court order if the incarcerated individual has already served a period of confinement that exceeds his or her new standard range. This provision does not create an independent right to release from confinement prior to resentencing.

(3) Individuals residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section.

Sec. 7. RCW 72.65.210 and 2023 c 470 s 2121 are each amended to read as follows:

(1) The department shall establish, by rule, ((~~inmate~~))incarcerated individual eligibility standards for participation in the work release program.

(2) The department shall:

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(a) Conduct an annual examination of each work release facility and its security procedures;

(b) Investigate and set standards for the ((~~inmate~~))individual supervision policies of each work release facility;

(c) Establish physical standards for future work release structures to ensure the safety of ((~~inmates~~))individuals, employees, and the surrounding communities;

(d) Evaluate its recordkeeping of serious infractions to determine if infractions are properly and consistently assessed against ((~~inmates~~))individuals eligible for work release;

(e) Establish a written treatment plan best suited to the ((~~inmate's~~))individual's needs, cost, and the relationship of community placement and community corrections officers to a system of case management;

(f) Adopt a policy to encourage businesses employing work release ((~~inmates~~))individuals to contact the appropriate work release facility whenever an ((~~inmate~~))individual is absent from his or her work schedule. The department of corrections shall provide each employer with written information and instructions on who should be called if a work release employee is absent from work or leaves the jobsite without authorization; and

(g) Develop a siting policy, in conjunction with cities, counties, community groups, and the department of commerce for the establishment of additional work release facilities. Such policy shall include at least the following elements: (i) Guidelines for appropriate site selection of work-release facilities; (ii) notification requirements to local government and community groups of intent to site a work release facility; and (iii) guidelines for effective community relations by the work release program operator.

The department shall comply with the requirements of this section by July 1, 1990.

(3) The department may not transfer an incarcerated individual to participate in a work release program until the department has a clinically appropriate evaluation for substance use disorder. If the incarcerated individual is diagnosed to have a substance use disorder, the department shall assist the incarcerated individual in enrolling in substance use disorder treatment services at the level deemed clinically appropriate. Individuals transferred to participate in a work release program, and diagnosed with a substance use disorder, must begin receiving substance use disorder treatment services as soon as practicable after transfer to avoid any delays in treatment. Substance use disorder treatment services shall include, as deemed necessary by the evaluation, access to medication-assisted treatment and counseling programs. Upon transfer to a work release program, when clinically appropriate, individuals must be provided with access to self-administered fentanyl testing supplies and medications designed to reverse the effects of opioid overdose.

NEW SECTION. **Sec. 8.** The changes to restrictions on the community parenting alternative and partial confinement under sections 2 through 7 of this act apply prospectively and retroactively to persons currently serving a sentence in any facility or institution either operated by the state or utilized under contract.

NEW SECTION. **Sec. 9.** Section 2 of this act expires January 1, 2026.

NEW SECTION. **Sec. 10.** Section 3 of this act takes effect January 1, 2026."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Leavitt; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 5, 2025

ESSB 5232 Prime Sponsor, Human Services: Supporting economic security by updating provisions related to the home security fund and the essential needs and housing support program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Human Services.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.185C.220 and 2015 c 128 s 5 are each amended to read as follows:

(1) The department shall distribute funds for the essential needs and housing support program established under this section in a manner consistent with the requirements of this section and the biennial operating budget. The first distribution of funds must be completed by September 1, 2011. Essential needs or housing support is not an entitlement, and is only for ((~~persons~~));

(a) Persons found eligible for such services under RCW 74.04.805; and ((~~is not considered an entitlement~~))

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(b) At the discretion of the department, low or extremely low-income elderly or disabled adults who are transitioning off benefits under RCW 74.04.805, receiving federal social security benefits, and still have an immediate housing need. A referral from the department of social and health services is not required for these individuals.

(2) The department shall distribute funds appropriated for the essential needs and housing support program in the form of grants to designated essential needs support and housing support entities within each county. The department shall not distribute any funds until it approves the expenditure plan submitted by the designated essential needs support and housing support entities. The amount of funds to be distributed pursuant to this section shall be designated in the biennial operating budget. For the sole purpose of meeting the initial distribution of funds date, the department may distribute partial funds upon the department's approval of a preliminary expenditure plan. The department shall not distribute the remaining funds until it has approved a final expenditure plan.

(3)(a) During the 2011-2013 biennium, in awarding housing support that is not funded through the contingency fund in this subsection, the designated housing support entity shall provide housing support to clients who are homeless persons as defined in RCW 43.185C.010. As provided in the biennial operating budget for the 2011-2013 biennium, a contingency fund shall be used solely for those clients who are at substantial risk of losing stable housing or at substantial risk of losing one of the other services defined in RCW 74.62.010(6). For purposes of this chapter, "substantial risk" means the client has provided documentation that he or she will lose his or her housing within the next thirty days or that the services will be discontinued within the next thirty days.

(b) After July 1, 2013, the designated housing support entity shall give first priority to clients who are homeless persons as defined in RCW 43.185C.010 and second priority to clients who would be at substantial risk of losing stable housing without housing support.

(4) For each county, the department shall designate an essential needs support entity and a housing support entity that will begin providing these supports to medical care services program recipients on November 1, 2011. Essential needs and housing support entities are not required to provide assistance to every person referred to the local entity or who meets the priority standards in subsection (3) of this section.

(a) Each designated entity must be a local government or community-based organization, and may administer the funding for essential needs support, housing support, or both. Designated entities have the authority to subcontract with qualified entities. Upon request, and the approval of the department, two or more counties may combine resources to more effectively deliver services.

(b) The department's designation process must include a review of proficiency in managing housing or human services programs when designating housing support entities.

(c) Within a county, if the department directly awards separate grants to the designated housing support entity and the designated essential needs support entity, the department shall determine the amount allocated for essential needs support as directed in the biennial operating budget.

(5)(a) Essential needs and housing support entities must use funds distributed under this section as flexibly as is practicable to provide essential needs items and housing support to recipients of the essential needs and housing support program, subject to the requirements of this section. An essential needs and housing support referral from the department of social and health services for rental assistance must be verified by the housing support service provider every 12 months. Direct cash assistance is allowable. Direct cash assistance shall be an allowable expense only when it addresses a need identified in a client's housing stability plan. Direct cash assistance in this section may be provided through debit cash cards. Flexible funding assistance shall also be permitted in addition to debit cash cards, including vouchers for transportation, gift cards, direct payments to vendors, and other similar methods of assistance.

(b) ((~~Benefits provided under the essential needs and housing support program shall not be provided to recipients in the form of cash assistance.~~

~~(c)~~)) The department may move funds between entities or between counties to reflect actual caseload changes. In doing so, the department must: (i) Develop a process for reviewing the caseload of designated essential needs and housing support entities, and for redistributing grant funds from those entities experiencing reduced actual caseloads to those with increased actual caseloads; and (ii) inform all designated entities of the redistribution process. Savings resulting from program caseload attrition from the essential needs and housing support program shall not result in increased per-client expenditures.

((~~(d)~~))(c) Essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed under this section, and should attempt to leverage other sources of public and private funds to serve essential needs and housing support recipients. Funds appropriated in the operating budget for essential needs and housing support must be used only to serve persons eligible to receive services under that program.

(6) The department shall use no more than five percent of the funds for administration of the essential needs and housing support program. ((~~Each essential needs and housing support entity shall use no more than seven percent of the funds~~))The department shall align the administration rate for essential needs and housing support entities with other home security funded programs for administrative expenses.

(7) The department shall:

(a) Require housing support entities to enter data into the homeless client management information system;

(b) Require essential needs support entities to report on services provided under this section;

(c) In collaboration with the department of social and health services, submit a report annually to the relevant policy and fiscal committees of the legislature. A preliminary report shall be submitted by December 31, 2011, and must include (c)(i), (iii), and (v) of this subsection. Annual reports must be submitted beginning December 1, 2012, and must include:

(i) A description of the actions the department has taken to achieve the objectives of chapter 36, Laws of 2011 1st sp. sess.;

(ii) The amount of funds used by the department to administer the program;

(iii) Information on the housing status of essential needs and housing support recipients served by housing support entities, and individuals who have requested housing support but did not receive housing support;

(iv) Grantee expenditure data related to administration and services provided under this section; and

(v) Efforts made to partner with other entities and leverage sources or public and private funds;

(d) Review the data submitted by the designated entities, and make recommendations for program improvements and administrative efficiencies. The department has the authority to designate alternative entities as necessary due to performance or other significant issues. Such change must only be made after consultation with the department of social and health services and the impacted entity.

(8) The department, counties, and essential needs and housing support entities are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them related to decisions regarding: (a) The provision or lack of provision of housing or essential needs support; or (b) the type of housing arrangement supported with funds allocated under this section, when the decision was made in good faith and in the performance of the powers and duties under this section. However, this section does not prohibit legal actions against the department, county, or essential needs or housing support entity to enforce contractual duties or obligations.

Sec. 2. RCW 43.185C.230 and 2018 c 48 s 3 are each amended to read as follows:

The department, in collaboration with the department of social and health services, shall:

(1) Develop a mechanism through which the department and local governments or community-based organizations can verify a person has been determined eligible <u>for a referral for essential needs and housing support</u> by the department of social and health services and remains eligible for ((~~the essential needs and housing support program~~))<u>a referral</u>; and

(2) Provide a secure and current list of individuals eligible for <u>a referral to</u> the essential needs and housing support program to designated entities within each county. The list must be updated at least monthly and include, as available and applicable, the eligible individual's:

(a) Name;

(b) Address;

(c) Phone number;

(d) Shelter location; and

(e) Case manager contact information.

Sec. 3. RCW 36.22.250 and 2023 c 277 s 1 are each amended to read as follows:

(1) A surcharge of $183 per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. The following are exempt from this surcharge:

(a) Assignments or substitutions of previously recorded deeds of trust;

(b) Documents recording a birth, marriage, divorce, or death;

(c) Any recorded documents otherwise exempted from a recording fee or additional surcharges under state law;

(d) Marriage licenses issued by the county auditor; and

(e) Documents recording a federal, state, county, city, or water-sewer district, or wage lien or satisfaction of lien.

(2) Funds collected pursuant to this section must be distributed and used as follows:

(a) One percent of the total funds collected shall be retained by the county auditor for its fee collection activities;

(b) 30 percent of the total funds collected shall be retained by the county and used by the county as provided in subsection (3) of this section;

(c) 54.1 percent of the total funds collected shall be transmitted to the state treasurer to be deposited in the home security fund account created in RCW 43.185C.060 and shall be used by the department of commerce as provided in subsection (4) of this section;

(d) 13.1 percent of the total funds collected shall be transmitted to the state treasurer to be deposited in the affordable housing for all account created in RCW 43.185C.190 and shall be used by the department of commerce as provided in subsection (5) of this section;

(e) 1.8 percent of the total funds collected shall be transmitted to the state treasurer to be deposited in the landlord mitigation program account created in RCW 43.31.615 and shall be used by the department of commerce as provided in subsection (6) of this section.

(3) The county shall use their portion of the collected funds as follows:

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(a) Up to 10 percent for the county's administration and local distribution of the funds collected from the surcharge in this section, and administrative costs related to the county's homeless housing plan;

(b) At least 75 percent will be retained and used by the county to accomplish the purposes of its local homeless housing plan pursuant to chapter 484, Laws of 2005. For each city in the county that elects as authorized in RCW 43.185C.080 to operate its own local homeless housing program, a percentage of the surcharge assessed under this subsection equal to the percentage of the city's local portion of the real estate excise tax collected by the county shall be transmitted at least quarterly to the city treasurer, without any deduction for county administrative costs, for use by the city for program costs which directly contribute to the goals of the city's local homeless housing plan; of the funds received by the city, it may use up to 10 percent for administrative costs for its homeless housing program;

(c) At least 15 percent will be retained and used by the county for eligible housing activities, as described in this subsection, that serve extremely low and very low-income households in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county consistent with countywide and local housing needs and policies. A priority must be given to eligible housing activities that serve extremely low-income households with incomes at or below 30 percent of the area median income. Eligible housing activities to be funded are limited to:

(i) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income households with incomes at or below 50 percent of the area median income, including units for homeownership, rental units, seasonal and permanent farmworker housing units, units reserved for victims of human trafficking and their families, and single room occupancy units;

(ii) Supporting building operation and maintenance costs of housing projects or units within housing projects eligible to receive housing trust funds, that are affordable to very low-income households with incomes at or below 50 percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(iii) Rental assistance vouchers for housing units that are affordable to very low-income households with incomes at or below 50 percent of the area median income, including rental housing vouchers for victims of human trafficking and their families, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with or similar to the United States department of housing and urban development's section 8 rental assistance voucher program standards; and

(iv) Operating costs for emergency shelters and licensed overnight youth shelters.

(4) The department of commerce shall use the funds from the document recording fee or other fund sources deposited in the home security fund account as follows, except that the department of commerce shall provide counties with the right of first refusal to receive grant funds distributed under (b) of this subsection (4). If a county refuses the funds or does not respond within a time frame established by the department, the department shall make good faith efforts to identify one or more suitable alternative grantees operating within that county. The alternative grantee shall distribute the funds in a manner that is in compliance with this chapter. Funding provided through the office of homeless youth prevention and protection programs created in RCW 43.330.705 is exempt from the county first refusal requirement.

(a) Up to 10 percent for administration of the programs established in chapter 43.185C RCW and in conformance with this subsection (4), including the costs of creating and implementing strategic plans, collecting and evaluating data, measuring and reporting performance, providing technical assistance to local governments, providing training to entities delivering services, and developing and maintaining stakeholder relationships;

(b) At least 90 percent for homelessness assistance grant programs administered by the department, including but not limited to: Temporary rental assistance; eviction prevention rental assistance per RCW 43.185C.185; emergency shelter and transitional housing operations and maintenance; outreach; diversion; HOPE and crisis residential centers; young adult housing; homeless services and case management for adult, family, youth, and young adult homeless populations and those at risk of homelessness; project-based vouchers for nonprofit housing providers or public housing authorities; tenant-based rent assistance; housing services; <u>direct cash assistance as provided for in RCW 43.185C.220(5)(a);</u> rapid rehousing; emergency housing; acquisition; operations; maintenance; and service costs for permanent supportive housing as defined in RCW 36.70A.030 for individuals with disabilities. Grantees may also use these funds in partnership with permanent supportive housing programs administered by the office of apple health and homes created in RCW 43.330.181. Priority for use must be given to purposes intended to house persons who are chronically homeless or to maintain housing for individuals with disabilities and prior experiences of homelessness, including families with children.

(5) The department of commerce shall use the funds from the document recording fee or other fund sources deposited in the affordable housing for all account as follows:

(a) Up to 10 percent for program administration and technical assistance necessary for the delivery programs and activities under this subsection (5);

(b) At least 90 percent for the following:

(i) Grants for building operation and maintenance costs of housing projects, or units within housing projects, that are in the state's housing trust fund portfolio, are affordable to extremely low-income households with incomes at or below 30 percent of the area median income, and require a supplement to rent income to cover ongoing operating expenses;

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(ii) Grants to support the building operations, maintenance, and supportive service costs for permanent supportive housing projects, or units within housing projects, that have received or will receive funding from the housing trust fund or other public capital funding programs. The supported projects or units must be dedicated as permanent supportive housing as defined in RCW 36.70A.030, be occupied by extremely low-income households with incomes at or below 30 percent of the area median income, and require a supplement to rent income to cover ongoing property operations, maintenance, and supportive services expenses.

(6) The department of commerce shall use the funds from the document recording fee or other fund sources deposited in the landlord mitigation program account to administer the landlord mitigation program as established in RCW 43.31.605. The department of commerce may use up to 10 percent of these funds for program administration and the development and maintenance of a database necessary to administer the program.

Sec. 4. RCW 74.04.005 and 2023 c 418 s 1 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Aged, blind, or disabled assistance program" means the program established under RCW 74.62.030.

(2) "Applicant" means any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(3) "Authority" means the health care authority.

(4) "County or local office" means the administrative office for one or more counties or designated service areas.

(5) "Department" means the department of social and health services.

(6) "Director" means the director of the health care authority.

(7) "Essential needs and housing support program" means the program established in RCW 43.185C.220.

(8) "Federal aid assistance" means the specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(9) "Income" means:

(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(10) "Need" means the difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(11) "Public assistance" or "assistance" means public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, benefits under RCW 74.62.030 and 43.185C.220, and federal aid assistance.

(12) "Recipient" means any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(13) "Resource" means any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant may retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

(a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;

(b) Household furnishings and personal effects;

(c) One motor vehicle, other than a motor home, that is used and useful;

(d) A motor vehicle necessary to transport a household member with a physical disability. This exclusion is limited to one vehicle per person with a physical disability;

(e) Retirement funds, pension plans, and retirement accounts;

(f) All other resources, including any excess of values exempted, not to exceed $12,000 or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance;

(g) Applicants for or recipients of benefits under RCW 74.62.030 and ((~~43.185C.220~~))referrals under RCW 74.04.805 shall have their eligibility based on resource limitations consistent with the temporary assistance for needy families program rules adopted by the department; and

(h) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property if:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(14) "Secretary" means the secretary of social and health services.

(15) "Standards of assistance" means the level of income required by an applicant or recipient to maintain a level of living specified by the department.

(16)(a) "Victim of human trafficking" means a noncitizen and any qualifying family members who have:

(i) Filed or are preparing to file an application for T nonimmigrant status with the appropriate federal agency pursuant to 8 U.S.C. Sec. 1101(a)(15)(T), as it existed on January 1, 2020;

(ii) Filed or are preparing to file an application with the appropriate federal agency for status pursuant to 8 U.S.C. Sec. 1101(a)(15)(U), as it existed on January 1, 2020; or

(iii) Been harmed by either any violation of chapter 9A.40 or 9.68A RCW, or both, or by substantially similar crimes under federal law or the laws of any other state, and who:

(A) Are otherwise taking steps to meet the conditions for federal benefits eligibility under 22 U.S.C. Sec. 7105, as it existed on January 1, 2020; or

(B) Have filed or are preparing to file an application with the appropriate federal agency for status under 8 U.S.C. Sec. 1158.

(b)(i) "Qualifying family member" means:

(A) A victim's spouse and children; and

(B) When the victim is under 21 years of age, a victim's parents and unmarried siblings under the age of 18.

(ii) "Qualifying family member" does not include a family member who has been charged with or convicted of attempt, conspiracy, solicitation, or commission of any crime referenced in this subsection or described under 8 U.S.C. Sec. 1101(a)(15)(T) or (U) as either existed on January 1, 2020, when the crime is against a spouse who is a victim of human trafficking or against the child of a victim of human trafficking.

(17) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(18) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

Sec. 5. RCW 74.04.805 and 2023 c 289 s 1 are each amended to read as follows:

(1) The department is responsible for determining eligibility for referral for essential needs and housing support under RCW 43.185C.220((~~. Persons eligible for a referral are~~))for persons who:

(a) Have been determined to be eligible for the aged, blind, or disabled assistance program under RCW 74.62.030 or the pregnant women assistance program under RCW 74.62.030, or are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of 90 days. The standard for incapacity in this subsection, as evidenced by the 90-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards;

(b) ((~~Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law, or are victims of human trafficking as defined in RCW 74.04.005;~~

~~(c)(i) Have furnished the department with their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number must be made prior to authorization of benefits, and the social security number must be provided to the department upon receipt;~~

~~(ii) This requirement does not apply to victims of human trafficking as defined in RCW 74.04.005 if they have not been issued a social security number;~~

~~(d)~~)) (i) Have countable income as described in RCW 74.04.005 that meets the standard established by the department, which shall not exceed 100 percent of the federal poverty level; or

(ii) Have income that meets the standard established by the department, who are eligible for the pregnant women assistance program;

((~~(e)~~))(c) Do not have countable resources in excess of those described in RCW 74.04.005; and

((~~(f)~~))(d) Are not eligible for federal aid assistance, other than basic food benefits transferred electronically and medical assistance.

(2) Recipients of pregnant women assistance program benefits who meet other eligibility requirements in this section are eligible for referral for essential needs and housing support services, within funds appropriated for the department of commerce, for 24 consecutive months from the date the department determines pregnant women assistance program eligibility.

(3) The following persons are not eligible for a referral for essential needs and housing support:

(a) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause;

(b) Persons who refuse or fail without good cause to participate in substance use treatment if an assessment by a certified substance use disorder professional indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in substance use treatment, when needed outpatient treatment is not available to the person in the county of their residence, when needed inpatient treatment is not available in a location that is reasonably accessible for the person, or when the person is a parent or other relative personally providing care for a minor child or an incapacitated individual living in the same home as the person, and child care or day care would be necessary for the person to participate in substance use disorder treatment, and such care is not available; and

(c) Persons who are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or who are violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(4) For purposes of determining whether a person is incapacitated from gainful employment under subsection (1) of this section:

(a) The department shall adopt by rule medical criteria for incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(b) The process implementing the medical criteria must involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(5) For purposes of reviewing a person's continuing eligibility and in order to remain eligible for the program, persons who have been found to have an incapacity from gainful employment must demonstrate that there has been no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(6) The department must review the cases of all persons who have received benefits under the essential needs and housing support program for twelve consecutive months, and at least annually after the first review, to determine whether they are eligible for the aged, blind, or disabled assistance program.

(7) The department shall share client data for individuals eligible for a referral to essential needs and housing support with the department of commerce and designated essential needs and housing support entities as required under RCW 43.185C.230.

(8) Individuals described in RCW 43.185C.220(1)(b) do not require a referral from the department in order to be considered for essential needs and housing support.

Sec. 6. RCW 74.62.030 and 2023 c 289 s 3 are each amended to read as follows:

(1)(a) The aged, blind, or disabled assistance program shall provide financial grants to persons in need who:

(i) Are not eligible to receive supplemental security income, refugee cash assistance, temporary assistance for needy families, or state family assistance benefits;

(ii) Meet the eligibility requirements of subsection (3) of this section; and

(iii) Are aged, blind, or disabled. For purposes of determining eligibility for assistance for the aged, blind, or disabled assistance program, the following definitions apply:

(A) "Aged" means age 65 or older.

(B) "Blind" means statutorily blind as defined for the purpose of determining eligibility for the federal supplemental security income program.

(C) "Disabled" means likely to meet the federal supplemental security income disability standard. In making this determination, the department should give full consideration to the cumulative impact of an applicant's multiple impairments, an applicant's age, and vocational and educational history.

In determining whether a person is disabled, the department may rely on, but is not limited to, the following:

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(I) A previous disability determination by the social security administration or the disability determination service entity within the department; or

(II) A determination that an individual is eligible to receive optional categorically needy medicaid as a disabled person under the federal regulations at 42 C.F.R. Parts 435, Secs. 201(a)(3) and 210.

(b) The following persons are not eligible for the aged, blind, or disabled assistance program:

(i) Persons who are not able to engage in gainful employment due primarily to a substance use disorder. These persons shall be referred to appropriate assessment, treatment, or shelter services. Referrals shall be made at the time of application or at the time of eligibility review. This subsection may not be construed to prohibit the department from granting aged, blind, or disabled assistance benefits to persons with a substance use disorder who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the aged, blind, or disabled assistance program; or

(ii) Persons for whom there has been a final determination of ineligibility based on age, blindness, or disability for federal supplemental security income benefits.

(c) Persons may receive aged, blind, or disabled assistance benefits and a referral for essential needs and housing program support under RCW 43.185C.220 concurrently while pending application for federal supplemental security income benefits. Effective October 1, 2025, a person's receipt of supplemental security income received for the same period as aged, blind, or disabled program assistance as described in this section shall not be considered a debt due to the state and is not subject to recovery. However, the monetary value of aged, blind, or disabled cash assistance paid prior to October 1, 2025, that is duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due to the state and shall by operation of law be subject to recovery through all available legal remedies.

(2) The pregnant women assistance program shall provide financial grants to persons who:

(a) Are pregnant and in need, based upon the current income and resource standards of the federal temporary assistance for needy families program, but are ineligible for federal temporary assistance for needy families or state family assistance benefits for a reason other than failure to cooperate in program requirements; and

(b) Meet the eligibility requirements of subsection (3) of this section.

(3) To be eligible for the aged, blind, or disabled assistance program under subsection (1) of this section or the pregnant women assistance program under subsection (2) of this section, a person must:

(a) Be a citizen or alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law, or be a victim of human trafficking as defined in RCW 74.04.005;

(b) Meet the income and resource standards described in RCW 74.04.805(1) ((~~(d) and (c)~~)) (b) and (c);

(c)(i) Have furnished the department with their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(ii) This requirement does not apply to victims of human trafficking as defined in RCW 74.04.005 if they have not been issued a social security number;

(d) Not have refused or failed without good cause to participate in substance use treatment if an assessment by a certified substance use disorder professional indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in substance use treatment, when needed outpatient treatment is not available to the person in the county of their residence, when needed inpatient treatment is not available in a location that is reasonably accessible for the person, or when the person is a parent or other relative personally providing care for a minor child or an incapacitated individual living in the same home as the person, and child care or day care would be necessary for the person to participate in substance use disorder treatment, and such care is not available; and

(e) Not have refused or failed to cooperate in obtaining federal aid assistance, without good cause.

(4) Referrals for essential needs and housing support under RCW 43.185C.220(1)(a) shall be provided to persons found eligible under RCW 74.04.805.

(5) No person may be considered an eligible individual for benefits under this section with respect to any month if during that month the person:

(a) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(b) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) The department must share client data for individuals eligible for a referral to essential needs and housing support with the department of commerce and designated essential needs and housing support entities as required under RCW 43.185C.230."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

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MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; and Marshall.

Referred to Committee on Rules for second reading

April 5, 2025

E2SSB 5263 Prime Sponsor, Ways & Means: Concerning special education funding. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.150.390 and 2024 c 229 s 1 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and 28A.150.415.

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average head count enrollment of students ages three and four and those five year olds not yet enrolled in kindergarten who are eligible for and receiving special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.2;

(b)(i) Subject to the limitation in (b)(ii) of this subsection (2), a district's annual average enrollment of resident students who are eligible for and receiving special education, excluding students ages three and four and those five year olds not yet enrolled in kindergarten, multiplied by the district's base allocation per full-time equivalent student, multiplied by the special education cost multiplier rate of:

(A) ((~~Beginning in the 2020-21 school year, either:~~

~~(I) 1.0075 for students eligible for and receiving special education and reported to be in the general education setting for 80 percent or more of the school day; or~~

~~(II) 0.995 for students eligible for and receiving special education and reported to be in the general education setting for less than 80 percent of the school day;~~

~~(B) Beginning in the 2023-24 school year, either:~~

~~(I) 1.12~~))1.186 for students eligible for and receiving special education and reported to be in the general education setting for 80 percent or more of the school day; or

((~~(II) 1.06~~))(B) 1.09 for students eligible for and receiving special education and reported to be in the general education setting for less than 80 percent of the school day.

(ii) If the enrollment percent exceeds 16 percent, the excess cost allocation calculated under (b)(i) of this subsection must be adjusted by multiplying the allocation by 16 percent divided by the enrollment percent. The legislature intends to review the state auditor report on the prevalence of disabilities required under section 2, chapter 229, Laws of 2024, in consideration of further increases or elimination of the enrollment limit on special education funding.

(3) The superintendent of public instruction may reserve amounts up to 0.006 of the funding generated under subsection (2) of this section for statewide special education activities under section 2 of this act.

(4) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident annual average enrollment of students who are eligible for and receiving special education, excluding students ages three and four and those five year olds not yet enrolled in kindergarten and students enrolled in institutional education programs, as a percent of the district's annual average full-time equivalent basic education enrollment.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.155 RCW to read as follows:

(1) The superintendent of public instruction shall engage in statewide special education activities to support students receiving special education services.

(a) The statewide activities must include:

(i) Annually reviewing data from school districts and public schools, including the percentage of students receiving special education services, to ensure there is not a disproportionate identification of students, as defined by the superintendent of public

instruction in accordance with federal requirements of the individuals with disabilities education act, 20 U.S.C. Sec. 1400; and

(ii) Providing technical assistance to school districts with disproportionate data.

(b) The statewide activities may include:

(i) Providing professional development in inclusionary practices to school districts, public schools, and community partners in promoting inclusionary teaching practices within a multitiered system of supports framework to help safeguard against over-identification and other issues related to disproportionality;

(ii) Maintaining common templates and resources including a statewide tool for individualized education programs; and

(iii) Incorporating resources within the professional development system of supports outlined in (b)(i) of this subsection to expand inclusionary practices and reduce exclusionary practices, such as student isolation and restraint. Resources may include grants and professional development for pilot and demonstration sites.

(2) The superintendent of public instruction shall annually report to the education committees of the legislature, in accordance with RCW 43.01.036, by December 1st on the statewide activities funded under RCW 28A.150.390(3).

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.150 RCW to read as follows:

(1) Subject to availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must award grants to up to 20 pilot schools to support school-wide centers of excellence for inclusionary practices. School districts may apply for grant funding on behalf of a school within their district. The selected schools will generate a grant equivalent to the amount needed to bring the school to a multiplier of 1.5 for all students eligible for, and receiving special education in, the school in each school year over a four-year period. Grant amounts provided in this section must be spent on qualifying expenses for special education programs for students with disabilities.

(2) The superintendent of public instruction must select grant recipients based on the criteria in this subsection (2). Selected pilot schools must be diverse geographically and in size of enrollment. Successful school applicants must:

(a) Demonstrate engaged and committed school leadership and faculty in support of inclusionary practices, which may include, but are not limited to, the following practices:

(i) A willingness to make master schedule changes to allow for common collaboration time;

(ii) A plan for transformational change in building practices in support of inclusion;

(iii) Broadly communicating a commitment to the shift in practices; and

(iv) A commitment to, and understanding of, universal design for learning;

(b) Demonstrate that all school staff, including classified staff, are appropriately trained in inclusionary practices or submit a plan for all staff to obtain the appropriate training by the end of the following school year;

(c) Provide data demonstrating the school's existing success in inclusionary practices or recent improvements in inclusionary practices; and

(d) Describe how staff training and support in inclusionary practices will be sustained after initial training is provided.

(3) Beginning December 1, 2026, and annually thereafter, the office of the superintendent of public instruction shall submit a report to the appropriate committees of the legislature on the grant program. The report must include, at a minimum:

(a) A list of the grant recipients from the previous school year;

(b) The additional funding provided to each grant recipient as required in subsection (1) of this section; and

(c) The effectiveness of the grant funds in increasing staff training in inclusionary practices and improving student outcomes.

(4) The funding provided under this section is not part of the state's statutory program of basic education.

Sec. 4. RCW 43.216.580 and 2024 c 284 s 1 are each amended to read as follows:

(1) The department is the state lead agency for Part C of the federal individuals with disabilities education act. The department shall administer the early support for infants and toddlers program, to provide early intervention services to all eligible children with disabilities from birth to three years of age. Eligibility shall be determined according to Part C of the federal individuals with disabilities education act or other applicable federal and state laws, and as specified in the Washington Administrative Code adopted by the department. Services provided under this section shall not supplant services or funding currently provided in the state for early intervention services to eligible children with disabilities from birth to three years of age.

(2)(a) Funding for the early support for infants and toddlers program shall be appropriated to the department based on the annual average head count of children ages birth to three who are eligible for and receiving early intervention services, multiplied by the total statewide allocation generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, per the statewide full-time equivalent enrollment in common schools, multiplied by ((~~1.15~~))the multiplier used in RCW 28A.150.390(2)(a).

(b) The department shall distribute funds to early intervention services providers, and, when appropriate, to county lead agencies.

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(c) For the purposes of this subsection (2), a child is receiving early intervention services if the child has received services within the same month as the monthly count day, which is the last business day of the month.

(3) Federal funds associated with Part C of the federal individuals with disabilities education act shall be subject to payor of last resort requirements pursuant to 34 C.F.R. Sec. 303.510 (2020) for birth-to-three early intervention services provided under this section.

(4) The services in this section are not part of the state's program of basic education pursuant to Article IX of the state Constitution.

Sec. 5. RCW 28A.150.392 and 2024 c 127 s 2 are each amended to read as follows:

(1)(a) To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A.150.390.

(b) If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in any fiscal year, then the superintendent shall expend all available federal discretionary funds necessary to meet this need.

(2) Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall award additional funds for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. When determining award eligibility and amounts[,] the committee shall limit its review to relevant documentation that illustrates adherence to award criteria. The committee shall not make determinations regarding the content of individualized education programs beyond confirming documented and quantified services and evidence of corresponding expenditures for which a school district seeks reimbursement.

(b) In the determination of need, the committee shall consider additional available revenues from federal sources.

(c) Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(d) In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state revenues related to services for students eligible for special education and all federal revenues from federal impact aid, medicaid, and the individuals with disabilities education act-Part B and appropriate special projects. Awards associated with (e) and (f) of this subsection shall not exceed the total of a district's specific determination of need.

(e) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(f) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, which may include consideration of proximity to group homes, military bases, and regional hospitals. Safety net awards under this subsection (2)(f) shall be adjusted to reflect amounts awarded under (e) of this subsection.

(g) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education served in residential schools, programs for juveniles under the department of corrections, and programs for juveniles operated by city and county jails to the extent they are providing a secondary program of education.

(h) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(i) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent of public instruction in accordance with chapter 318, Laws of 1999.

(j) Safety net awards must be adjusted for any unresolved audit findings or exceptions related to special education funding. Safety net awards may only be adjusted for errors in safety net applications or individualized education programs that materially affect the demonstration of need.

(3) The superintendent of public instruction shall adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. By December 1, 2018, the superintendent shall review and revise the rules to achieve full and complete implementation of the requirements of this subsection and subsection (4) of this section including revisions to rules that provide additional flexibility to access community impact awards. Before revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature. In adopting and revising the rules, the superintendent shall ensure the application process to access safety net funding is streamlined, timelines for submission are not in conflict, feedback to school districts is timely and provides sufficient information to allow school districts to understand how to correct any deficiencies in a safety net application, and that there is consistency between awards approved by school district and by application period. The office of the superintendent of public instruction shall also provide technical assistance to school districts in preparing and submitting special education safety net applications.

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(4)(a) On an annual basis, the superintendent shall survey districts regarding their satisfaction with the safety net process and consider feedback from districts to improve the safety net process. Each year by December 1st, the superintendent shall prepare and submit a report to the office of financial management and the appropriate policy and fiscal committees of the legislature that summarizes the survey results and those changes made to the safety net process as a result of the school district feedback.

(b) By December 1, 2024, the office of the superintendent of public instruction must develop a survey requesting specific feedback on the safety net application process from school districts with 3,000 or fewer students. The survey must include, at a minimum, questions regarding the average amount of time school district staff spend gathering safety net application data, filling out application forms, and correcting application deficiencies. The survey must also include questions to help identify which application components are the most challenging and time consuming for school districts to complete. By December 1, 2025, the office of the superintendent of public instruction must use this feedback to implement a simplified, standardized safety net application for all school districts that reduces barriers to safety net funding.

(5) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff member from the office of the superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(6) Beginning in the 2025-26 school year, the office of the superintendent of public instruction must distribute safety net awards to school districts on a quarterly basis if the following criteria are met:

(a) The safety net award is provided for a high-cost student who receives special education services from an approved nonpublic agency located outside of the state of Washington;

(b) The school district successfully applied for and received a safety net award for the high-cost student in a prior school year and the student's placement has not changed since that safety net award was granted; and

(c) The school district meets all other safety net award eligibility requirements as determined by the safety net oversight committee.

(7) Beginning in the 2025-26 school year, the office of the superintendent of public instruction must distribute safety net awards to second-class school districts on a quarterly basis.

(8)(a) Beginning in the 2019-20 school year, a high-need student is eligible for safety net awards from state funding under subsection (2)(e) and (g) of this section if the student's individualized education program costs exceed two and three-tenths times the average per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the every student succeeds act of 2015.

(b) Beginning in the 2023-24 school year, a high-need student is eligible for safety net awards from state funding under subsection (2)(e) and (g) of this section if the student's individualized education program costs exceed:

(i) 2 times the average per-pupil expenditure, for school districts with fewer than 1,000 full-time equivalent students;

(ii) 2.2 times the average per-pupil expenditure, for school districts with 1,000 or more full-time equivalent students.

(c) For purposes of (b) of this subsection, "average per-pupil expenditure" has the same meaning as in 20 U.S.C. Sec. 7801, the every student succeeds act of 2015, and excludes safety net funding provided in this section.

NEW SECTION. **Sec. 6.** (1)(a) The omnibus operating appropriations act, chapter 475, Laws of 2023, appropriated funding to the office of the superintendent of public instruction for two-year demonstration projects that build school-wide systems to support students in distress and prevent crisis escalation cycles that may result in restraint or isolation. In accordance with the legislation, the office of the superintendent of public instruction established demonstration projects with demonstration sites and pilot sites.

(b) Six demonstration sites were selected to showcase best practices and to serve as learning communities and examples that would allow other school districts to observe positive practices in real-world settings. Sixteen pilot sites were selected to engage in targeted professional development, including in inclusionary practices, through learning experiences offered by the demonstration sites and state contracted professional development providers, as well as complete other tasks to achieve the project's goal.

(c) In its progress report on the outcomes of the demonstration projects, the office of the superintendent of public instruction recommended that the projects be funded for two additional years.

(2)(a) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall provide grants to: (i) Support inclusive teaching practices and student behavior management practices, including escalation prevention, for six demonstration sites that are ready to exhibit adopted best practices and 16 pilot sites committed to adopting best practices; and (ii) offer best practices training to the pilot sites. Grant funding and training must be prioritized to support students with

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individualized education programs who spend the least amount of time in general education classrooms.

(b) The demonstration sites receiving grants under this subsection must showcase the following practices: Staff use of inclusive teaching practices and student behavior management practices; staff knowledge and support of district policies; student and school needs assessments; use of regulation spaces for students; and data collection and reporting related to disruptive student behavioral incidents. The demonstration sites must continue to serve as learning communities and examples that allow other school districts, not only the pilot sites, to observe positive practices in real-world settings.

(c) The pilot sites receiving grants under this subsection must take advantage of learning experiences provided by state contractors and demonstration sites to build school-level and district-level systems that incorporate positive, inclusive, student behavior management practices to prevent crisis escalation and reduce disruptive behavioral incidents, with particular focus on students with disabilities. The pilot sites must improve data collection and reporting systems and complete other tasks to achieve the project's goal.

(3) By November 15, 2026, and in accordance with RCW 43.01.036, the office of the superintendent of public instruction shall provide the appropriate committees of the legislature with a final report on the demonstration projects. The report must, to the extent possible, quantify the impact of the demonstration projects in terms of student outcomes, such as changes in disruptive student behavior, increases in the amount of time students with disabilities spend in the general education setting, or increases in assessment scores. The report must include an estimate of the fiscal impact that use of the practices identified in subsection (2)(b) of this section might have on school district budgets if adopted statewide. The report must also address key implementation challenges and findings, as well as include recommendations for statewide policy changes.

(4) For the purposes of this section, "student behavior management" means the knowledge and skills to:

(a) Implement proactive classroom management strategies that create a positive and safe learning environment;

(b) Recognize the emotional or behavioral distress of students and respond using evidence-based, trauma-informed behavioral health supports that are age and developmentally appropriate, are restorative, and consider any disabilities of the students;

(c) Understand and implement behavior management practices and positive behavioral supports within a multitiered system of supports; and

(d) Use evidence-based, trauma-informed, and student-centered approaches for de-escalating aggressive student behaviors that include problem solving and conflict resolution and are less restrictive than isolation or restraint.

(5) This section expires August 1, 2027.

Sec. 7. RCW 28A.150.560 and 2023 c 417 s 6 are each amended to read as follows:

(1) It is the policy of the state that for purposes of state funding allocations, students eligible for and receiving special education generate the full basic education allocation under RCW 28A.150.260 and, as a class, are to receive the benefits of this allocation for the entire school day, as defined in RCW 28A.150.203, whether the student is placed in the general education setting or another setting.

(2) The superintendent of public instruction shall develop an allocation and cost accounting methodology ((~~that ensures state general apportionment funding for students who receive their basic education services primarily in an alternative classroom or setting are prorated and allocated to the special education program and accounted for before calculating special education excess costs~~))to account for expenditures beyond amounts provided through the special education funding formula under RCW 28A.150.390. This method of accounting must shift 25 percent of a school district's base allocation as defined in RCW 28A.150.390 for students eligible for and receiving special education to the school district's special education program for expenditure.

(3) To the extent that a school district's special education program expenditures exceed state funding in a school year provided under RCW 28A.150.390 and 28A.150.392, and redirected general apportionment revenue under subsection (2) of this section, the school district must use the remaining portion of the school district's base allocation as defined in RCW 28A.150.390 for students eligible for and receiving special education for the expenditures prior to using other funding sources.

(4) Unless otherwise prohibited by law, nothing in this section prohibits school districts from using other funding and state allocations above the amounts provided under RCW 28A.150.390 and subsections (2) and (3) of this section to serve students eligible for and receiving special education.

(5) Nothing in this section requires districts to provide services in a manner inconsistent with the student's individualized education program or other than in the least restrictive environment as determined by the individualized education program team.

((~~(3)~~))(6) The superintendent of public instruction shall provide the legislature with an accounting of prorated general apportionment allocations provided to special education programs broken down by school district by January 1, 2024, and then every January 1st of odd-numbered years thereafter.

NEW SECTION. **Sec. 8.** (1) The office of the superintendent of public instruction shall use information gathered from the demonstration projects and the technical assistance funded by section 501(4)(mm), chapter 475, Laws of 2023 to develop a strategy and with a detailed

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timeline to implement a prohibition on isolating students in prekindergarten through grade five. The goal date for the prohibition should be July 1, 2031. The plan must be reported to the appropriate committees of the legislature by December 1, 2027, in accordance with RCW 43.01.036.

(2) This section expires July 1, 2028.

NEW SECTION. **Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

E2SSB 5278 Prime Sponsor, Ways & Means: Concerning the management of individuals who are placed in juvenile rehabilitation institutions. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Human Services.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the youth of Washington state are among its most valuable resources and that the principles enumerated in RCW 13.40.010 are reaffirmed. Overcrowding is preventing institutions from carrying out the rehabilitation of youthful offenders.

Furthermore, the legislature recognizes the need for the department to safely manage the populations of its institutions and protect both youth in its care and state employees.

Sec. 2. RCW 13.40.020 and 2024 c 117 s 4 are each amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include community restitution not to exceed 150 hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(5) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a

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state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment;

(6) "Community transition services" means a therapeutic and supportive community-based custody option in which:

(a) A person serves a portion of their term of confinement residing in the community, outside of department institutions and community facilities;

(b) The department supervises the person in part through the use of technology that is capable of determining or identifying the monitored person's presence or absence at a particular location;

(c) The department provides access to developmentally appropriate, trauma-informed, racial equity-based, and culturally relevant programs to promote successful reentry; and

(d) The department prioritizes the delivery of available programming from individuals who share characteristics with the individual being served related to: Race, ethnicity, sexual identity, and gender identity;

(7) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(8) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(9) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(10) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(11) "Department" means the department of children, youth, and families;

(12) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(13) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(14) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(15) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

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(16) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(17) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of 18 years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(18) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person 18 years of age or older over whom the juvenile court has jurisdiction under RCW 13.40.300;

(19) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(20) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; or (c) 0-150 hours of community restitution;

(21) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(22) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(23) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(24) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(25) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(26) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(27) "Rated bed capacity" means the number of in-residence individuals at a juvenile rehabilitation institution pursuant to RCW 13.40.460(9) that should not be exceeded in order to provide treatment aligned with juvenile justice standards;

(28) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

((~~(28)~~))(29) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

((~~(29)~~))(30) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

((~~(30)~~))(31) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

((~~(31)~~))(32) "Risk assessment tool" means the statistically valid tool used by the department to inform release or placement decisions related to security level, release within the sentencing range, community facility eligibility, community transition services eligibility, and parole. The "risk assessment tool" is used by the department to predict the likelihood of successful reentry and future criminal behavior;

((~~(32)~~))(33) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance

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abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

((~~(33)~~))(34) "Secretary" means the secretary of the department;

((~~(34)~~))(35) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

((~~(35)~~))(36) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

((~~(36)~~))(37) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of the respondent's sexual gratification;

((~~(37)~~))(38) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

((~~(38)~~))(39) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

((~~(39)~~))(40) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

((~~(40)~~))(41) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

((~~(41)~~))(42) "Youth court" means a diversion unit under the supervision of the juvenile court.

Sec. 3. RCW 13.40.460 and 2017 3rd sp.s. c 6 s 616 are each amended to read as follows:

The secretary or the secretary's designee shall manage and administer the department's juvenile rehabilitation responsibilities, including but not limited to the operation of all state institutions or facilities used for juvenile rehabilitation.

The secretary or the secretary's designee shall:

(1) Prepare a biennial budget request sufficient to meet the confinement and rehabilitative needs of the juvenile rehabilitation program, as forecast by the office of financial management;

(2) Create by rule a formal system for inmate classification. This classification system shall consider:

(a) Public safety;

(b) Internal security and staff safety;

(c) Rehabilitative resources both within and outside the department;

(d) An assessment of each offender's risk of sexually aggressive behavior as provided in RCW 13.40.470; and

(e) An assessment of each offender's vulnerability to sexually aggressive behavior as provided in RCW 13.40.470;

(3) Develop agreements with local jurisdictions to develop regional facilities with a variety of custody levels;

(4) Adopt rules establishing effective disciplinary policies to maintain order within institutions;

(5) Develop a comprehensive diagnostic evaluation process to be used at intake, including but not limited to evaluation for substance addiction or abuse, literacy, learning disabilities, fetal alcohol syndrome or effect, attention deficit disorder, and mental health;

(6) Develop placement criteria:

(a) To avoid assigning youth who present a moderate or high risk of sexually aggressive behavior to the same sleeping quarters as youth assessed as vulnerable to sexual victimization under RCW 13.40.470(1)(c); and

(b) To avoid placing a juvenile offender on parole status who has been assessed as a moderate to high risk for sexually aggressive behavior in a department community residential program with another child who is: (i) Dependent under chapter 13.34 RCW, or an at-risk youth or child in need of services under chapter 13.32A RCW; and (ii) not also a juvenile offender on parole status;

(7) Develop a plan to implement, by July 1, 1995:

(a) Substance abuse treatment programs for all state juvenile rehabilitation facilities and institutions;

(b) Vocational education and instruction programs at all state juvenile rehabilitation facilities and institutions; and

(c) An educational program to establish self-worth and responsibility in juvenile offenders. This educational program shall emphasize instruction in character-building principles such as: Respect for self, others, and authority; victim awareness; accountability; work ethics; good citizenship; and life skills; ((~~and~~))

(8)(a) The department shall develop uniform policies related to custodial assaults consistent with RCW 72.01.045 and 9A.36.100 that are to be followed in all juvenile rehabilitation facilities; and

(b) The department will report assaults in accordance with the policies developed in (a) of this subsection;

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(9)(a) Promulgate rules related to the rated bed capacity of juvenile rehabilitation institutions under its control, and revise those rules as necessary.

(b) The rated bed capacity number established by the department for each juvenile rehabilitation institution must include the following conditions:

(i) Single occupancy rooms;

(ii) 10 percent of facility beds reserved for intensive management unit beds and for flexibility of movement;

(iii) Appropriate bathroom and shower ratio to youth;

(iv) Adequate education space to ensure that all youth can maintain a full class schedule; and

(v) Adequate indoor and outdoor recreation space to safely manage population groups;

(10) Before a transfer to the department of corrections occurs under RCW 72.01.410(2)(c), take discretionary action to reduce the in-residence population of any juvenile rehabilitation institution when the secretary concludes that the in-residence population exceeds 105 percent of rated bed capacity under this chapter or chapter 72.01 RCW, on a case-by-case basis, in the following descending order with highest priority for the secretary to:

(a) Transfer a sufficient number of persons from a community facility to placement in community transition services; and

(b) Transfer a sufficient number of persons from the juvenile rehabilitation institution to community facilities or community transition services to reduce the in-residence population;

(11) Monitor the number of persons residing in each institution, and when that number reaches 90 percent of rated bed capacity, begin planning and identifying methods to avoid exceeding rated bed capacity at each juvenile rehabilitation institution including, but not limited to:

(a) Notifying individuals who may be released or transferred to community transition services or community facilities;

(b) Discussing with the department of corrections any early release options under section 10 of this act for individuals convicted in adult court of offenses that occurred before turning 18; and

(c) Notifying county juvenile court administrators, the legislature, and the governor of current rated bed capacity and any measures or plans to reduce the population of a juvenile institution to maintain a population that is at or below the rated bed capacity;

(12) Engage in transfer or transition planning for any individual leaving a juvenile institution, including but not limited to situations where an individual transfers to a department of corrections facility, transfers to a different juvenile institution, is placed on community transition services, placed in a community facility, or releases to the community. The transition planning required under this section must include, but is not limited to:

(a) Planning for medical and behavioral health needs;

(b) Planning for vocational training; and

(c) Family notification; and

(13) By December 1st, submit an annual report to the legislature and the governor, in compliance with RCW 43.01.036, on the:

(a) Number of transfers that occurred in the prior 12 months, the reason for each transfer, the age of each person transferred, information about which department of corrections facilities people were transferred to, and the outcome of each transfer hearing under RCW 13.40.280;

(b) Monthly average population at each secure juvenile rehabilitation institution;

(c) Number of individuals who have been placed in community facilities and information regarding the overall utilization and capacity of community facilities;

(d) Number of individuals who have been placed in community transition services and the number of individuals who were eligible for community transition services; and

(e) Current rated bed capacity for all available secure juvenile rehabilitation institutions, projections for whether all available secure juvenile rehabilitation institutions will have sufficient rated bed capacity based on caseload forecasts provided by the caseload forecast council as described under RCW 43.88C.010, and updates regarding the development of additional secure juvenile rehabilitation institutions.

Sec. 4. RCW 72.65.200 and 1981 c 137 s 35 are each amended to read as follows:

(1) The secretary may permit a prisoner to participate in any work release plan or program but only if the participation is authorized pursuant to the prisoner's sentence or pursuant to RCW 9.94A.728. This section shall become effective July 1, 1984.

(2) The secretary, with the consent of the secretary of the department of children, youth, and families, may directly transfer a person who is in the custody of the department pursuant to RCW 72.01.410 from the custody of the department of children, youth, and families and place the person in the custody of the department in a work release program if, under section 5 of this act, the secretary of the department of children, youth, and families concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9). The person shall meet eligibility criteria for direct transfer to a work release program under section 5 of this act.

NEW SECTION. **Sec. 5.** A new section is added to chapter 13.40 RCW to read as follows:

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(1) In accordance with RCW 13.40.460(10), the secretary may take any of the actions outlined in this section when the secretary concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9), on a case-by-case basis.

(2)(a) When the secretary concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9), the secretary may transfer a sufficient number of persons from community facilities to community transition services under RCW 13.40.205 and 72.01.412.

(b) After taking steps outlined in (a) of this subsection to transfer individuals to community transition services, if the secretary concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9), the secretary may transfer a sufficient number of persons from the secure juvenile rehabilitation institution to community facilities or community transition services to reduce the in-residence population at the secure juvenile rehabilitation institution to 95 percent of rated bed capacity.

(c) The following persons shall not be transferred from a secure juvenile rehabilitation institution to a community facility under this subsection:

(i) A person that is deemed a high risk to reoffend;

(ii) A person that would be better served by the services provided at an institution; or

(iii) A person who would be unable to comply with residential disciplinary standards established by the department.

(d) When placing a person at a community facility under this section, the requirements of RCW 72.05.420 (1)(b) do not apply, and the notice requirements in RCW 13.40.215(1) (a) and (b) may be less than 30 days.

(3)(a) Pursuant to RCW 72.65.200, and with the consent of the secretary of the department of corrections, when the secretary of the department concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9), the secretary may transfer a sufficient number of persons, who are in the custody of the department pursuant to RCW 72.01.410, from the secure juvenile rehabilitation institution to a work release facility operated by the department of corrections to reduce the in-residence population at the secure juvenile rehabilitation institution to 95 percent of rated bed capacity.

(b) To be eligible for direct transfer to a work release facility operated by the department of corrections under this subsection, the person must be:

(i) Above the age of 21;

(ii) Be within 18 months of their earned release date; and

(iii) Be determined by the department of corrections that direct transfer to a work release facility would be an appropriate placement for the person.

(4) The hearing requirements of RCW 13.40.280 do not apply to persons transferred under this section.

Sec. 6. RCW 72.05.420 and 1998 c 269 s 10 are each amended to read as follows:

(1) The department shall not initially place an offender in a community facility unless:

(a) The department has conducted a risk assessment, including a determination of drug and alcohol abuse, and the results indicate the juvenile will pose not more than a minimum risk to public safety; and

(b) ((~~The~~))Except for offenders transferring to a community facility under section 5 of this act, the offender has spent at least ((~~ten~~))10 percent of his or her sentence, but in no event less than ((~~thirty~~))30 days, in a secure institution operated by, or under contract with, the department.

The risk assessment must include consideration of all prior convictions and all available nonconviction data released upon request under RCW 10.97.050, and any serious infractions or serious violations while under the jurisdiction of the secretary or the courts.

(2) No juvenile offender may be placed in a community facility until the juvenile's student records and information have been received and the department has reviewed them in conjunction with all other information used for risk assessment, security classification, and placement of the juvenile.

(3) A juvenile offender shall not be placed in a community facility until the department's risk assessment and security classification is complete and local law enforcement has been properly notified.

Sec. 7. RCW 13.40.215 and 2021 c 206 s 5 are each amended to read as follows:

(1)(a) Except as provided in (d) of this subsection and subsection (2) of this section, at the earliest practicable date, and in no event later than ((~~thirty~~))30 days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility or community transition services program, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside; and

(ii) The sheriff of the county in which the juvenile will reside.

(b)(i) Except as provided in (d) of this subsection and subsection (2) of this section, at the earliest practicable date, and in no event later than ((~~thirty~~))30 days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility or community transition services program, the secretary shall

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send written notice of the discharge, parole, authorized leave or release, or transfer of an individual who is found to have committed a violent offense or a sex offense, is ((~~twenty-one~~))21 years of age or younger, and has not received a high school diploma or its equivalent, to the designated recipient of the school where the juvenile either: (A) Was enrolled prior to incarceration or detention; or (B) has expressed an intention to enroll following his or her release. This notice must also include the restrictions described in subsection (5) of this section.

(ii) The community residential facility shall provide written notice of the offender's criminal history to the designated recipient of any school that the offender attends while residing at the community residential facility and to any employer that employs the offender while residing at the community residential facility.

(iii) As used in this subsection, "designated recipient" means: (A) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (B) the administrator of a charter public school governed by chapter 28A.710 RCW; or (C) the administrator of a private school approved under chapter 28A.195 RCW.

(c) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

(d) The ((~~thirty-day~~))30-day notice requirements contained in this subsection shall not apply to emergency medical furloughs. The notice requirements contained in this subsection may be less than 30 days for persons transferred under section 5 of this act.

(e) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2)(a) If a juvenile found to have committed a violent offense, a sex offense, or stalking escapes from a facility of the department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed ((~~forty-eight~~))48 hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

(3) If the victim, the victim's next of kin, or any witness is under the age of ((~~sixteen~~))16, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) Upon discharge, parole, transfer to a community residential facility, or other authorized leave or release, a convicted juvenile sex offender shall not attend a public or approved private elementary, middle, or high school that is attended by a victim or a sibling of a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a school district.

(6) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;

(d) "Next of kin" means a person's spouse, parents, siblings, and children.

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Sec. 8. RCW 72.01.410 and 2019 c 322 s 2 are each amended to read as follows:

(1) Whenever any person is convicted as an adult in the courts of this state of a felony offense committed under the age of ((~~eighteen~~))18, and is committed for a term of confinement, that person shall be initially placed in a facility operated by the department of children, youth, and families, unless the facility in which the person is to be placed is at or above 105 percent of rated bed capacity as described in RCW 13.40.460(9) and the person is over the age of 21 at the time of placement with an earned release date after the age of 26. These individuals who are not placed in a department of children, youth, and families facility must be notified upon placement in a department of corrections facility of the ability to request transfer according to this subsection and notified when the population of the department of children, youth, and families facility where they would have been placed is below 95 percent of the rated bed capacity as described in RCW 13.40.460(9) and there is more than one year remaining on the person's sentence that would be served in the department of children, youth, and families facility and given the option to request a transfer to a department of children, youth, and families facility. A person who is eligible for transfer to a department of children, youth, and families facility under this subsection has the right to counsel and the department of children, youth, and families shall process the transfer request with the coordination of the department of corrections. The department of corrections shall determine the person's earned release date.

(a) While in the custody of the department of children, youth, and families, the person must have the same treatment, housing options, transfer, and access to program resources as any other person committed to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Except as provided under ((~~(d) of this~~)) subsection (3) of this section, treatment, placement, and program decisions shall be at the sole discretion of the department of children, youth, and families. ((~~The person shall not be transferred to the custody of the department of corrections without the approval of the department of children, youth, and families until the person reaches the age of twenty-five.~~))

(b) If the person's sentence includes a term of community custody, the department of children, youth, and families shall not release the person to community custody until the department of corrections has approved the person's release plan pursuant to RCW 9.94A.729(5)(b). If a person is held past his or her earned release date pending release plan approval, the department of children, youth, and families shall retain custody until a plan is approved or the person completes the ordered term of confinement prior to age ((~~twenty-five~~))25.

((~~(c)~~))(2)(a) The department of children, youth, and families may not transfer a person placed in a facility operated by the department of children, youth, and families under this section to the custody of the department of corrections until the person reaches the age of 25, unless one of the following exceptions in this subsection (2) applies.

(b) If the department of children, youth, and families ((~~determines~~))establishes at a hearing before a review board under RCW 13.40.280 that ((~~retaining custody of~~)) the person in a facility of the department of children, youth, and families presents a ((~~significant safety risk~~))continuing and serious threat to the safety of others in the institution, the department of children, youth, and families may transfer the person to the custody of the department of corrections.

(c)(i) Until January 1, 2031, except as provided in subsection (iv) of this subsection (c), after taking actions outlined in RCW 13.40.460(10) and section 5 of this act and exhausting any remaining transfer authority provided to the secretary of the department of children, youth, and families that apply to individuals convicted in adult court of an offense that occurred before turning age 18, if the population of the juvenile rehabilitation institution exceeds 105 percent of rated bed capacity as described in RCW 13.40.460(9) and the rehabilitative goals of the institution cannot be met as defined in this section, the secretary of the department of children, youth, and families may, with the consent of the secretary of the department of corrections, only transfer a sufficient number of persons who meet the requirements provided in (c)(ii) of this subsection (2) to the custody of the department of corrections to reduce the in-residence population of the facility to 95 percent of rated bed capacity in a manner consistent with the requirements of this subsection (2)(c).

(ii) If the circumstances listed in (c)(i) of this subsection (2) exist, the secretary of the department of children, youth, and families, may only transfer a person who is age 21 or older, or if the person is under 21 but is age 19 or older and has served at least three years in the custody of the department of children, youth, and families, and who consistently refuses to participate in available rehabilitative programming, or engage in planning for such programming, provided the person receives a transfer hearing under RCW 13.40.280 prior to transfer.

(iii) Transfer hearings under this subsection (2)(c) shall take into account whether the department of children, youth, and families has offered the person culturally and age appropriate services based on the person's diagnostic evaluation process used at intake as described under RCW 13.40.460 or any other assessment conducted during the person's intake to the department of children, youth, and families institution, and the person's engagement in programming, treatment needs, goals, future plans, length of confinement, classification, current behavior, mental and emotional health, and any disabilities or special needs impacting the safety or suitability of transferring the person to the department of corrections, be minimally disruptive, and ensure a person has at least seven calendar days' notice to prepare for the hearing.

(iv) The department of children, youth, and families may no longer use the authority provided in subsection (2)(c) of this section when there are at least four fully operational secure juvenile rehabilitation institutions operated by the department of children, youth, and families and the department of children, youth, and families projects based on caseload

forecasts provided by the caseload forecast council as described under RCW 43.88C.010 that the projected caseload for secure juvenile rehabilitation institutions will not exceed the rated bed capacity for all available secure juvenile rehabilitation institutions.

((~~(d)~~))(3) The department of corrections must retain authority over custody decisions relating to a person whose earned release date is on or after the person's ((~~twenty-fifth~~))25th birthday and who is placed in a facility operated by the department of children, youth, and families under this section, unless the person qualifies for partial confinement under RCW 72.01.412, and must approve any leave from the facility. When the person turns age ((~~twenty-five~~))25, ((~~he or she~~))the person must be transferred to the department of corrections, except as described under RCW 72.01.412. The department of children, youth, and families has all routine and day-to-day operations authority for the person while the person is in its custody.

((~~(2)~~))(4)(a) Except as provided in (b) and (c) of this subsection, a person under the age of ((~~eighteen~~))18 who is transferred to the custody of the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from other persons in custody who are ((~~eighteen~~))18 years of age or older, until the person reaches the age of ((~~eighteen~~))18.

(b) A person who is transferred to the custody of the department of corrections and reaches ((~~eighteen~~))18 years of age may remain in a housing unit for persons under the age of ((~~eighteen~~))18 if the secretary of corrections determines that: (i) The person's needs and the rehabilitation goals for the person could continue to be better met by the programs and housing environment that is separate from other persons in custody who are ((~~eighteen~~))18 years of age and older; and (ii) the programs or housing environment for persons under the age of ((~~eighteen~~))18 will not be substantially affected by the continued placement of the person in that environment. The person may remain placed in a housing unit for persons under the age of ((~~eighteen~~))18 until such time as the secretary of corrections determines that the person's needs and goals are no longer better met in that environment but in no case past the person's ((~~twenty-fifth~~))25th birthday.

(c) A person transferred to the custody of the department of corrections who is under the age of ((~~eighteen~~))18 may be housed in an intensive management unit or administrative segregation unit containing offenders ((~~eighteen~~))18 years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender must be kept physically separate from other offenders at all times.

((~~(3)~~))(5) The department of children, youth, and families must review the placement of a person over age ((~~twenty-one~~))18 in the custody of the department of children, youth, and families under this section to ((~~determine whether the person should be transferred to the custody of the department of corrections~~))provide information to the person regarding voluntary transfer to the custody of the department of corrections.

(a) The department of children, youth, and families may determine the frequency of the review required under this subsection, but the review must occur at least once before the person reaches age ((~~twenty-three~~))23 if the person's commitment period in a juvenile institution extends beyond the person's ((~~twenty-third~~))25th birthday.

(b) At the review required under this subsection, the department of children, youth, and families and the department of corrections shall provide information in writing to the person on all available placement options and availability of those options at the department of corrections, and the person's specific eligibility for those placement options based on their classification and custody level determination made by the department of corrections in writing prior to any voluntary transfer decision. The person shall be provided an opportunity to consult with counsel during the review to confirm that the person is making a knowing, voluntary, and fully informed request.

(c) A person who, after the review, requests to be transferred to the department of corrections shall have seven days to reconsider the transfer request. Following the seven-day waiting period, if the person confirms their continued request to transfer to the custody of the department of corrections, the person shall be transferred directly into the placement agreed upon by the secretary of the department of children, youth, and families and the secretary of the department of corrections. A person who has been transferred to the department of corrections under this section may request to be transferred and returned to the custody of the department of children, youth, and families one time within 12 months after transferring, provided the in-residence population of the juvenile rehabilitation institution is below 95 percent rated bed capacity at the time the department of children, youth, and families receives the request. If the in-residence population of the juvenile rehabilitation institution exceeds 95 percent rated bed capacity at the time the department of children, youth, and families receives the person's request, the request shall be placed on hold until the in-residence population returns below 95 percent rated bed capacity, at which time the department of children, youth, and families shall process the transfer request with the coordination of the department of corrections.

(d) The hearing requirements of RCW 13.40.280 do not apply to persons transferred under this subsection.

(6) For the purposes of this section, "rehabilitative goals of the institution" include, but are not limited to:

(a) Appropriate bathroom and shower ratio to youth;

(b) Adequate education space to ensure that all youth can maintain a full class schedule; and

(c) Adequate indoor and outdoor recreation space to safely manage population groups.

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Sec. 9. RCW 13.40.280 and 2017 3rd sp.s. c 6 s 611 are each amended to read as follows:

(1) The secretary of the department of children, youth, and families, with the consent of the secretary of the department of corrections, has the authority to transfer a juvenile presently or hereafter committed to the department of children, youth, and families to the department of corrections for appropriate institutional placement in accordance with this section.

(2) The secretary of the department of children, youth, and families may, with the consent of the secretary of the department of corrections, transfer a juvenile offender to the department of corrections if it is established at a hearing before a review board that continued placement of the juvenile offender in an institution for juvenile offenders presents a continuing and serious threat to the safety of others in the institution. The department of children, youth, and families shall establish rules for the conduct of the hearing, including provision of counsel for the juvenile offender.

(3) ((~~Assaults made against any staff member at a juvenile corrections institution that are reported to a local law enforcement agency shall require a hearing held by the department of children, youth, and families review board within ten judicial working days.~~))The secretary of the department shall establish rules for defining and developing an internal behavioral management infraction system and procedures to respond to a continuing and serious threat to the safety of others in the institution under this section. The rules shall provide guidance on when the following circumstances present a continuing and serious threat and warrant imposing a disciplinary infraction by the department: Any assault involving serious bodily harm and possession of any contraband that puts the safety of others or the security of the institution at risk. The department shall also establish a rule setting the amount of time for when the board must hold a hearing. The board shall determine whether the accused juvenile offender represents a continuing and serious threat to the safety of others in the institution.

(4) ((~~Upon conviction in a court of law for custodial assault as defined in RCW 9A.36.100, the~~))The department of children, youth, and families review board shall ((~~conduct a second hearing, within five judicial working days, to~~)) recommend to the secretary of the department of children, youth, and families that the ((~~convicted~~)) juvenile be transferred to an adult correctional facility if the review board has determined the juvenile offender represents a continuing and serious threat to the safety of others in the institution.

((~~The juvenile has the burden to show cause why the transfer to an adult correctional facility should not occur.~~))

(5) The secretary may, with the consent of the secretary of the department of corrections, transfer an individual committed to the department under RCW 72.01.410. The review board established under this section shall determine whether the conditions for transfer, as set forth in RCW 72.01.410, have been met. The hearing requirements of this section do not apply to persons transferred under section 5 of this act or RCW 72.01.410(5).

(6) A juvenile offender transferred to an institution operated by the department of corrections shall not remain in such an institution beyond the maximum term of confinement imposed by the juvenile court.

((~~(6)~~))(7) A juvenile offender who has been transferred to the department of corrections under this section may, in the discretion of the secretary of the department of children, youth, and families and with the consent of the secretary of the department of corrections, be transferred from an institution operated by the department of corrections to a facility for juvenile offenders deemed appropriate by the secretary.

NEW SECTION. **Sec. 10.** A new section is added to chapter 72.01 RCW to read as follows:

(1) A person in the custody of the department of children, youth, and families under RCW 72.01.410 is eligible to be released on or after the person's earned release date by the department of corrections if:

(a) The person's earned release date is within six months of the person's 25th birthday;

(b) The person has not been deemed a high risk to reoffend; and

(c) The person has not committed any serious infractions as defined by the department of children, youth, and families' internal behavioral management infraction system.

(2) As part of the department of children, youth, and families monitoring of rated bed capacity under RCW 13.40.460(11), when the in-residence population of any juvenile rehabilitation institution reaches 90 percent of rated bed capacity, the department shall begin to plan and identify persons who may be released by the department of corrections under this section.

NEW SECTION. **Sec. 11.** This act may be known and cited as the juvenile rehabilitation overcrowding relief act or "J-RORA."

NEW SECTION. **Sec. 12.** 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.

NEW SECTION. **Sec. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

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Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

E2SSB 5284 Prime Sponsor, Ways & Means: Improving Washington's solid waste management outcomes. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) "Contamination" means:

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

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

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

(a) A single-family residence;

(b) A multifamily residence; and

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

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

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

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

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

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

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

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

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

(ii) Land disposal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Excluded materials, as determined by the department under section 125 of this act;

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

(n) Packaging used for bulk construction materials;

(o) Covered materials that:

(i) A producer distributes to another producer;

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

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

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

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

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

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

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

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

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

(20) "Government entity" means any:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) If there is no person described in (a)(i)(A), (B), or (C) of this subsection within the United States, the producer is the person who is the importer of record for the item into

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the United States for use in a commercial enterprise that sells, offers for sale, or distributes the item in this state; or

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

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

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

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

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

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

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

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

(B) If there is no person to which (a)(v)(A) of this subsection applies, the producer is the person that is the owner or licensee of a brand or trademark under which the paper product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

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

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

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

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

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

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

(b) "Producer" does not include:

(i) Government entities;

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

(iii) De minimis producers.

(30) "Producer responsibility organization" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(40) "Reusable" means capable of reuse.

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

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

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

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

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

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

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

(44) "Socially vulnerable population" means:

(a) Any person residing in:

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

(ii) As applicable, an alternative population specified in section 126 of this act; or

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

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

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

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

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

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

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

(b) A list of all member producers that have entered into written agreements to operate under an approved plan by the producer responsibility organization, copies of the written

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agreements for each member producer and, except in the first year of registration, a list of all brands of each producer's covered materials introduced;

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

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

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

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

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

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

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

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

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

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

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

(3) A producer responsibility organization must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Government entities;

(ii) Tribal governments;

(iii) Nonprofit organizations; and

(iv) Private organizations.

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

(i) The environmental benefits of the activity;

(ii) The human health benefits of the activity;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) One nonvoting member representing the department.

(3) In appointing members, the department:

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

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

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

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

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

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

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

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

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

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

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

(9) The department shall provide administrative and operating support to the advisory council, including compensation in accordance with subsection (5) of this section, and may contract with a third-party facilitator to assist in administering the activities of the advisory council, including establishing a website or landing page on the department website.

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

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

(2) The department must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(u) Review petitions to exempt materials, as required by sections 109(5) and 125 of this act; and

(v) Establish a public website that includes:

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

(ii) A list of registered service providers;

(iii) The most recent needs assessment;

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

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

(vi) The list of exempt materials;

(vii) Links to producer responsibility organization websites;

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

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

(x) Links to adopted rules implementing this chapter.

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

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

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

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

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

(c) The department must:

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

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

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

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

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

(a) The department must post the draft plan or plan amendment on the department's website and allow public comment for no less than 45 days before approving, denying, or requesting additional information on the draft plan or amendment.

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

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

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

(6) The department must review annual reports and:

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

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

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

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

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

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

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

(b) The address of the service provider;

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

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

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

(2)(a) Material recovery facilities receiving covered materials collected from covered entities must register as service providers as described in subsection (1) of this section

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and must report annually to the department by commodity type and covered material type, in a form and format created by the department, on the following:

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

(ii) Inbound material quality and contamination;

(iii) Outbound material quality and contamination;

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

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

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

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

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

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

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

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

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

(2) Register annually with the department;

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

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

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

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

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

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

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

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

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

(iii) Materials suitable for public place collection; and

(iv) Materials suitable for alternative collection.

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

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

(ii) Environmental health and safety considerations;

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

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

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

(vi) The amount of the material available;

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

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

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

(x) Economic factors;

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

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

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

(2) A producer responsibility organization may propose a covered material for addition to or removal from the lists under this section as part of a plan or as a plan amendment. In

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considering the proposal, the department may consider the same criteria as those established under subsection (1)(b) of this section.

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

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

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

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

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

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

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

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

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

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

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

(i) County population size;

(ii) County population density; and

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

(c) Ensure materials are sent to responsible markets;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Tons of collected covered materials;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) An evaluation of:

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

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composting rates, reuse rates, and return rates, as applicable, for each covered material type;

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

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

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

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

(i) Plastic source reduction rates;

(ii) Reuse rates and return rates;

(iii) Recycling rates;

(iv) Composting rates; and

(v) Postconsumer recycled content, if applicable;

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

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

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

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

(iv) The need for continuous progress toward:

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

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

(C) Progress to incorporate postconsumer content to replace virgin materials and to support more regional markets;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The degree to which residents of multifamily buildings have less convenient access to recycling, composting, and reuse opportunities than those living in single-family homes;

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

(e) The degree to which programs to increase access, convenience, and education are successful in raising reuse, recycling, and composting rates in areas where participation in these activities is low;

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

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

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

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

requirements of this chapter and that incorporates the findings and results of needs assessments.

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

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

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

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

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

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

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

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

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

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

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

(g) A description of infrastructure investments, including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(iii) Requirements that service must be provided in a manner consistent with the requirements of: (A) Chapter 70A.205 RCW for curbside collection services of source separated recyclable materials from residences; and (B) chapter 81.77 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Upon the expiration of an approved plan;

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

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

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

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

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

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

(2) The department may require that a producer responsibility organization obtain third-party certification of any activity or achievement of any performance target required by this chapter if a third-party certification is readily available, deemed applicable, and of

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reasonable cost. The department must provide the producer responsibility organization with notice of at least one year prior to requiring use of third-party certification under this subsection.

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

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

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

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

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

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

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

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

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

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

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

(B) Generation of hazardous waste;

(C) Energy use and generation of greenhouse gases;

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

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

(F) Public health impacts; and

(G) Capture and recycling rates;

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

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

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

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

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

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

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

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

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

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

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those requirements may be credited towards the plastic source reduction performance target, subject to the eight percent limit.

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

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

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

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

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

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

(i) Recycling rate;

(ii) Composting rate;

(iii) Reuse rate;

(iv) Return rate;

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

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

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

(i) The needs assessment;

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

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

(iv) The need for continuous progress towards overall reduction in the generation of covered materials waste, the reuse, recycling, or composting of covered materials to reduce environmental impacts and human health impacts, and progress to incorporate postconsumer recycled content to replace virgin materials and support more regional markets;

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Reducing the amount of:

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

(B) Paper used to manufacture individual paper products;

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

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

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

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

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

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

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

(f) Generate revenue sufficient to pay in full:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The number and type of covered entities;

(B) Population density;

(C) Collection methods employed;

(D) Distance traveled by collection vehicles to consolidation or transfer facilities, to reuse, recycling, or composting facilities, and to responsible markets;

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

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

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

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

(iii) The cost to:

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

(B) Manage contamination removed from collected covered material;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Registration materials submitted to the department;

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

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

(f) Current and all past needs assessments;

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

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

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

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

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

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

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

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

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

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

(e) Develop and provide education and outreach materials that are able to be used by retail establishments, collectors, government entities, service providers, schools, institutions, youth organizations, and nonprofit organizations. Outreach materials must be accessible in multiple languages and culturally appropriate formats to reach non-English-speaking communities.

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

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

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

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

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

(ii) Information about third-party certifications obtained;

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

(i) The total amount of producer fees collected;

(ii) A description of infrastructure investments made; and

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 121.** INDEPENDENT REVIEW OF PROGRAM. (1) By September 1, 2038, the department must contract with an independent consultant to analyze the impacts of the initial seven years of program implementation and must submit a report summarizing the analysis to the appropriate committees of the legislature. The analysis must include the effects of the program on:

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

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

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

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

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

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

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

(3) To the extent that sufficient state-level data is not available to complete the analyses required in subsection (1) of this section, the independent consultant may review data or studies from states with similar programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 124.** DEPOSIT RETURN SYSTEM. (1) It is the intent of the legislature that if a bottle deposit return system is enacted in the future, it will be harmonized with this chapter in a manner that ensures that:

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

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

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

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

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

NEW SECTION. **Sec. 125.** PETITION FOR THE EXCLUSION OF CERTAIN PRODUCTS. (1) Except as provided in subsection (4) of this section, one year prior to the submission of a plan, a producer, group of producers, or a producer responsibility organization may submit a petition to the department to request for reasons of public health or safety the temporary exclusion of packaging used to contain the following categories of products, subcategories of the following categories of products, or individual products:

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 126.** IDENTIFICATION OF SOCIALLY VULNERABLE POPULATIONS. (1) The department must periodically assess the availability of, and methodology used by, the United

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States centers for disease control and the agency for toxic substances and disease registry's social vulnerability index, as compared to how it existed as of January 1, 2025.

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

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

(b) After making a determination under subsection (2) of this section, by rule the department may, but is not required to, adopt an alternative methodology for the identification of socially vulnerable populations to replace the reference to the United States centers for disease control and the agency for toxic substances and disease registry's social vulnerability index. A rule adopted under this subsection may, but is not required to, rely in whole or in part on the environmental health disparities map developed by the department of health under RCW 43.70.815.

NEW SECTION. **Sec. 127.** OTHER. (1) Nothing in this act impacts an entity's eligibility for any state or local incentive or assistance program to which they are otherwise eligible. Nothing in this act limits the authority of private parties or government entities to enter into contracts.

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

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

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

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

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

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

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

(iii) The federal food and drug administration food safety modernization act (21 U.S.C. Sec. 2201, et seq.);

(iv) The federal poultry products inspection act (21 U.S.C. Sec. 451, et seq.);

(v) The federal meat inspection act (21 U.S.C. Sec. 601, et seq.); or

(vi) The federal egg products inspection act (21 U.S.C. Sec. 1031, et seq.).

(3) No penalty may be assessed under this chapter on an individual or resident for the improper disposal of covered materials in a noncommercial or residential setting.

(4) Nothing in this chapter limits the authority of the utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, in accordance with chapter 81.77 RCW.

(5) Nothing in this chapter affects the authority or duties of the department of agriculture related to pest and noxious weed control and quarantine measures under chapter 17.24 RCW.

NEW SECTION. **Sec. 128.** ACCOUNT. The responsible recycling management account is created in the custody of the state treasurer. All receipts received by the department under this chapter must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for implementing, administering, and enforcing the requirements of this chapter, and by the department of labor and industries necessary to cover the cost for the implementation and enforcement of section 304 of this act. It is the intent of the legislature that the portion of the producer responsibility organization fee received in 2026 for the costs of the department be transferred to whichever state account was used to cover the costs of the department prior to the payment of the producer responsibility organization fee in 2026.

Part Two
Amendments to Existing Solid Waste Management Laws

Sec. 201. RCW 70A.205.045 and 2020 c 20 s 1163 are each amended to read as follows:

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Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected ((~~twenty~~))20 years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by the franchise;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70A.205.005, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies, which may include strategies to reduce wasted food and food waste that are designed to achieve the goals established in RCW 70A.205.715(1) and that are consistent with the plan developed in RCW 70A.205.715(3);

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences ((~~in urban and rural areas. In urban areas, these~~)).

(A) Until January 1, 2030, these programs shall include collection of source separated recyclable materials from single and multiple-family residences, in urban areas, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(B) Except as provided in (b)(i)(C) of this subsection, beginning January 1, 2030, these programs shall:

(I) Provide curbside collection of source separated recyclable materials from single-family and multiple-family residences wherever curbside garbage collection services are provided to these entities;

(II) Include materials on the statewide collection list designated for residential collection established by the department; and

(III) Include service standards for curbside collection frequency, container size, and method of collection, established under plans approved by the department under chapter 70A.--- RCW (the new chapter created in section 401 of this act);

(C) A county may, by ordinance, direct that the full list of materials on the statewide collection list identified as suitable for residential collection be collected exclusively through drop-off locations in areas regulated by the utilities and transportation commission under the provisions of chapter 81.77 RCW if the areas were designated as rural in the county solid waste management plan and no curbside recycling collection service was offered within those areas as of January 1, 2025. Where a county has adopted such an ordinance, the provisions of (b)(i)(B) of this subsection do not apply;

(D) Comprehensive solid waste management plans may incorporate by reference programs described in an approved producer responsibility organization plan under chapter 70A.--- RCW (the new chapter created in section 401 of this act) to fulfill the requirements of this subsection (7)(b)(i) in whole or in part;

(E) Before January 1, 2030, each comprehensive solid waste management plan must be amended, revised, or updated by a jurisdiction consistent with the requirements of this subsection (7)(b)(i). If a comprehensive solid waste management plan has not been amended, revised, or updated before January 1, 2030, to be consistent with the requirements of this

subsection (7)(b)(i), beginning January 1, 2030, the model comprehensive solid waste plan amendment provided by the department under section 106 of this act applies in the jurisdiction;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste and food waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted yard waste and food waste within or near the service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction, refill, reuse, and recycling;

(c) Recycling strategies for materials not covered under chapter 70A.--- RCW (the new chapter created in section 401 of this act), including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70A.205.110.

(10) A contamination reduction and outreach plan. The contamination reduction and outreach plan must address reducing contamination in recycling. Except for counties with a population of ((~~twenty-five thousand~~))25,000 or fewer, by July 1, 2021, a contamination reduction and outreach plan must be included in each solid waste management plan by a plan amendment or included when revising or updating a solid waste management plan developed under this chapter. Jurisdictions may adopt the state's contamination reduction and outreach plan as developed under RCW 70A.205.070 or participate in a producer responsibility organization's plan under chapter 70A.--- RCW (the new chapter created in section 401 of this act) in lieu of creating their own plan. A recycling contamination reduction and outreach plan must include the following:

(a) A list of actions for reducing contamination in recycling programs for single-family and multiple-family residences, commercial locations, and drop boxes depending on the jurisdictions system components;

(b) A list of key contaminants identified by the jurisdiction or identified by the department;

(c) A discussion of problem contaminants and the contaminants' impact on the collection system;

(d) An analysis of the costs and other impacts associated with contaminants to the recycling system; and

(e) An implementation schedule and details of how outreach is to be conducted. Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, websites, or community events, informing recycling drop box customers about contamination, and improving signage.

Sec. 202. RCW 70A.205.500 and 1988 c 175 s 3 are each amended to read as follows:

((~~The department of ecology, at~~))At the request of a local government jurisdiction, the department or a producer responsibility organization implementing a plan under chapter 70A.--- RCW (the new chapter created in section 401 of this act) may periodically provide educational material promoting household waste reduction and recycling to public and private refuse haulers. The educational material shall be distributed to households receiving refuse collection service by local governments or the refuse hauler providing service. The refuse hauler may distribute the educational material by any means that assures timely delivery.

Reasonable expenses incurred in the distribution of this material shall be considered, for rate-making purposes, as legitimate operating expenses of garbage and refuse haulers regulated under chapter 81.77 RCW.

Sec. 203. RCW 81.77.030 and 2020 c 20 s 1467 are each amended to read as follows:

(1) The commission shall supervise and regulate every solid waste collection company in this state,

((~~(1)~~))(a) By fixing and altering its rates, charges, classifications, rules and regulations;

((~~(2)~~))(b) By regulating the accounts, service, and safety of operations;

((~~(3)~~))(c) By requiring the filing of annual and other reports and data;

((~~(4)~~))(d) By supervising and regulating such persons or companies in all other matters affecting the relationship between them and the public which they serve;

((~~(5)~~))(e) By requiring compliance with local solid waste management plans and related implementation ordinances;

((~~(6)~~))(f) By reviewing producer responsibility organization reimbursement of regulated service providers consistent with the requirements of chapter 70A.--- RCW (the new chapter created in section 401 of this act);

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(g) By requiring certificate holders under this chapter ((~~81.77 RCW~~)) to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70A.205.005 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans. The commission may order consolidated billing and provide for reasonable and necessary expenses to be paid to the administering company if more than one certificate is granted in an area; and

(h) By requiring certificate holders under this chapter to deliver covered materials only to responsible markets, as those terms are defined in section 102 of this act.

(2) The commission, on complaint made on its own motion or by an aggrieved party, at any time, after providing the holder of any certificate with notice and an opportunity for a hearing at which it shall be proven that the holder has willfully violated or refused to observe any of the commission's orders, rules, or regulations, or has failed to operate as a solid waste collection company for a period of at least one year preceding the filing of the complaint, may suspend, revoke, alter, or amend any certificate issued under the provisions of this chapter.

Sec. 204. RCW 81.77.160 and 1997 c 434 s 1 are each amended to read as follows:

(1) The commission, in fixing and altering collection rates charged by every solid waste collection company under this section, shall include in the base for the collection rates:

(a) All charges for the disposal of solid waste at the facility or facilities designated by a local jurisdiction under a local comprehensive solid waste management plan or ordinance; ((~~and~~))

(b) All known and measurable costs related to implementation of the approved county or city comprehensive solid waste management plan; and

(c) All costs related to the implementation of curbside recycling collection services performed by a solid waste collection company consistent with chapter 70A.--- RCW (the new chapter created in section 401 of this act).

(2) If a solid waste collection company files a tariff to recover the costs specified under this section, and the commission suspends the tariff, the portion of the tariff covering costs specified in this section shall be placed in effect by the commission at the request of the company on an interim basis as of the originally filed effective date, subject to refund, pending the commission's final order. The commission may adopt rules to implement this section.

(3) This section applies to a solid waste collection company that has an affiliated interest under chapter 81.16 RCW with a facility, if the total cost of disposal, including waste transfer, transport, and disposal charges, at the facility is equal to or lower than any other reasonable and currently available option.

Sec. 205. RCW 81.77.185 and 2010 c 154 s 3 are each amended to read as follows:

(1) The commission shall allow solid waste collection companies collecting recyclable materials other than covered materials collected under an approved plan in chapter 70A.--- RCW (the new chapter created in section 401 of this act) to retain up to ((~~fifty~~))50 percent of the revenue paid to the companies for the material if the companies submit a plan to the commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

(2) By December 2, 2005, the commission shall provide a report to the legislature that evaluates:

(a) The effectiveness of revenue sharing as an incentive to increase recycling in the state; and

(b) The effect of revenue sharing on costs to customers.

Part Three
Other Conforming Amendments and Miscellaneous Provisions

Sec. 301. RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and 2024 c 339 s 16 are each reenacted and amended to read as follows:

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

(a) Civil penalties imposed pursuant to chapter 70A.230 RCW and RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100, 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530, 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020, section 123 of

this act, 70A.565.030, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, a decision to approve or deny a solid waste management plan under RCW 70A.205.055, approval or denial of an application for a beneficial use determination under RCW 70A.205.260, an application for a change under RCW 90.03.383, or a permit to distribute reclaimed water under RCW 90.46.220.

(d) Decisions of local health departments regarding the granting or denial of solid waste permits pursuant to chapter 70A.205 RCW, including appeals by the department as provided in RCW 70A.205.130.

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

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026 as provided in RCW 90.64.028.

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

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

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

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

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

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

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

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

(p) Decisions by the department of ecology under section 115(5) of this act regarding a proposal by a producer responsibility organization to count materials sent to an alternative recycling facility towards recycling performance targets.

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

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW, except where appeals to the pollution control hearings board and appeals to the shorelines hearings board have been consolidated pursuant to RCW 43.21B.340.

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

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

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

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

Sec. 302. RCW 43.21B.300 and 2024 c 347 s 6 and 2024 c 340 s 5 are each reenacted and amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of

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extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority 30 days after the date of receipt by the person penalized of the notice imposing the penalty or 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) 30 days after receipt of the notice imposing the penalty;

(b) 30 days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) 30 days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within 30 days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except the following:

(a) Penalties imposed pursuant to RCW 18.104.155 must be credited to the reclamation account as provided in RCW 18.104.155(7);

(b) Penalties imposed pursuant to RCW 70A.15.3160 must be disposed of pursuant to RCW 70A.15.3160;

(c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090, 70A.430.070, 70A.555.110, ((~~and~~)) 70A.560.020, and 70A.565.030 must be credited to the model toxics control operating account created in RCW 70A.305.180;

(d) Penalties imposed pursuant to RCW 70A.245.040 ((~~and~~)), 70A.245.050, and chapter 70A.--- RCW (the new chapter created in section 401 of this act) must be credited to the recycling enhancement account created in RCW 70A.245.100;

(e) Penalties imposed pursuant to RCW 70A.500.260 must be deposited into the electronic products recycling account created in RCW 70A.500.130;

(f) Penalties imposed pursuant to RCW 70A.65.200 must be credited to the climate investment account created in RCW 70A.65.250;

(g) Penalties imposed pursuant to RCW 90.56.330 must be credited to the coastal protection fund established in RCW 90.48.390; and

(h) Penalties imposed pursuant to RCW 70A.355.070 must be credited to the underground storage tank account created in RCW 70A.355.090.

NEW SECTION. **Sec. 303.** LITTER TAX STUDY. (1) In consultation with producer responsibility organizations registered with the department of ecology under chapter 70A.--- RCW (the new chapter created in section 401 of this act), the department of ecology and, for the purposes of (c) of this subsection, the department of revenue must study:

(a) The impacts of producer requirements under chapter 70A.--- RCW (the new chapter created in section 401 of this act) on the litter rates of covered materials under that chapter;

(b) The extent to which covered materials contribute to litter and marine debris for the purpose of informing how a producer responsibility organization implementing a plan can support litter and marine debris prevention as it relates to activities required under chapter 70A.--- RCW (the new chapter created in section 401 of this act). The assessment should draw on available data, assess gaps, and identify strategies for improving prevention and cleanup of litter and marine debris from covered materials; and

(c) Possible improvements to the structure of the litter tax under chapter 82.19 RCW including administration, compliance, and distribution of the tax and application of the tax to certain products, for achieving the purpose of chapter 82.19 RCW. The improvements to the structure of the litter tax to be studied under this section may not include an increase in the rate of the litter tax under chapter 82.19 RCW or an expansion of the types of covered materials under chapter 70A.--- RCW (the new chapter created in section 401 of this act) that are subject to the litter tax.

(2) By January 1, 2030, the department of ecology, in consultation with the department of revenue, must provide recommendations to the appropriate committees of the legislature on:

(a) Applicability of the litter tax to covered materials, based on whether the purpose of the litter tax under chapter 82.19 RCW is being achieved for those materials by the requirements of producers under chapter 70A.--- RCW (the new chapter created in section 401 of this act); and

(b) Improvements to the structure of the litter tax for meeting the purposes of chapter 82.19 RCW.

(3) This section expires July 1, 2030.

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NEW SECTION. **Sec. 304.** A new section is added to chapter 49.46 RCW to read as follows:

(1) Employers associated with a material recovery facility that annually manages 25,000 tons or more of covered materials under chapter 70A.--- RCW (the new chapter created in section 401 of this act) must ensure that workers at the facility receive minimum industry standard compensation, beginning October 1, 2028.

(2) Employers are not required to establish "usual benefit" programs. However, if an employer chooses not to provide such benefits, wages paid must be at the full minimum industry standard rate.

(3)(a) If more than one collective bargaining agreement exists that covers similar or equivalent work in the same county, the higher rate applies.

(b) If no collective bargaining agreement exists that covers similar or equivalent work in the same county, the rate in the county with a collective bargaining agreement that is closest geographically applies.

(4) The minimum industry standard compensation requirements of this section constitute a wage payment requirement as defined in RCW 49.48.082. The department of labor and industries may otherwise enforce this provision as a wage under RCW 49.48.040 through 49.48.080 and the applicable provisions of chapter 49.52 RCW.

(5)(a) The director may initiate an investigation without an employee's complaint to ensure compliance with this section. The department of labor and industries may also initiate an investigation on behalf of one or more employees when the director has reason to believe that a violation has occurred or will occur.

(b) The department of labor and industries may conduct a consolidated investigation for any alleged violation identified under this section, or associated rules, when there are common questions of law or fact. If the department of labor and industries consolidates such matters into a single investigation, the department of labor and industries must provide notice to the employer.

(c) The department of labor and industries may request that an employer perform a self-audit of any records relating to this section, which must be provided within a reasonable time. Reasonable timelines will be specified in the self-audit request. The department of labor and industries must determine reasonable time based on the number of affected employees and the period of time covered by the self-audit. The records examined by the employer in order to perform the self-audit must be made available to the department of labor and industries upon request.

(d) Upon request of the department of labor and industries, an employer must notify affected employees in writing that the department is conducting an investigation. The department of labor and industries may require the employer to include a general description of each investigation as part of the notification, including the allegations and whether the notified employee may be affected. The employer may consult with the department of labor and industries to provide the information for the description of the notification of investigation.

(e) Upon receiving a complaint, the department of labor and industries may request or subpoena the records of the material recovery facility.

(f) In addition to any enforcement authority provided in this section or applicable rules, the department of labor and industries may enforce any violation under this section or applicable rules by filing an action in the superior court for the county in which the violation is alleged to have occurred. If the department of labor and industries prevails, the department is entitled to reasonable attorneys' fees and costs, in the amount to be determined by the court.

(6) The department of labor and industries may adopt rules to implement this section.

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

(a) "Minimum industry standard compensation" means a wage and usual benefits package equal to or greater than the combined hourly wage and usual benefits package set by a collective bargaining agreement that covers similar or equivalent work in a county.

(b) "Rate of contribution" means the effective annual rate of usual benefit contributions for all hours, public and private, worked during the year by an employee (commonly referred to as "annualization" of benefits). The only exemption to the annualization requirements is for defined contribution pension plans that have immediate participation and vesting.

(c)(i) "Usual benefits" includes the amount of:

(A) The rate of contribution irrevocably made by an employer to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) The rate of costs to the employer, which may be reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program that was communicated in writing to the workers affected, for medical or hospital care, pensions on retirement or death, compensation for all injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the employer is not required by other federal, state, or local law to provide any of these benefits.

(ii) To be deemed a "usual benefit," both of the following requirements must be satisfied:

(A) Employer payments for the usual benefit are made only in conformance with all applicable federal and state laws, including the requirements of the employment retirement income security act of 1974, as amended, and of the internal revenue service; and

(B) Employee payments toward the usual benefit, through self-contribution, payroll deduction, or otherwise, do not constitute a credit to the employer for minimum industry standard compensation purposes.

Sec. 305. RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this section and RCW 49.48.083 through 49.48.086:

(1) "Citation" means a written determination by the department that a wage payment requirement has been violated.

(2) "Department" means the department of labor and industries.

(3) "Determination of compliance" means a written determination by the department that wage payment requirements have not been violated.

(4) "Director" means the director of the department of labor and industries, or the director's authorized representative.

(5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for purposes of a wage payment requirement set forth in RCW 49.46.020 or 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

(6) "Employer" has the meaning provided in RCW 49.46.010 for purposes of a wage payment requirement set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

(7) "Notice of assessment" means a written notice by the department that, based on a citation, the employer shall pay the amounts assessed under RCW 49.48.083.

(8) "Repeat willful violator" means any employer that has been the subject of a final and binding citation and notice of assessment for a willful violation of a wage payment requirement within three years of the date of issue of the most recent citation and notice of assessment for a willful violation of a wage payment requirement.

(9) "Successor" means any person to whom an employer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys in bulk and not in the ordinary course of the employer's business, more than ((~~fifty~~))50 percent of the property, whether real or personal, tangible or intangible, of the employer's business.

(10) "Wage" has the meaning provided in RCW 49.46.010.

(11) "Wage complaint" means a complaint from an employee to the department that asserts that an employer has violated one or more wage payment requirements and that is reduced to writing.

(12) "Wage payment requirement" means a wage payment requirement set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, ((~~or~~)) 49.52.060, or section 304 of this act, and any related rules adopted by the department.

(13) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute, as evaluated under the standards applicable to wage payment violations under RCW 49.52.050(2).

Sec. 306. RCW 70A.245.100 and 2021 c 313 s 13 are each amended to read as follows:

The recycling enhancement account is created in the custody of the state treasurer. All penalties collected by the department pursuant to RCW 70A.245.040 ((~~and~~)), 70A.245.050, and section 123 of this act must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for providing grants to local governments for the purpose of supporting local solid waste and financial assistance programs.

NEW SECTION. **Sec. 307.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 308.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void.

Part Four
Codification Directives

NEW SECTION. **Sec. 401.** Sections 101 through 128 of this act constitute a new chapter in Title 70A RCW."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

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MINORITY recommendation: Without recommendation. Signed by Representatives Caldier; and Leavitt.

Referred to Committee on Rules for second reading

April 7, 2025

ESSB 5291 Prime Sponsor, Labor & Commerce: Implementing the recommendations of the long-term services and supports trust commission. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Human Services.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 50B.04.180 and 2024 c 120 s 2 are each amended to read as follows:

(1) Beginning July 1, 2026, an employee or self-employed person, who has elected coverage under RCW 50B.04.090, who relocates outside of Washington may elect to continue participation in the program if:

(a) The employee or self-employed person has been assessed premiums by the employment security department for at least three years in which the employee or self-employed person has worked at least 500 hours in each of those years in Washington; and

(b) The employee or self-employed person notifies the employment security department within one year of establishing a primary residence outside of Washington that the employee or self-employed person is no longer a resident of Washington and elects to continue participation in the program.

(2) Out-of-state participants under subsection (1) of this section must report their wages or self-employment earnings to the employment security department according to standards for manner and timing of reporting and documentation submission, as adopted by rule by the employment security department. An out-of-state participant must submit documentation to the employment security department whether or not the out-of-state participant earned wages or self-employment earnings, as applicable, during the applicable reporting period. When an out-of-state participant reaches the age of 67, the participant is no longer required to provide the documentation of their wages or self-employment earnings, but if the participant earns wages or self-employment earnings, the participant must submit reports of those wages or self-employment earnings and remit the required premiums.

(3) Out-of-state participants under subsection (1) of this section must provide documentation of wages and self-employment earnings earned at the time that they report their wages or self-employment earnings to the employment security department.

(4) An out-of-state participant who has elected to continue participation in the program under subsection (1) of this section may not withdraw from coverage under the program. The employment security department ((~~may~~))shall cancel out-of-state elective coverage if the out-of-state participant fails to make required payments or submit reports. ((~~The employment security department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage.~~)) The cancellation must be effective no later than 30 days from the date of the notice in writing advising the out-of-state participant of the cancellation.

(5) The employment security department shall:

(a) Adopt standards by rule for the manner and timing of reporting and documentation submission for out-of-state participants. The employment security department must consider user experience with the wage and self-employment earnings reporting process and the document submission process and regularly update the standards to minimize the procedural burden on out-of-state participants and support the accurate reporting of wages and self-employment earnings at the time of the payment of premiums;

(b) Collect premiums from out-of-state participants as provided in RCW 50B.04.080 and 50B.04.090, as relevant to out-of-state participants; and

(c) Verify the wages or self-employment earnings as reported by an out-of-state participant.

(6) For the purposes of this section, "wages" includes remuneration for services performed within or without or both within and without this state.

(7) Entities providing services to an eligible beneficiary outside Washington are subject to RCW 50B.04.200 and may not discriminate based upon race, gender, age, or preexisting condition.

(8) ((~~An employee or self-employed person who has elected coverage under RCW 50B.04.090 who relocates outside of Washington may elect to opt out of coverage by no longer reporting wages to the department, rather than become an out-of-state participant in the program.~~

~~(9)~~)) By extending the premium base to out-of-state participants under subsection (1) of this section, chapter 120, Laws of 2024 will increase the state's investment in long-term care services.

Sec. 2. RCW 50B.04.010 and 2024 c 120 s 3 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 the long-term services and supports trust account created in RCW 50B.04.100.

(2) "Approved service" means long-term services and supports including, but not limited to:

(a) Adult day services;

(b) Care transition coordination;

(c) Memory care;

(d) Adaptive equipment and technology;

(e) Environmental modification;

(f) Personal emergency response system;

(g) Home safety evaluation;

(h) Respite for family caregivers;

(i) Home delivered meals;

(j) Transportation;

(k) Dementia supports;

(l) Education and consultation;

(m) Eligible relative care;

(n) Professional services;

(o) Services that assist paid and unpaid family members caring for eligible individuals, including training for individuals providing care who are not otherwise employed as long-term care workers under RCW 74.39A.074;

(p) In-home personal care;

(q) Assisted living services;

(r) Adult family home services; and

(s) ((~~Nursing home services~~))Long-term services and supports provided in nursing homes.

(3) "Benefit unit" means up to $100 paid by the department of social and health services to a long-term services and supports provider as reimbursement for approved services provided to an eligible beneficiary on a specific date. The benefit unit must be adjusted annually ((~~at a rate no greater than the Washington state consumer price index, as determined solely by the council. Any changes adopted by the council shall be subject to revision by the legislature~~))for inflation by the consumer price index. The adjusted benefit unit must be calculated to the nearest cent/dollar using the consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, CPI-W, or a successor index, for the 12 months before each September 1st compiled by the United States department of labor's bureau of labor statistics. Each adjusted benefit unit calculated under this subsection takes effect on the following January 1st.

(4) "Commission" means the long-term services and supports trust commission established in RCW 50B.04.030.

(5) ((~~"Council" means the long-term services and supports trust council established in RCW 50B.04.040.~~

~~(6)~~)) "Eligible beneficiary" means a qualified individual who is age 18 or older, resides in the state of Washington or has elected to keep coverage when they relocate out-of-state under RCW 50B.04.180, has been determined to meet the minimum level of assistance with activities of daily living necessary to receive benefits through the trust program, as ((~~established in this chapter~~))provided in RCW 50B.04.060, and has not exhausted the lifetime limit of benefit units.

((~~(7)~~))(6) "Employee" has the meaning provided in RCW 50A.05.010.

((~~(8)~~))(7) "Employer" has the meaning provided in RCW 50A.05.010.

((~~(9)~~))(8) "Employment" has the meaning provided in RCW 50A.05.010.

((~~(10)~~))(9) "Exempt employee" means a person who has been granted a premium assessment exemption by the employment security department.

((~~(11)~~))(10) "Long-term services and supports provider" means:

(a) For entities providing services to an eligible beneficiary in Washington, an entity that meets the qualifications applicable in law to the approved service they provide, including a qualified or certified home care aide, licensed assisted living facility, licensed adult family home, licensed nursing home, licensed in-home services agency, adult day services program, vendor, instructor, qualified family member, or other entities as registered by the department of social and health services; and

(b) For entities providing services to an eligible beneficiary outside Washington, an entity that meets minimum standards for care provision and program administration, as established by the department of social and health services, and that is appropriately credentialed in the jurisdiction in which the services are being provided as established by the department of social and health services.

((~~(12)~~))(11) "Premium" or "premiums" means the payments required by RCW 50B.04.080 and paid to the employment security department for deposit in the account created in RCW 50B.04.100.

((~~(13)~~))(12) "Program" means the long-term services and supports trust program established in this chapter.

((~~(14)~~))(13) "Qualified family member" means a relative of an eligible beneficiary qualified to meet requirements established ((~~in state law~~))by the department of social and health services for the approved service they provide ((~~that would be required of any other long-term services and supports provider to receive payments from the state~~)).

((~~(15)~~))(14) "Qualified individual" means an individual who meets the duration of payment requirements, as established in this chapter.

((~~(16)~~))(15) "State actuary" means the office of the state actuary created in RCW 44.44.010.

((~~(17)~~))(16) "Wage or wages" means all remuneration paid by an employer to an employee. Remuneration has the meaning provided in RCW 50A.05.010. All wages are subject to a premium

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assessment and not limited by the commissioner of the employment security department, as provided under RCW 50A.10.030(4).

Sec. 3. RCW 50B.04.020 and 2024 c 120 s 4 are each amended to read as follows:

(1) The health care authority, the department of social and health services, the office of the state actuary, and the employment security department each have distinct responsibilities in the implementation and administration of the program. In the performance of their activities, they shall actively collaborate to realize program efficiencies and provide persons served by the program with a well-coordinated experience.

(2) The health care authority shall:

(a) Track the use of lifetime benefit units to verify the individual's status as an eligible beneficiary as determined by the department of social and health services;

(b) Ensure approved services are provided through audits or service verification processes within the service provider payment system for registered long-term services and supports providers and recoup any inappropriate payments;

(c) Establish criteria for the payment of benefits to ((~~registered~~)) long-term services and supports providers under RCW 50B.04.070;

(d) Establish rules and procedures for benefit coordination when the eligible beneficiary is also funded for medicaid and other long-term services and supports, including medicare, coverage through the department of labor and industries, and private long-term care coverage; ((~~and~~))

(e) Assist the department of social and health services with the leveraging of existing payment systems for the provision of approved services to beneficiaries under RCW 50B.04.070; and

(f) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(3) The department of social and health services shall:

(a) Make determinations regarding an individual's status as an eligible beneficiary under RCW 50B.04.060;

(b) Approve long-term services and supports eligible for payment as approved services under the program, as informed by the commission;

(c) Register long-term services and supports providers that meet minimum qualifications;

(d) Discontinue the registration of long-term services and supports providers that: (i) Fail to meet the minimum qualifications applicable in law to the approved service that they provide; or (ii) violate the operational standards of the program;

(e) Disburse payments of benefits to registered long-term services and supports providers, utilizing and leveraging existing payment systems for the provision of approved services to eligible beneficiaries under RCW 50B.04.070;

(f) Prepare and distribute written or electronic materials to qualified individuals, eligible beneficiaries, and the public as deemed necessary by the commission to inform them of program design and updates;

(g) Provide customer service and address questions and complaints, including referring individuals to other appropriate agencies;

(h) Provide administrative and operational support to the commission;

(i) Track data useful in monitoring and informing the program, as identified by the commission;

(j) Develop criteria to deem a family member as qualified when providing approved services outside of Washington; ((~~and~~))

(k) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program; and

(l) Establish, by rule, the scope of the long-term services and supports identified in RCW 50B.04.010(2) that may be an approved service and identify the types of goods and services that are and are not covered under each approved service in order to maximize usage of all available public and private benefits for eligible beneficiaries.

(4) The employment security department shall:

(a) Collect and assess employee premiums as provided in RCW 50B.04.080, 50B.04.090, and 50B.04.180;

(b) Assist the commission((~~, council,~~)) and state actuary in monitoring the solvency and financial status of the program;

(c) Perform investigations to determine the compliance of premium payments in RCW 50B.04.080, 50B.04.090, and 50B.04.180 in coordination with the same activities conducted under the family and medical leave act, Title 50A RCW, to the extent possible;

(d) Make determinations regarding an individual's status as a qualified individual under RCW 50B.04.050, including criteria to determine the status of persons receiving partial benefit units under RCW 50B.04.050(2) and out-of-state participants under RCW 50B.04.180; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(5) The office of the state actuary shall:

(a) Beginning July 1, 2025, and biennially thereafter, perform an actuarial audit and valuation of the long-term services and supports trust fund. Additional or more frequent actuarial audits and valuations may be performed at the request of the ((~~council~~))commission;

(b) Make recommendations to the ((~~council~~))commission and the legislature on actions necessary to maintain trust solvency. The recommendations must include options to redesign or reduce benefit units, approved services, or both, to prevent or eliminate any unfunded actuarially accrued liability in the trust or to maintain solvency; and

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(c) Select and contract for such actuarial, research, technical, and other consultants as the actuary deems necessary to perform its duties under chapter 363, Laws of 2019.

(6) By October 1, 2021, the employment security department and the department of social and health services shall jointly conduct outreach to provide employers with educational materials to ensure employees are aware of the program and that the premium assessments will begin on July 1, 2023. In conducting the outreach, the employment security department and the department of social and health services shall provide on a public website information that explains the program and premium assessment in an easy to understand format. Outreach information must be available in English and other primary languages as defined in RCW 74.04.025.

Sec. 4. RCW 50B.04.030 and 2022 c 1 s 2 are each amended to read as follows:

(1) The long-term services and supports trust commission is established. The commission's recommendations and decisions must be guided by the joint goals of maintaining benefit adequacy and maintaining fund solvency and sustainability.

(2) The commission includes:

(a) Two members from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(b) Two members from each of the two largest caucuses of the senate, appointed by the president of the senate;

(c) The commissioner of the employment security department, or the commissioner's designee;

(d) The secretary of the department of social and health services, or the secretary's designee;

(e) The director of the health care authority, or the director's designee, who shall serve as a nonvoting member;

(f) One representative of the organization representing the area agencies on aging;

(g) One representative of a home care association that represents caregivers who provide services to private pay and medicaid clients;

(h) One representative of a union representing long-term care workers;

(i) One representative of an organization representing retired persons;

(j) One representative of an association representing skilled nursing facilities and assisted living providers;

(k) One representative of an association representing adult family home providers;

(l) Two individuals receiving long-term services and supports, or their designees, or representatives of consumers receiving long-term services and supports under the program;

(m) One member who is a worker who is, or will likely be, paying the premium established in RCW 50B.04.080 and who is not employed by a long-term services and supports provider; and

(n) One representative of an organization of employers whose members collect, or will likely be collecting, the premium established in RCW 50B.04.080.

(3)(a) Other than the legislators and agency heads identified in subsection (2) of this section, members of the commission are appointed by the governor for terms of two years, except that the governor shall appoint the initial members identified in subsection (2)(f) through (n) of this section to staggered terms not to exceed four years.

(b) The secretary of the department of social and health services, or the secretary's designee, shall serve as chair of the commission. Meetings of the commission are at the call of the chair. A majority of the voting members of the commission shall constitute a quorum for any votes of the commission. Approval of ((~~sixty~~))60 percent of those voting members of the commission who are in attendance is required for the passage of any vote.

(c) Members of the commission and the subcommittee established in subsection (6) of this section must be compensated in accordance with RCW 43.03.250 and must be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060.

(4) Beginning January 1, 2021, the commission shall propose recommendations to the appropriate executive agency or the legislature regarding:

(a) The establishment of criteria for determining that an individual has met the requirements to be a qualified individual as established in RCW 50B.04.050 or an eligible beneficiary as established in RCW 50B.04.060;

(b) The establishment of criteria for minimum qualifications for the registration of long-term services and supports providers who provide approved services to eligible beneficiaries;

(c) The establishment of payment maximums for approved services consistent with actuarial soundness which shall not be lower than medicaid payments for comparable services. A service or supply may be limited by dollar amount, duration, or number of visits. The commission shall engage affected stakeholders to develop this recommendation;

(d) Changes to rules or policies to improve the operation of the program;

(e) ((~~Providing a recommendation to the council for the annual adjustment of the benefit unit in accordance with RCW 50B.04.010 and 50B.04.040;~~

~~(f)~~)) A refund of premiums for a deceased qualified individual with a dependent who is an individual with a developmental disability who is dependent for support from a qualified individual. The qualified individual must not have been determined to be an eligible beneficiary by the department of social and health services. The refund shall be deposited into an individual trust account within the developmental disabilities endowment trust fund for the benefit of the dependent with a developmental disability. The commission shall consider:

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(i) The value of the refund to be ((~~one hundred~~))100 percent of the current value of the qualified individual's lifetime premium payments at the time that certification of death of the qualified individual is submitted, less any administrative process fees; and

(ii) The criteria for determining whether the individual is developmentally disabled. The determination shall not be based on whether or not the individual with a developmental disability is receiving services under Title 71A RCW, or another state or local program; and

((~~(g)~~))(f) Assisting the state actuary with the preparation of regular actuarial reports on the solvency and financial status of the program and advising the legislature on actions necessary to maintain trust solvency. The commission shall provide the office of the state actuary with all actuarial reports for review. The office of the state actuary shall provide any recommendations to the commission and the legislature on actions necessary to maintain trust solvency((~~:~~

~~(h) For the January 1, 2021, report only, recommendations on whether and how to extend coverage to individuals who became disabled before the age of eighteen, including the impact on the financial status and solvency of the trust. The commission shall engage affected stakeholders to develop this recommendation; and~~

~~(i) For the January 1, 2021, report only, the commission shall consult with the office of the state actuary on the development of an actuarial report of the projected solvency and financial status of the program. The office of the state actuary shall provide any recommendations to the commission and the legislature on actions necessary to achieve trust solvency~~)).

(5) The commission shall monitor agency administrative expenses over time. Beginning November 15, 2020, the commission must annually report to the governor and the fiscal committees of the legislature on agency spending for administrative expenses and anticipated administrative expenses as the program shifts into different phases of implementation and operation. The November 15, 2027, report must include recommendations for a method of calculating future agency administrative expenses to limit administrative expenses while providing sufficient funds to adequately operate the program. The agency heads identified in subsection (2) of this section may advise the commission on the reports prepared under this subsection, but must recuse themselves from the commission's process for review, approval, and submission to the legislature.

(6) The commission shall establish an investment strategy subcommittee consisting of the members identified in subsection (2)(a) through (d) of this section as voting members of the subcommittee. In addition, four members appointed by the governor who are considered experienced and qualified in the field of investment shall serve as nonvoting members. The subcommittee shall provide guidance and advice to the state investment board on investment strategies for the account, including seeking counsel and advice on the types of investments that are constitutionally permitted.

(7) The commission shall work with insurers to develop long-term care insurance products that supplement the program's benefit.

Sec. 5. RCW 50B.04.050 and 2024 c 120 s 5 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the employment security department shall deem a person to be a qualified individual as provided in this chapter if the person has paid the long-term services and supports premiums required by RCW 50B.04.080 for the equivalent of either:

(a) A total of ten years ((~~without interruption of five or more consecutive years~~)); or

(b) Three years within the last six years from the date of application for benefits.

(2) A person born before January 1, 1968, who has not met the duration requirements under subsection (1)(a) of this section may become a qualified individual with fewer than the number of years identified in subsection (1)(a) of this section if the person has paid the long-term services and supports premiums required by RCW 50B.04.080 for at least one year. A person becoming a qualified individual pursuant to this subsection (2) may receive one-tenth of the maximum number of benefit units available under RCW 50B.04.060(3)(b) for each year of premium payments. In accordance with RCW 50B.04.060, benefits for eligible beneficiaries in Washington will not be available until July 1, 2026, and benefits for out-of-state participants who become eligible beneficiaries will not be available until July 1, 2030, and nothing in this section requires the department of social and health services to accept applications for determining an individual's status as an eligible beneficiary prior to July 1, 2026. Nothing in this subsection (2) prohibits a person born before January 1, 1968, who meets the conditions of subsection (1)(b) of this section from receiving the maximum number of benefit units available under RCW 50B.04.060(3)(b).

(3) When deeming a person to be a qualified individual, the employment security department shall require that the person have worked at least 500 hours during each of the ten years in subsection (1)(a) of this section, each of the three years in subsection (1)(b) of this section, or each of the years identified in subsection (2) of this section.

(4) An exempt employee may never be deemed to be a qualified individual, unless the employee's exemption was discontinued under RCW 50B.04.055 or rescinded under RCW 50B.04.085.

(5) An out-of-state resident whose elective coverage has been canceled by the employment security department under RCW 50B.04.180 may not be deemed to be a qualified individual.

NEW SECTION. **Sec. 6.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) An employee who holds a nonimmigrant visa for temporary workers, as recognized by federal law, is not subject to the rights and responsibilities of this chapter, unless the employee notifies the employee's employer that the employee would like to participate.

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(2) If an employee who holds a nonimmigrant visa for temporary workers becomes a permanent resident or citizen employed in Washington, the employee becomes subject to the rights and responsibilities of this chapter.

(3) The employment security department may adopt rules necessary to implement this section.

Sec. 7. RCW 50B.04.055 and 2022 c 2 s 2 are each amended to read as follows:

(1) ((~~Beginning January 1, 2023, the~~))The employment security department shall accept and approve applications for voluntary exemptions from the premium assessment under RCW 50B.04.080 for any employee who meets criteria established by the employment security department for an exemption based on the employee's status as:

(a) A veteran of the United States military who has been rated by the United States department of veterans affairs as having a service-connected disability of 70 percent or greater;

(b) A spouse or registered domestic partner of an active duty service member in the United States armed forces whether or not deployed or stationed within or outside of Washington;

(c) ((~~An employee who holds a nonimmigrant visa for temporary workers, as recognized by federal law, and is employed by an employer in Washington; or~~

~~(d)~~)) An employee who is employed by an employer in Washington, but maintains a permanent address outside of Washington as the employee's primary location of residence; or

(d) An active duty service member in the United States armed forces, whether or not deployed or stationed within or outside of Washington, who is concurrently engaged in off-duty civilian employment as an employee of an employer.

(2) The employment security department shall adopt criteria, procedures, and rules for verifying the information submitted by the applicant for an exemption under subsection (1) of this section.

(3) An employee who receives an exemption under subsection (1) of this section may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title, unless the exemption has been discontinued as provided in subsection (4)((~~,~~))or (5)((~~, or (6)~~)) of this section.

(4)(a) An exemption granted in accordance with the conditions under subsection (1)(b) of this section must be discontinued within 90 days of:

(i) The discharge or separation from military service of the employee's spouse or registered domestic partner; or

(ii) The dissolution of the employee's marriage or registered domestic partnership with the active duty service member.

(b) An exemption granted in accordance with the conditions under subsection (1)(c) of this section must be discontinued within 90 days of establishing a permanent address within Washington as the employee's primary location of residence.

(c) An exemption granted in accordance with the conditions under subsection (1)(d) of this section must be discontinued within 90 days of the discharge or separation from military service.

(5)(a) Within 90 days of the occurrence of ((~~either of~~)) the events described in ((~~(a) of this~~)) subsection (4) of this section, an employee who has received an exemption under subsection (1) of this section shall:

(i) Notify the employment security department that the exemption must be discontinued because of the occurrence of ((~~either of~~)) the events described in ((~~(a) of this~~)) subsection (4) of this section; and

(ii) Notify the employee's employer that the employee is no longer exempt and that the employer must begin collecting premiums from the employee in accordance with RCW 50B.04.080.

((~~(c)~~))(b) Upon notification to the employment security department and the employer, premium assessments established under RCW 50B.04.080 must begin and the employee may become a qualified individual or eligible beneficiary upon meeting the requirements established in this chapter.

((~~(d)~~))(c) Failure to begin paying the premium established under RCW 50B.04.080 within 90 days of the occurrence of ((~~either of~~)) the events described in ((~~(a) of this~~)) subsection (4) of this section shall result in the payment of any unpaid premiums from the employee, with interest at the rate of one percent per month or fraction thereof, by the employee to the employment security department from the date on which the payment should have begun.

((~~(5)(a) An exemption granted in accordance with the conditions under subsection (1)(c) of this section must be discontinued within 90 days of an employee changing the employee's nonimmigrant visa for temporary workers status to become a permanent resident or citizen employed in Washington.~~

~~(b) Within 90 days of the employee changing the employee's nonimmigrant visa for temporary workers status to become a permanent resident or citizen employed in Washington, the employee who has received an exemption under subsection (1)(c) of this section shall:~~

~~(i) Notify the employment security department that the employee no longer holds a nonimmigrant visa for temporary workers and is a permanent resident or citizen employed in Washington and the exemption must be discontinued; and~~

~~(ii) Notify the employee's employer that the employee no longer holds a nonimmigrant visa for temporary workers and is a permanent resident or citizen employed in Washington, and that the employer must begin collecting premiums from the employee in accordance with RCW 50B.04.080.~~

~~(c) Upon notification to the employment security department and the employer, premium assessments established under RCW 50B.04.080 must begin and the employee may become a qualified individual or eligible beneficiary upon meeting the requirements established in this chapter.~~

~~(d) Failure to begin paying the premium established under RCW 50B.04.080 within 90 days of an employee no longer holding a nonimmigrant visa for temporary workers and becoming a permanent resident or citizen employed in Washington shall result in the payment of any unpaid premiums from the employee, with interest at the rate of one percent per month or fraction thereof, by the employee to the employment security department from the date on which the payment should have begun.~~

~~(6)(a) An exemption granted in accordance with the conditions under subsection (1)(d) of this section must be discontinued within 90 days of an employee establishing a permanent address within Washington as the employee's primary location of residence.~~

~~(b) Within 90 days of the employee establishing a permanent address within Washington as the employee's primary location of residence, the employee who has received an exemption under subsection (1)(d) of this section shall:~~

~~(i) Notify the employment security department that the employee is residing in Washington and the exemption must be discontinued; and~~

~~(ii) Notify the employee's employer that the employee is no longer exempt and that the employer must begin collecting premiums from the employee in accordance with RCW 50B.04.080.~~

~~(c) Upon notification to the employment security department and the employer, premium assessments established under RCW 50B.04.080 must begin and the employee may become a qualified individual or eligible beneficiary upon meeting the requirements established in this chapter.~~

~~(d) Failure to begin paying the premium established under RCW 50B.04.080 within 90 days of an employee establishing a permanent address within Washington as the employee's primary location of residence shall result in the payment of any unpaid premiums from the employee, with interest at the rate of one percent per month or fraction thereof, by the employee to the employment security department from the date on which the payment should have begun.~~

~~(7)~~))(6) Exempt employees are not entitled to a refund of any premium deductions made before the effective date of an approved exemption, except for premiums collected prior to the effective date of the premium assessment under RCW 50B.04.080.

((~~(8)~~))(7) An employee who has received an exemption pursuant to this section shall provide written notification to all current and future employers of an approved exemption.

((~~(9)~~))(8) If an exempt employee fails to notify an employer of an exemption, the exempt employee is not entitled to a refund of any premium deductions made before notification is provided, except for premiums collected prior to the effective date of the premium assessment under RCW 50B.04.080.

((~~(10)~~))(9) Employers may not deduct premiums after being notified by an employee of an approved exemption issued under this section.

(a) Employers shall retain written notifications of exemptions received from employees.

(b) An employer who deducts premiums after being notified by the employee of an exemption is solely responsible for refunding to the employee any premiums deducted after the notification.

(c) The employer is not entitled to a refund from the employment security department for any premiums remitted to the employment security department that were deducted from exempt employees.

((~~(11)~~))(10) The provisions of RCW 50B.04.085 do not apply to the exemptions issued pursuant to this section.

((~~(12)~~))(11) The employment security department shall adopt rules necessary to implement and administer the activities specified in this section related to the program, including rules on the submission and processing of applications under this section.

Sec. 8. RCW 50B.04.060 and 2024 c 120 s 6 are each amended to read as follows:

(1) Beginning July 1, 2026, approved services must be available and benefits payable to a ((~~registered~~)) long-term services and supports provider on behalf of an eligible beneficiary under this section.

(2)(a)(i) Except for qualified individuals residing outside of Washington as provided in (a)(ii) of this subsection, beginning July 1, 2026, a qualified individual may become an eligible beneficiary by filing an application with the department of social and health services and undergoing an eligibility determination which includes an evaluation that the individual requires assistance with at least three activities of daily living, as defined by the department of social and health services for long-term services and supports programs, which is expected to last for at least 90 days.

(ii) For a qualified individual residing outside of Washington, beginning ((~~January~~))July 1, 2030, the out-of-state qualified individual may become an eligible beneficiary by filing an application with the department of social and health services and undergoing an eligibility determination. The eligibility determination must include an evaluation that the individual either (A) is unable to perform, without substantial assistance from another individual, at least two of the following activities of daily living for a period of at least 90 days due to a loss of functional capacity: Eating, toileting, transferring, bathing, dressing, or continence, or (B) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairments.

(b) The department of social and health services must engage sufficient qualified assessor capacity, including via contract, so that the determination may be made within 45 days from receipt of a request by a beneficiary to use a benefit.

(3)(a) An eligible beneficiary may receive approved services and benefits through the program in the form of a benefit unit payable to a ((~~registered~~)) long-term services and supports provider.

(b) Except as limited in RCW 50B.04.050(2), an eligible beneficiary may not receive more than the dollar equivalent of 365 benefit units over the course of the eligible beneficiary's lifetime.

(i) If the department of social and health services reimburses a long-term services and supports provider for approved services provided to an eligible beneficiary and the payment is less than the benefit unit, only the portion of the benefit unit that is used shall be taken into consideration when calculating the person's remaining lifetime limit on receipt of benefits.

(ii) Eligible beneficiaries may combine benefit units to receive more approved services per day as long as the total number of lifetime benefit units has not been exceeded.

Sec. 9. RCW 50B.04.070 and 2024 c 120 s 7 are each amended to read as follows:

(1)(a) Benefits provided under this chapter shall be paid periodically and promptly to long-term services and supports providers who provide approved services to:

((~~(a)~~))(i) Eligible beneficiaries in Washington if the long-term services and supports provider is registered with the department of social and health services; and

((~~(b)~~))(ii) Eligible beneficiaries outside Washington if the long-term services and supports providers meet minimum standards established by the department.

((~~(2)~~))(b) The department of social and health services may contract with a third party to administer payments to long-term services and supports providers providing services to eligible beneficiaries whether inside or outside of Washington.

(c) Qualified family members may be paid for approved personal care services in the same way as individual providers, through a licensed home care agency, or through a third option ((~~if~~))as recommended by the commission ((~~and~~))if adopted by the department of social and health services.

(2) The department of social and health services shall establish payment methods and procedures that are most appropriate and efficient for the different categories of service providers identified in subsection (1) of this section, including collaboration with other agencies and contracting with third parties, as necessary.

Sec. 10. RCW 50B.04.080 and 2022 c 2 s 1 and 2022 c 1 s 5 are each reenacted and amended to read as follows:

(1) Unless otherwise exempted pursuant to this chapter, beginning July 1, 2023, the employment security department shall assess for each individual in employment with an employer a premium based on the amount of the individual's wages. The initial premium rate is .58 percent of the individual's wages. Beginning January 1, 2026, and biennially thereafter, the premium rate shall be set by the pension funding council at a rate no greater than .58 percent. In addition, the pension funding council must set the premium rate at the lowest amount necessary to maintain the actuarial solvency of the long-term services and supports trust account created in RCW 50B.04.100 in accordance with recognized insurance principles and designed to attempt to limit fluctuations in the premium rate. To facilitate the premium rate setting the office of the state actuary must perform a biennial actuarial audit and valuation of the fund and make recommendations to the pension funding council.

(2)(a) The employer must collect from the employees the premiums provided under this section through payroll deductions and remit the amounts collected to the employment security department.

(b) In collecting employee premiums through payroll deductions, the employer shall act as the agent of the employees and shall remit the amounts to the employment security department as required by this chapter.

(3) ((~~Nothing in this chapter requires any party to a collective bargaining agreement in existence on October 19, 2017, to reopen negotiations of the agreement or to apply any of the responsibilities under this chapter unless and until the existing agreement is reopened or renegotiated by the parties or expires.~~

~~(4)~~))(a) Premiums shall be collected in the manner and at such intervals as provided in this chapter and directed by the employment security department.

(b) To the extent feasible, the employment security department shall use the premium assessment, collection, and reporting procedures in Title 50A RCW.

((~~(5)~~))(4) The employment security department shall deposit all premiums collected in this section in the long-term services and supports trust account created in RCW 50B.04.100.

((~~(6)~~))(5) Premiums collected in this section are placed in the trust account for the individuals who become eligible for the program.

((~~(7)~~))(6) If the premiums established in this section are increased, the legislature shall notify each qualified individual by mail that the person's premiums have been increased, describe the reason for increasing the premiums, and describe the plan for restoring the funds so that premiums are returned to .58 percent of the individual's wages.

Sec. 11. RCW 50B.04.085 and 2021 c 113 s 5 are each amended to read as follows:

(1) An employee who attests that the employee has long-term care insurance purchased before November 1, 2021, may apply for an exemption from the premium assessment under RCW 50B.04.080. ((~~An exempt employee may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title.~~))

(2)(a) The employment security department must accept applications for exemptions only from October 1, 2021, through December 31, 2022.

(b) Only employees who are eighteen years of age or older may apply for an exemption.

(3) The employment security department is not required to verify the attestation of an employee that the employee has long-term care insurance.

(4) Approved exemptions will take effect on the first day of the quarter immediately following the approval of the exemption.

(5) Exempt employees are not entitled to a refund of any premium deductions made before the effective date of an approved exemption.

(6) An exempt employee must provide written notification to all current and future employers of an approved exemption.

(7) If an exempt employee fails to notify an employer of an exemption, the exempt employee is not entitled to a refund of any premium deductions made before notification is provided.

(8) Employers must not deduct premiums after being notified by an employee of an approved exemption.

(a) Employers must retain written notifications of exemptions received from employees.

(b) An employer who deducts premiums after being notified by the employee of an exemption is solely responsible for refunding to the employee any premiums deducted after the notification.

(c) The employer is not entitled to a refund from the employment security department for any premiums remitted to the employment security department that were deducted from exempt employees.

(9)(a) Except as provided in (b) of this subsection, an exempt employee may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title.

(b) Prior to July 1, 2028, an employee who has received an approved exemption pursuant to this section may rescind the exemption and participate in the program. The employee must notify the employment security department of the rescission according to procedures established by the employment security department. The employee will be subject to premium assessments under RCW 50B.04.080 or 50B.04.090 upon notification to the employment security department of the rescission. The employee is not responsible for any premiums that would have been assessed prior to the rescission. When deeming a person to be a qualified individual under RCW 50B.04.050, the employment security department may not consider any years in which the rescinding employee had been in exempt status unless the employee had been assessed the premium for a part of the year and the number of hours worked while being assessed met the minimum hour requirement.

(10) The employment security department must adopt rules necessary to implement and administer the activities specified in this section related to the program, including rules on the submission and processing of applications and the rescission of an exemption under this section.

Sec. 12. RCW 50B.04.100 and 2024 c 120 s 8 are each amended to read as follows:

(1) The long-term services and supports trust account is created in the custody of the state treasurer. All receipts from employers under RCW 50B.04.080 and from out-of-state participants under RCW 50B.04.180, 50B.04.090, and 50B.04.095, delinquent premiums, penalties, and interest received pursuant to sections 13 and 14 of this act, and any funds attributable to savings derived through a waiver with the federal centers for medicare and medicaid services pursuant to RCW 50B.04.130 must be deposited in the account. Expenditures from the account may be used for the administrative activities of the department of social and health services, the health care authority, and the employment security department. Benefits associated with the program must be disbursed from the account by the department of social and health services. Only the secretary of the department of social and health services or the secretary's designee may authorize disbursements from the account. The account is subject to the allotment procedures under chapter 43.88 RCW. An appropriation is required for administrative expenses, but not for benefit payments. The account must provide reimbursement of any amounts from other sources that may have been used for the initial establishment of the program.

(2) The revenue generated pursuant to this chapter shall be utilized to expand long-term care in the state. These funds may not be used either in whole or in part to supplant existing state or county funds for programs that meet the definition of approved services.

(3) The moneys deposited in the account must remain in the account until expended in accordance with the requirements of this chapter. If moneys are appropriated for any purpose other than supporting the long-term services and supports program, the legislature shall notify each qualified individual by mail that the person's premiums have been appropriated for an alternate use, describe the alternate use, and state its plan for restoring the funds so that premiums are not increased and benefits are not reduced.

NEW SECTION. **Sec. 13.** A new section is added to chapter 50B.04 RCW to read as follows:

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(1) In the form and at the times specified in this chapter and by the commissioner of the employment security department, an employer shall make reports, furnish information, and collect and remit premiums as required by this chapter to the employment security department. If the employer is a temporary help company that provides employees on a temporary basis to its customers, the temporary help company is considered the employer for purposes of this section.

(2)(a) An employer must keep at the employer's place of business a record of employment, for a period of six years, from which the information needed by the employment security department for purposes of this chapter may be obtained. This record shall at all times be open to the inspection of the commissioner of the employment security department.

(b) Information obtained under this chapter from employer records is confidential and not open to public inspection, other than to public employees in the performance of their official duties. An interested party, however, shall be supplied with information from employer records to the extent necessary for the proper presentation of the case in question. An employer may authorize inspection of the employer's records by written consent.

(3) The requirements relating to the collection of long-term services and supports trust program premiums are as provided in this chapter. Before issuing a warning letter or collecting penalties, the employment security department shall enforce the collection of premiums through conference and conciliation. These requirements apply to:

(a) An employer that fails under this chapter to make the required reports, or fails to remit the full amount of the premiums when due;

(b) An employer that willfully makes a false statement or misrepresentation regarding a material fact, or willfully fails to report a material fact, to avoid making the required reports or remitting the full amount of the premiums when due under this chapter;

(c) A successor in the manner specified in employment security department rules; and

(d) An officer, member, or owner having control or supervision of payment or reporting of long-term services and supports trust program premiums, or who is charged with the responsibility for the filing of returns, in the manner specified in subsection (4) of this section.

(4)(a) An employer who willfully fails to make the required reports is subject to penalties as follows: (i) For the second occurrence, the penalty is $75; (ii) for the third occurrence, the penalty is $150; and (iii) for the fourth occurrence and for each occurrence thereafter, the penalty is $250.

(b) An employer who willfully fails to remit the full amount of the premiums when due is liable, in addition to the full amount of premiums due and amounts assessed as interest under section 14(3) of this act, to a penalty equal to the premiums and interest.

(c) Any penalties under this section shall be deposited into the account.

(d) For the purposes of this subsection, "willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

(e) The employment security department shall enforce the collection of penalties through conference and conciliation.

(5) Appeals of actions under this section are governed by RCW 50B.04.120.

NEW SECTION. **Sec. 14.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) At any time after the commissioner of the employment security department finds that any premiums, interest, or penalties have become delinquent, the commissioner of the employment security department may issue an order and notice of assessment specifying the amount due. The order and notice of assessment shall be served upon the delinquent employer in the manner prescribed for the service of a summons in a civil action, or using a method by which the mailing can be tracked or the delivery can be confirmed. Failure of the employer to receive the notice or order, whether served or mailed, shall not release the employer from any tax, or any interest or penalties.

(2) If the commissioner of the employment security department has reason to believe that an employer is insolvent or if any reason exists why the collection of any premiums accrued will be jeopardized by delaying collection, the commissioner of the employment security department may make an immediate assessment of the premiums and may proceed to enforce collection immediately, but interest and penalties shall not begin to accrue upon any premiums until the date when such premiums would normally have become delinquent.

(3) If premiums are not paid on the date on which they are due and payable as prescribed by the commissioner of the employment security department, the whole or part thereof remaining unpaid shall bear interest at the rate of one percent per month or fraction thereof from and after such date until payment plus accrued interest is received by the commissioner of the employment security department. The date as of which payment of premiums, if mailed, is deemed to have been received may be determined by such regulations as the commissioner of the employment security department may prescribe. Interest collected pursuant to this section shall be paid into the account. Interest shall not accrue on premiums from any estate in the hands of a receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer subsequent to the date when such receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer qualifies as such, but premiums accruing with respect to employment of persons by any receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer shall become due and shall draw interest in the same manner as premiums due from other employers. Where adequate information has been furnished to the employment security department and the

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employment security department has failed to act or has advised the employer of no liability or inability to decide the issue, interest may be waived.

(4)(a) If the amount of premiums, interest, or penalties assessed by the commissioner of the employment security department by order and notice of assessment provided in this chapter is not paid within 10 days after the service or mailing of the order and notice of assessment, the commissioner of the employment security department or a duly authorized representative may collect the amount stated in the assessment by the distraint, seizure, and sale of the property, goods, chattels, and effects of the delinquent employer. Goods and property that are exempt from execution under the laws of this state are exempt from distraint and sale under this section.

(b) The commissioner of the employment security department, upon making a distraint, shall seize the property and shall make an inventory of the distrained property, a copy of which shall be mailed to the owner of the property or personally delivered to the owner, and shall specify the time and place when the property shall be sold. A notice specifying the property to be sold and the time and place of sale shall be posted in at least two public places in the county in which the seizure has been made. The time of sale shall be not less than 10 nor more than 20 days from the date of posting of the notices. The sale may be adjourned from time to time at the discretion of the commissioner of the employment security department, but not for a time to exceed a total of 60 days. The sale shall be conducted by the commissioner of the employment security department or a representative who shall proceed to sell the property by parcel or by lot at a public auction, and who may set a minimum price to include the expenses of making a levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the minimum price so fixed, the commissioner of the employment security department or a representative may declare the property to be purchased by the employment security department for the minimum price. In such event the delinquent account shall be credited with the amount for which the property has been sold. Property acquired by the employment security department as prescribed in this subsection (4) may be sold by the commissioner of the employment security department or a representative at public or private sale, and the amount realized shall be placed in the account. In all cases of sale under this subsection (4), the commissioner of the employment security department shall issue a bill of sale or a deed to the purchaser and the bill of sale or deed shall be prima facie evidence of the right of the commissioner of the employment security department to make the sale and conclusive evidence of the regularity of the commissioner of the employment security department proceeding in making the sale, and shall transfer to the purchaser all right, title, and interest of the delinquent employer in the property. The proceeds of any sale under this subsection (4), except in those cases in which the property has been acquired by the employment security department, shall be first applied by the commissioner of the employment security department in satisfaction of the delinquent account, and out of any sum received in excess of the amount of delinquent premiums, interest, and penalties the account shall be reimbursed for the costs of distraint and sale. Any excess amounts held by the commissioner of the employment security department shall be refunded to the delinquent employer. Amounts held by the commissioner of the employment security department that are refundable to a delinquent employer may be subject to seizure or distraint by any other taxing authority of the state or its political subdivisions.

(5) The commissioner of the employment security department may issue to any person, firm, corporation, political subdivision, or department of the state, a notice and order to withhold and deliver property of any kind when the commissioner of the employment security department has reason to believe that there is in the possession of such person, firm, corporation, political subdivision, or department, property which is due, owing, or belonging to any person, firm, or corporation upon whom the employment security department has served a notice and order of assessment for premiums, interest, or penalties. The effect of a notice to withhold and deliver shall be continuous from the date the notice and order to withhold and deliver is first made until the liability is satisfied or becomes unenforceable because of a lapse of time. The notice and order to withhold and deliver shall be served by the sheriff or the sheriff's deputy of the county in which the service is made, using a method by which the mailing can be tracked or the delivery can be confirmed, or by any duly authorized representative of the commissioner of the employment security department. Any person, firm, corporation, political subdivision, or department upon whom service has been made must answer the notice within 20 days exclusive of the day of service, under oath and in writing, and must truthfully answer the matters inquired of in the notice. In the event there is in the possession of any such person, firm, corporation, political subdivision, or department, any property which may be subject to the claim of the employment security department of the state, the property must be delivered immediately to the commissioner of the employment security department or a representative upon demand to be held in trust by the commissioner of the employment security department for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability, or in the alternative, a good and sufficient bond satisfactory to the commissioner of the employment security department must be provided conditioned upon final determination of liability. If any person, firm, or corporation fails to answer an order to withhold and deliver within the time prescribed in this subsection (5), it shall be lawful for the court, after the time to answer the order has expired, to render judgment by default against such person, firm, or corporation for the full amount claimed by the commissioner in the notice to withhold and deliver, together with costs.

(6) Whenever any order and notice of assessment or jeopardy assessment has become final in accordance with the provisions of this chapter the commissioner of the employment security department may file with the clerk of any county within the state a warrant in the amount of

the notice of assessment plus interest, penalties, and a filing fee under RCW 36.18.012(10). The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the employer mentioned in the warrant, the amount of the tax, interest, penalties, and filing fee and the date when such warrant was filed. The aggregate amount of the warrant as docketed shall become a lien upon the title to, and interest in all real and personal property of the employer against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. The warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law in the case of civil judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant, and charged by the commissioner of the employment security department to the employer. A copy of the warrant shall be mailed to the employer using a method by which the mailing can be tracked or the delivery can be confirmed within five days of filing with the clerk.

(7) The claim of the employment security department for any premiums, interest, or penalties not paid when due, shall be a lien prior to all other liens or claims and on a parity with prior tax liens against all property and rights to property, whether real or personal, belonging to the employer. In order to avail itself of the lien hereby created, the employment security department shall file with any county auditor where property of the employer is located a statement and claim of lien specifying the amount of delinquent premiums, interest, and penalties claimed by the employment security department. From the time of filing for record, the amount required to be paid shall constitute a lien upon all property and rights to property, whether real or personal, in the county, owned by the employer or acquired by the employer. The lien shall not be valid against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof has been filed with the county auditor. This lien shall be separate and apart from, and in addition to, any other lien or claim created by, or provided for in, this chapter. When any such notice of lien has been so filed, the commissioner of the employment security department may release the lien by filing a certificate of release when it appears that the amount of delinquent premiums, interest, and penalties have been paid, or when the assurance of payment shall be made as the commissioner of the employment security department may deem to be adequate. Fees for filing and releasing the lien provided herein may be charged to the employer and may be collected from the employer utilizing the remedies provided in this chapter for the collection of premiums.

(8) In the event of any distribution of an employer's assets pursuant to an order of any court, including any receivership, probate, legal dissolution, or similar proceeding, or in case of any assignment for the benefit of creditors, composition, or similar proceeding, premiums, interest, or penalties due shall be a lien upon all the assets of such employer. The lien is prior to all other liens or claims except prior tax liens, other liens provided by this chapter, and claims for remuneration for services of not more than $250 to each claimant earned within six months of the commencement of the proceeding. The mere existence of a condition of insolvency or the institution of any judicial proceeding for legal dissolution or of any proceeding for distribution of assets shall cause such a lien to attach without action on behalf of the commissioner of the employment security department or the state. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898, as amended, premiums, interest, or penalties due shall be entitled to such priority as provided in that act, as amended.

(9)(a) If after due notice, any employer defaults in any payment of premiums, interest, or penalties, the amount due may be collected by civil action in the name of the state, and the employer adjudged in default shall pay the cost of such action. Any lien created by this chapter may be foreclosed by decree of the court in any such action. Civil actions brought under this chapter to collect premiums, interest, or penalties from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter, cases arising under the unemployment compensation laws of this state, and cases arising under the industrial insurance laws of this state.

(b) Any employer that is not a resident of this state and that exercises the privilege of having one or more individuals perform service for it within this state, and any resident employer that exercises that privilege and thereafter removes from this state, shall be deemed thereby to appoint the secretary of state as its agent and attorney for the acceptance of process in any action under this chapter. In instituting such an action against any such employer the commissioner of the employment security department shall cause process or notice to be filed with the secretary of state and the service shall be sufficient service upon the employer, and shall be of the same force and validity as if served upon it personally within this state: PROVIDED, That the commissioner of the employment security department shall immediately send notice of the service of the process or notice, together with a copy thereof, by registered mail, return receipt requested, to such employer at its last known address and the return receipt, the commissioner's affidavit of compliance with the provisions of this section, and a copy of the notice of service shall be appended to the original of the process filed in the court in which such action is pending.

(10) Any employer who is delinquent in the payment of premiums, interest, or penalties may be enjoined upon the suit of the state of Washington from continuing in business in this state or employing persons herein until the delinquent premiums, interest, and penalties have

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been paid, or until the employer has furnished a good and sufficient bond in a sum equal to double the amount of premiums, interest, and penalties already delinquent, plus further sums as the court deems adequate to protect the employment security department in the collection of premiums, interest, and penalties which will become due from the employer during the next ensuing calendar year, the bond to be conditioned upon payment of all premiums, interest, and penalties due and owing within thirty days after the expiration of the next ensuing calendar year or at an earlier date as the court may fix. Action under this section may be instituted in the superior court of any county of the state in which the employer resides, has its principal place of business, or where it has anyone performing services for it, whether or not those services constitute employment.

(11) The commissioner of the employment security department may compromise any claim for premiums, interest, or penalties due and owing from an employer in any case in which collection of the full amount due and owing, whether reduced to judgment or otherwise, would be against equity and good conscience. Whenever a compromise is made by the commissioner of the employment security department in the case of a claim for premiums, interest, or penalties, whether reduced to judgment or otherwise, the employment security department shall file a statement of the amount of premiums, interest, and penalties imposed by law and claimed due, attorneys' fees and costs, if any, a complete record of the compromise agreement, and the amount actually paid in accordance with the terms of the compromise agreement. If any such compromise is accepted by the commissioner of the employment security department, within the time stated in the compromise or agreed to, that compromise shall be final and conclusive and except upon showing of fraud or malfeasance or misrepresentation of a material fact the case shall not be reopened as to the agreed upon matters. In any suit, action, or proceeding, such agreement or any determination, collection, payment, adjustment, refund, or credit made in accordance therewith shall not be annulled, modified, set aside, or disregarded.

(12) The commissioner of the employment security department may charge off as uncollectible and no longer an asset of the account, any delinquent premiums, interest, penalties, or credits, if the commissioner of the employment security department is satisfied that there are no cost-effective means of collecting the premiums, interest, penalties, or credits.

NEW SECTION. **Sec. 15.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) When a qualified individual applies for benefits as provided in RCW 50B.04.060, the department of social and health services must: (a) Ask whether the qualified individual has supplemental long-term care insurance as provided in chapter 48.--- RCW (the new chapter created in section 41 of this act); and (b) request written consent and the policy issuer's contact information from the qualified individual to share information with the policy issuer for any potential care coordination.

(2) If the individual provides written consent and the policy issuer's contact information, the department of social and health services must notify the policy issuer that the qualified individual has applied for benefits under this chapter and may share information for any potential care coordination.

(3) Only basic demographic information that would allow a person to be identified in the program may be shared if the qualified individual consents to sharing information. No health information or data on claims may be shared.

NEW SECTION. **Sec. 16.** (1) The department of social and health services, the employment security department, and the health care authority may design and conduct a pilot project to assess the administrative processes and system capabilities for managing eligibility determinations for qualified individuals and distributing payments to long-term services and supports providers. The pilot project may identify persons who are eligible to be qualified individuals and offer them access to benefit units under the program in return for their participation in the pilot project. The pilot project may only be conducted between January 1, 2026, and June 30, 2026. The pilot project may not have more than 500 participants.

(2) When designing and implementing the pilot project, the agencies identified in subsection (1) of this section must provide regular updates to and consider recommendations from the long-term services and supports trust commission. Upon completion of the pilot project, the agencies must provide a summary of the pilot project, including key operational challenges, to the commission. The commission may include any outstanding concerns identified by the pilot project that require a legislative response in the commission's 2027 report.

(3) The employment security department, the department of social and health services, and the health care authority may adopt rules necessary to implement this section.

(4) This section expires July 1, 2027.

NEW SECTION. **Sec. 17.** The intent of this chapter is to promote the public interest, support the availability of supplemental long-term care coverage, establish standards for supplemental long-term care coverage, facilitate public understanding and comparison of supplemental long-term care contract benefits, protect persons insured under supplemental long-term care insurance policies and certificates, protect applicants for supplemental long-term care policies from unfair or deceptive sales or enrollment practices, and provide for

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flexibility and innovation in the development of supplemental long-term care insurance coverage.

NEW SECTION. **Sec. 18.** (1) This chapter applies to all supplemental long-term care insurance policies, contracts, or riders delivered or issued for delivery in this state on or after May 1, 2026. This chapter does not supersede the obligations of entities subject to this chapter to comply with other applicable laws to the extent that they do not conflict with this chapter, except that laws and regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to supplemental long-term care insurance.

(2) Coverage advertised, marketed, or offered as supplemental long-term care insurance must comply with this chapter. Any coverage, policy, or rider advertised, marketed, or offered as supplemental long-term care or nursing home insurance shall comply with this chapter.

(3) This chapter is not intended to prohibit approval of supplemental long-term care funded through life insurance policies, contracts, or riders, provided the policy meets the definition of supplemental long-term care insurance and provides all required benefits of this chapter.

NEW SECTION. **Sec. 19.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means: (a) In the case of an individual supplemental long-term care insurance policy, the person who seeks to contract for benefits; and (b) in the case of a group supplemental long-term care insurance policy, the proposed certificate holder.

(2) "Certificate" includes any certificate issued under a group supplemental long-term care insurance policy that has been delivered or issued for delivery in this state.

(3) "Commissioner" means the insurance commissioner of Washington state.

(4) "Issuer" includes insurance companies, fraternal benefit societies, health care service contractors, health maintenance organizations, or other entity delivering or issuing for delivery any supplemental long-term care insurance policy, contract, or rider.

(5) "Group supplemental long-term care insurance" means a supplemental long-term care insurance policy or contract that is delivered or issued for delivery in this state and is issued to:

(a) One or more employers; one or more labor organizations; or a trust or the trustees of a fund established by one or more employers or labor organizations for current or former employees, current or former members of the labor organizations, or a combination of current and former employees or members, or a combination of such employers, labor organizations, trusts, or trustees; or

(b) A professional, trade, or occupational association for its members or former or retired members, if the association:

(i) Is composed of persons who are or were all actively engaged in the same profession, trade, or occupation; and

(ii) Has been maintained in good faith for purposes other than obtaining insurance; or

(c)(i) An association, trust, or the trustees of a fund established, created, or maintained for the benefit of members of one or more associations. Before advertising, marketing, or offering supplemental long-term care coverage in this state, the association or associations, or the insurer of the association or associations, must file evidence with the commissioner that the association or associations have at the time of such filing at least 100 persons who are members and that the association or associations have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and bylaws that provide that:

(A) The association or associations hold regular meetings at least annually to further the purposes of the members;

(B) Except for credit unions, the association or associations collect dues or solicit contributions from members; and

(C) The members have voting privileges and representation on the governing board and committees of the association.

(ii) Thirty days after filing the evidence in accordance with this section, the association or associations will be deemed to have satisfied the organizational requirements, unless the commissioner makes a finding that the association or associations do not satisfy those organizational requirements; or

(d) A group other than as described in (a), (b), or (c) of this subsection subject to a finding by the commissioner that:

(i) The issuance of the group policy is not contrary to the best interest of the public;

(ii) The issuance of the group policy would result in economies of acquisition or administration; and

(iii) The benefits are reasonable in relation to the premiums charged.

(6) "Policy" includes a document such as an insurance policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, health care service contractor, health maintenance organization, or any similar entity authorized by the insurance commissioner to transact the business of supplemental long-term care insurance.

(7) "Qualified supplemental long-term care insurance contract" or "federally tax-qualified supplemental long-term care insurance contract" means:

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(a) An individual or group insurance contract that meets the requirements of section 7702B(b) of the internal revenue code of 1986, as amended; or

(b) The portion of a life insurance contract that provides supplemental long-term care insurance coverage by rider or as part of the contract and that satisfies the requirements of sections 7702B(b) and (e) of the internal revenue code of 1986, as amended.

(8) "Supplemental long-term care insurance" means an insurance policy, contract, or rider that is advertised, marketed, offered, or designed to provide coverage for at least 12 consecutive months for a covered person after benefits provided under chapter 50B.04 RCW have been exhausted. Supplemental long-term care insurance may be on an expense incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. Supplemental long-term care insurance includes any policy, contract, or rider that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity that supplements benefits provided in chapter 50B.04 RCW.

(a) Supplemental long-term care insurance includes group and individual life insurance policies or riders that provide directly or supplement long-term care insurance and that supplements benefits provided in chapter 50B.04 RCW. However, supplemental long-term care insurance does not include life insurance policies that: (i) Accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement; (ii) provide the option of a lump sum payment for those benefits; and (iii) do not condition the benefits or the eligibility for the benefits upon the receipt of long-term care.

(b) Supplemental long-term care insurance also includes qualified supplemental long-term care insurance contracts.

(c) Supplemental long-term care insurance does not include any insurance policy, contract, or rider that is offered primarily to provide coverage for basic medicare supplement, basic hospital expense, basic medical-surgical expense, hospital confinement indemnity, major medical expense, disability income, related income, asset protection, accident only, specified disease, specified accident, or limited benefit health. These may not be marketed to consumers as providing coverage that is supplemental to the long-term care benefits provided in chapter 50B.04 RCW.

NEW SECTION. **Sec. 20.** (1) A supplemental long-term care insurance policy, contract, rider, or certificate form or application form shall not be issued, delivered, or used unless it has been filed with and approved by the commissioner.

(2) Rates, or modification of rates, for supplemental long-term care policies or certificates shall not be used until filed with and approved by the commissioner.

(3) A form or rate shall not knowingly be issued, delivered, or used if the commissioner's approval does not then exist.

NEW SECTION. **Sec. 21.** A group supplemental long-term care insurance policy may not be offered to a resident of this state under a group policy issued in another state to a group described in section 19(5)(d) of this act, unless this state or another state having statutory and regulatory supplemental long-term care insurance requirements substantially similar to those adopted in this state has made a determination that such requirements have been met.

NEW SECTION. **Sec. 22.** (1) A supplemental long-term care insurance policy or certificate may not define "preexisting condition" more restrictively than as a condition for which medical advice or treatment was recommended by or received from a provider of health care services, within six months preceding the effective date of coverage of an insured person, unless the policy or certificate applies to group supplemental long-term care insurance under section 19(5) (a), (b), or (c) of this act.

(2) A supplemental long-term care insurance policy or certificate may not exclude coverage for a loss or confinement that is the result of a preexisting condition unless the loss or confinement begins within six months following the effective date of coverage of an insured person, unless the policy or certificate applies to a group as defined in section 19(5)(a) of this act.

(3) The commissioner may extend the limitation periods for specific age group categories in specific policy forms upon finding that the extension is in the best interest of the public.

(4) An issuer may use an application form designed to elicit the complete health history of an applicant and underwrite in accordance with that issuer's established underwriting standards, based on the answers on that application. Unless otherwise provided in the policy or certificate and regardless of whether it is disclosed on the application, a preexisting condition need not be covered until the waiting period expires.

(5) A supplemental long-term care insurance policy or certificate may not exclude or use waivers or riders to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period.

NEW SECTION. **Sec. 23.** (1) No supplemental long-term care insurance policy may:

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(a) Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder;

(b) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder;

(c) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care;

(d) Condition eligibility for any benefits on a prior hospitalization requirement;

(e) Condition eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care;

(f) Condition eligibility for any benefits other than waiver of premium, postconfinement, postacute care, or recuperative benefits on a prior institutionalization requirement;

(g) Include a postconfinement, postacute care, or recuperative benefit unless:

(i) Such requirement is clearly labeled in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits"; and

(ii) Such limitations or conditions specify any required number of days of preconfinement or postconfinement;

(h) Condition eligibility for noninstitutional benefits on the prior receipt of institutional care;

(i)(i) Provide for a deductible that is greater than the maximum dollar equivalent provided in RCW 50B.04.060(3)(b), including inflation adjustments provided in RCW 50B.04.010(3), without the limitation provided in RCW 50B.04.050(2). The issuer may provide for a deductible that is less than the maximum dollar equivalent provided in RCW 50B.04.060(3)(b), especially for a policyholder born before 1968;

(ii) The issuer must accept notice from the department of social and health services that the policyholder has exhausted the benefits provided under chapter 50B.04 RCW as evidence of satisfying the deductible. However, for a policyholder born before 1968, the department must provide the amount of benefits paid under chapter 50B.04 RCW as evidence of payment toward the deductible;

(j) Include an elimination period of greater than 12 months. Any period of time the policyholder is considered an eligible beneficiary as defined in RCW 50B.04.010 must count toward any elimination period in a supplemental long-term care insurance policy. If the policy includes a deductible and an elimination period, the policy may provide that the elimination period is satisfied after the later of when the deductible or the elimination period has been met; and

(k) Require a policyholder to undergo a functional assessment to satisfy a benefit trigger to determine that the elimination period has begun or ended. However, the issuer may require the policyholder to undergo a functional assessment and apply a benefit trigger for purposes of approving a claim and authorizing benefits.

(2) A supplemental long-term care insurance policy or certificate may be field-issued if the compensation to the field issuer is not based on the number of policies or certificates issued. For purposes of this section, "field-issued" means a policy or certificate issued by a producer or a third-party administrator of the policy pursuant to the underwriting authority by an issuer and using the issuer's underwriting guidelines.

NEW SECTION. **Sec. 24.** (1) Supplemental long-term care insurance applicants may return a policy or certificate for any reason within 30 days after its delivery and to have the premium refunded.

(2) All supplemental long-term care insurance policies and certificates must have a notice prominently printed on or attached to the first page of the policy stating that the applicant may return the policy or certificate within 30 days after its delivery and to have the premium refunded.

(3) Refunds or denials of applications must be made within 30 days of the return or denial.

(4) This section does not apply to certificates issued pursuant to a policy issued to a group defined in section 19(5)(a) of this act.

NEW SECTION. **Sec. 25.** (1) An outline of coverage must be delivered to a prospective applicant for supplemental long-term care insurance at the time of initial solicitation through means that prominently direct the attention of the recipient to the document and its purpose.

(a) The commissioner must prescribe a standard format, including style, arrangement, overall appearance, and the content of an outline of coverage. The outline of coverage must also include a disclosure:

(i) Of how the supplemental long-term care insurance interacts with benefits provided in chapter 50B.04 RCW and any potential gaps in coverage or discontinuities of care between benefits provided under chapter 50B.04 RCW and the policy;

(ii) That the premiums may increase over time and an explanation of the conditions that may result in an increase in premiums;

(iii) If the policyholder's circumstances change or premiums increase and the policyholder is unable or unwilling to pay the increased premiums, the options available to the consumer, including a reduction in benefits and nonforfeiture of premiums;

(iv) That premiums continue after retirement;

(v) When premium payments are no longer required under the policy, known as a waiver of premiums; and

(vi) That the purchase of the policy does not qualify the policyholder to apply to be exempt from premium assessments under RCW 50B.04.085.

(b) When an insurance producer makes a solicitation in person, the insurance producer must deliver an outline of coverage before presenting an application or enrollment form.

(c) In a direct response solicitation, the outline of coverage must be presented with an application or enrollment form. The disclosures required under (a) of this subsection are required in any marketing materials.

(d) If a policy is issued to a group as defined in section 19(5)(a) of this act, an outline of coverage is not required to be delivered, if the information that the commissioner requires to be included in the outline of coverage is in other materials relating to enrollment. Upon request, any such materials must be made available to the commissioner.

(2) If an issuer approves an application for a supplemental long-term care insurance contract or certificate, the issuer must deliver the contract or certificate of insurance to the applicant within 30 days after the date of approval. A policy summary must be delivered with an individual life insurance policy that provides supplemental long-term care benefits within the policy or by rider. In a direct response solicitation, the issuer must deliver the policy summary, upon request, before delivery of the policy, if the applicant requests a summary.

(a) The policy summary must include:

(i) An explanation of how the supplemental long-term care benefit interacts with other components of the policy, including deductions from any applicable death benefits;

(ii) An illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits if any, for each covered person;

(iii) Any exclusions, reductions, and limitations on benefits of supplemental long-term care;

(iv) A statement that any supplemental long-term care inflation protection option required by section 31 of this act is not available under this policy; and

(v) If applicable to the policy type, the summary must also include:

(A) A disclosure of the effects of exercising other rights under the policy;

(B) A disclosure of guarantees related to long-term care costs of insurance charges; and

(C) Current and projected maximum lifetime benefits.

(b) The provisions of the policy summary may be incorporated into a basic illustration required under chapter 48.23A RCW, or into the policy summary which is required under rules adopted by the commissioner.

NEW SECTION. **Sec. 26.** A supplemental long-term care insurance policy, contract, or rider must:

(1) Allow the policyholder options for reduction of benefits or nonforfeiture of premiums as provided in section 32 of this act if the premiums increase or the policyholder's circumstances change and the policyholder is unable or unwilling to pay the increased premiums;

(2) Allow for continuity of coverage of care settings and providers, including family providers, that the policyholder was receiving as benefits under the program provided in chapter 50B.04 RCW unless there is substantial clinical or other information showing that the current care setting or provider cannot meet the care and safety needs of the policyholder. If the issuer makes a determination that the care setting or providers are not suited to meeting the care and safety needs of the policyholder, the issuer may require a change of care setting or provider under the policy, effective 90 days after the transition from the benefits provided under chapter 50B.04 RCW. The policyholder may appeal the determination through an independent third-party review as tracked by the commissioner. The issuer may audit for fraudulent claims where the care being claimed is not being provided; and

(3) Cover family providers, provided they are suited to meet the care and safety needs of the policyholder.

NEW SECTION. **Sec. 27.** (1) When a policyholder purchases a supplemental long-term care insurance policy, the issuer must request written consent from the policyholder to share information with the department of social and health services. If the policyholder provides written consent, the issuer must inform the department of social and health services that the policyholder has purchased a supplemental long-term care insurance policy and share any information with the department for the purposes of any potential care coordination.

(2) Only basic demographic information that would allow a person to be identified in the program provided in chapter 50B.04 RCW may be shared if the individual consents to sharing information. No health care information as defined in RCW 70.02.010 or data on claims may be shared.

NEW SECTION. **Sec. 28.** If a supplemental long-term care benefit funded through a life insurance policy by the acceleration of the death benefit is in benefit payment status, a monthly report must be provided to the policyholder. The report must include:

(1) A record of all supplemental long-term care benefits paid out during the month;

(2) An explanation of any changes in the policy resulting from paying the supplemental long-term care benefits, such as a change in the death benefit or cash values; and

(3) The amount of supplemental long-term care benefits that remain to be paid.

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NEW SECTION. **Sec. 29.** Within 30 business days after receipt of all the requested additional information, an insurer must pay a claim for benefits under a supplemental long-term care insurance policy or certificate if it is a clean claim, or send a written notice that the insurer is declining to pay all or part of the claim and the specific reason or reasons for denial.

NEW SECTION. **Sec. 30.** (1) An issuer may rescind a supplemental long-term care insurance policy or certificate or deny an otherwise valid supplemental long-term care insurance claim if:

(a) A policy or certificate has been in force for less than six months and upon a showing of misrepresentation that is material to the acceptance for coverage; or

(b) A policy or certificate has been in force for at least six months but less than two years, upon a showing of misrepresentation that is both material to the acceptance for coverage and that pertains to the condition for which benefits are sought.

(2) After a policy or certificate has been in force for two years it is not contestable upon the grounds of misrepresentation alone. Such a policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

(3) An issuer's payments for benefits under a supplemental long-term care insurance policy or certificate may not be recovered by the issuer if the policy or certificate is rescinded.

(4) This section does not apply to the remaining death benefit of a life insurance policy that accelerates benefits for supplemental long-term care that are governed by RCW 48.23.050 the state's life insurance incontestability clause. In all other situations, this section applies to life insurance policies that accelerate benefits for supplemental long-term care.

NEW SECTION. **Sec. 31.** (1) The commissioner must establish minimum standards for inflation protection features.

(2) An issuer must comply with the rules adopted by the commissioner that establish minimum standards for inflation protection features.

NEW SECTION. **Sec. 32.** (1) Except as provided by this section, a supplemental long-term care insurance policy may not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate that includes a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. If a policyholder or certificate holder declines the nonforfeiture benefit, the issuer must provide a contingent benefit upon lapse that is available for a specified period of time following a substantial increase in premium rates.

(2) If a group supplemental long-term care insurance policy is issued, the offer required in subsection (1) of this section must be made to the group policyholder. However, if the policy is issued as group supplemental long-term care insurance as defined in section 19(5)(d) of this act other than to a continuing care retirement community or other similar entity, the offering must be made to each proposed certificate holder.

(3) The commissioner must adopt rules specifying the type or types of nonforfeiture benefits to be offered as part of supplemental long-term care insurance policies and certificates, the standards for nonforfeiture benefits, and the rules regarding contingent benefit upon lapse, including a determination of the specified period of time during which a contingent benefit upon lapse will be available and the substantial premium rate increase that triggers a contingent benefit upon lapse.

NEW SECTION. **Sec. 33.** (1) A person may not sell, solicit, or negotiate supplemental long-term care insurance unless the person is appropriately licensed as an insurance producer and has successfully completed supplemental long-term care coverage education that meets the requirements of this section and:

(a) Has successfully completed long-term care coverage education that meets the requirements of RCW 48.83.130; and

(b) Has completed an approved one-hour course on supplemental long-term care insurance that includes education on:

(i) The provisions of chapter 50B.04 RCW and any rules adopted to implement the long-term services and supports trust program;

(ii) The relationship between benefits offered under chapter 50B.04 RCW, qualified state long-term care insurance partnership programs, and other public and private coverage of long-term care services, including medicaid; and

(iii) This chapter.

(2) The insurance producer education required by this section may not include training that is issuer or company product-specific or that includes any sales or marketing information, materials, or training, other than those required by state or federal law.

(3) Issuers must obtain verification that an insurance producer receives training required by this section before that producer is permitted to sell, solicit, or otherwise negotiate the issuer's supplemental long-term care insurance products.

(4) Issuers must maintain records subject to the state's record retention requirements and make evidence of that verification available to the commissioner upon request.

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(5)(a) Issuers must maintain records with respect to the training of its producers concerning the distribution of its long-term care partnership policies that will allow the commissioner to provide assurance to the state department of social and health services, medicaid division, that insurance producers engaged in the sale of supplemental long-term care insurance contracts have received the training required by this section and any rules adopted by the commissioner, and that producers have demonstrated an understanding of the partnership policies and their relationship to benefits offered under chapter 50B.04 RCW and public and private coverage of long-term care, including medicaid, in this state.

(b) These records must be maintained in accordance with the state's record retention requirements and be made available to the commissioner upon request.

NEW SECTION. **Sec. 34.** (1) Issuers and their agents, if any, must determine whether issuing supplemental long-term care insurance coverage to a particular person is appropriate, except in the case of a life insurance policy that accelerates benefits for supplemental long-term care.

(2) An issuer must:

(a) Develop and use suitability standards to determine whether the purchase or replacement of supplemental long-term care coverage is appropriate for the needs of the applicant or insured, using a best interest standard. The issuers and their agents must act in the best interests of the applicant or policyholder under the circumstances known at the time the recommendation is made, without putting the issuer or agent's financial interests ahead of the interests of the applicant or policyholder;

(b) Train its agents in the use of the issuer's suitability standards; and

(c) Maintain a copy of its suitability standards and make the standards available for inspection, upon request.

(3) The following must be considered when determining whether the applicant meets the issuer's suitability standards:

(a) The ability of the applicant to pay for the proposed coverage and any other relevant financial information related to the purchase of or payment for coverage;

(b) The applicant's goals and needs with respect to supplemental long-term care and the advantages and disadvantages of supplemental long-term care coverage to meet those goals or needs; and

(c) The values, benefits, and costs of the applicant's existing health or long-term care coverage, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(4) The sale or transfer of any suitability information provided to the issuer or agent by the applicant to any other person or business entity is prohibited.

(5)(a) The commissioner must adopt rules on forms of consumer-friendly personal worksheets that issuers and their agents must use for applications for supplemental long-term care coverage.

(b) The commissioner may require each issuer to file its current forms of suitability standards and personal worksheets with the commissioner.

NEW SECTION. **Sec. 35.** A person engaged in the issuance or solicitation of supplemental long-term care coverage may not engage in unfair methods of competition or unfair or deceptive acts or practices, as such methods, acts, or practices are defined in chapter 48.30 RCW, or as defined by the commissioner.

NEW SECTION. **Sec. 36.** An issuer or an insurance producer who violates a law or rule relating to the regulation of supplemental long-term care insurance or its marketing is subject to a fine of up to three times the amount of the commission paid for each policy involved in the violation or $10,000, whichever is greater.

NEW SECTION. **Sec. 37.** (1) The commissioner must adopt rules that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of supplemental long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms. The commissioner must adopt rules establishing loss ratio standards for supplemental long-term care insurance policies. The commissioner must adopt rules to promote premium adequacy and to protect policyholders in the event of proposed substantial rate increases, and to establish minimum standards for producer education, marketing practices, producer compensation, producer testing, penalties, and reporting practices for supplemental long-term care insurance.

(2) The commissioner must adopt rules establishing standards protecting patient privacy rights, rights to receive confidential health care services, and standards for an issuer's timely review of a claim denial upon request of a covered person.

(3) The commissioner must adopt by rule prompt payment requirements for supplemental long-term care insurance. The rules must include a definition of a "claim" and a definition of "clean claim." In adopting the rules, the commissioner must consider the prompt payment requirements in long-term care insurance model acts developed by the national association of insurance commissioners.

(4) The commissioner may adopt reasonable rules to carry out this chapter.

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NEW SECTION. **Sec. 38.** (1) The commissioner must:

(a) Develop a consumer education guide designed to educate consumers and help them make informed decisions as to the purchase of supplemental long-term care insurance policies provided under this chapter; and

(b) Expand programs to educate consumers as to the supplemental long-term care insurance policies provided under this chapter, with a focus on the middle-income market. If allowable under federal law, the commissioner must expand the statewide health insurance benefits advisor program to provide the consumer education.

(2) The guide and programs should:

(a) Provide additional information and counseling for consumers born before 1968. This information and counseling should educate these consumers as to potential out-of-pocket costs they may be subject to before supplemental long-term care insurance will begin paying claims and strategies for managing the gap between benefits payable under chapter 50B.04 RCW and coverage under supplemental long-term care insurance.

(b) Support consumers in assessing the tradeoffs between various elimination period options and premium rates.

(c) Educate consumers on budgeting any benefits available under chapter 50B.04 RCW carefully to reduce the likelihood and size of any potential gap between those benefits and the supplemental long-term care insurance.

NEW SECTION. **Sec. 39.** A new section is added to chapter 48.83 RCW to read as follows:

This chapter does not apply to supplemental long-term care insurance as defined in section 19 of this act.

NEW SECTION. **Sec. 40.** RCW 50B.04.040 (Long-term services and supports council—Benefit unit adjustment) and 2019 c 363 s 5 are each repealed.

NEW SECTION. **Sec. 41.** Sections 17 through 38 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. **Sec. 42.** 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.

Sec. 43. RCW 50B.04.140 and 2022 c 1 s 7 are each amended to read as follows:

Beginning December 1, 2028, and annually thereafter, and in compliance with RCW 43.01.036, the commission must report to the legislature on the program, including:

(1) Projected and actual program participation;

(2) Adequacy of premium rates;

(3) Fund balances;

(4) Benefits paid;

(5) Demographic information on program participants, including age, gender, race, ethnicity, geographic distribution by county, and legislative district((~~, and employment sector~~)); and

(6) The extent to which the operation of the program has resulted in savings to the medicaid program by avoiding costs that would have otherwise been the responsibility of the state.

NEW SECTION. **Sec. 44.** A new section is added to chapter 50B.04 RCW to read as follows:

If Washington is successful in obtaining a waiver from the federal centers for medicare and medicaid services that results in shared savings because of long-term services and supports spending, the amount of shared savings shall be deposited into the long-term services and supports trust account created in RCW 50B.04.100.

Sec. 45. RCW 74.39.007 and 2022 c 86 s 1 are each amended to read as follows:

The definitions in this section apply throughout this section, RCW ((~~74.39.007,~~)) 74.39.050, 74.39.070, 43.190.060, and section 1, chapter 336, Laws of 1999 unless the context clearly requires otherwise.

(1) "Self-directed care" means the process in which an adult person, who is prevented by a functional disability from performing a manual function related to health care that an individual would otherwise perform for himself or herself, chooses to direct and supervise a paid personal aide to perform those tasks.

(2) "Personal aide" means an individual, working privately ((~~or~~)), as an individual provider as defined in RCW 74.39A.240, or as a qualified family member paid through the long-term services and supports trust as described in RCW 50B.04.010, who acts at the direction of an adult person with a functional disability living in his or her own home to assist with the physical performance of a health care task, as described in RCW 74.39.050, that persons without a functional disability can perform themselves.

Sec. 46. RCW 70.127.040 and 2024 c 259 s 4 are each amended to read as follows:

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The following are not subject to regulation for the purposes of this chapter:

(1) A family member providing home health, hospice, or home care services;

(2) A person who provides only meal services in an individual's permanent or temporary residence;

(3) An individual providing home care through a direct agreement with a recipient of care in an individual's permanent or temporary residence;

(4) A person furnishing or delivering home medical supplies or equipment that does not involve the provision of services beyond those necessary to deliver, set up, and monitor the proper functioning of the equipment and educate the user on its proper use;

(5) A person who provides services through a contract with a licensed agency;

(6) An employee or volunteer of a licensed agency who provides services only as an employee or volunteer;

(7) Facilities and institutions, including but not limited to nursing homes under chapter 18.51 RCW, hospitals under chapter 70.41 RCW, adult family homes under chapter 70.128 RCW, assisted living facilities under chapter 18.20 RCW, developmental disability residential programs under chapter 71A.12 RCW, other entities licensed under chapter 71.12 RCW, or other licensed facilities and institutions, only when providing services to persons residing within the facility or institution;

(8) Local and combined city-county health departments providing services under chapters 70.05 and 70.08 RCW;

(9) An individual providing care to ill individuals, individuals with disabilities, or vulnerable individuals through a contract with the department of social and health services;

(10) Nursing homes, hospitals, or other institutions, agencies, organizations, or persons that contract with licensed home health, hospice, or home care agencies for the delivery of services;

(11) In-home assessments of an ill individual, an individual with a disability, or a vulnerable individual that does not result in regular ongoing care at home;

(12) Services conducted by and for the adherents of a church or religious denomination that rely upon spiritual means alone through prayer for healing in accordance with the tenets and practices of such church or religious denomination and the bona fide religious beliefs genuinely held by such adherents;

(13) A medicare-approved dialysis center operating a medicare-approved home dialysis program;

(14) A person providing case management services. For the purposes of this subsection, "case management" means the assessment, coordination, authorization, planning, training, and monitoring of home health, hospice, and home care, and does not include the direct provision of care to an individual;

(15) Pharmacies licensed under RCW 18.64.043 that deliver prescription drugs and durable medical equipment that does not involve the use of professional services beyond those authorized to be performed by licensed pharmacists pursuant to chapter 18.64 RCW and those necessary to set up and monitor the proper functioning of the equipment and educate the person on its proper use;

(16) A volunteer hospice complying with the requirements of RCW 70.127.050;

(17) A person who provides home care services without compensation;

(18) Nursing homes that provide telephone or web-based transitional care management services;

(19) A rural health clinic providing health services in a home health shortage area as declared by the department pursuant to 42 C.F.R. Sec. 405.2416; ((~~and~~))

(20) Hospital at-home services provided by a hospital pursuant to RCW 70.41.550;

(21) A consumer directed employer as described in RCW 74.39A.500; and

(22) An entity contracted with the department of social and health services as a financial services agency and who only serves clients of in-home long-term care workers who are qualified family members as described in RCW 50B.04.010.

Sec. 47. RCW 48.85.010 and 2012 c 211 s 9 are each amended to read as follows:

The department of social and health services shall, in conjunction with the office of the insurance commissioner, coordinate a long-term care insurance program entitled the Washington long-term care partnership, whereby private insurance and medicaid funds shall be used to finance long-term care. For individuals purchasing a long-term care insurance policy or contract governed by chapter 48.84 ((~~or~~)), 48.83, or 48.--- (the new chapter created in section 41 of this act) RCW and meeting the criteria prescribed in this chapter, and any other terms as specified by the office of the insurance commissioner and the department of social and health services, this program shall allow for the exclusion of some or all of the individual's assets in determination of medicaid eligibility as approved by the centers for medicare and medicaid services.

Sec. 48. RCW 48.85.030 and 2011 c 47 s 12 are each amended to read as follows:

(1) The insurance commissioner shall adopt rules defining the criteria that qualified long-term care partnership insurance policies must meet to satisfy the requirements of this chapter. The rules shall incorporate any requirements set forth by chapters 48.83 and 48.--- (the new chapter created in section 41 of this act) RCW and the deficit reduction act of 2005 for qualified long-term care partnership insurance policies purchased for the purposes of this chapter.

(2) Insurers offering long-term care policies for the purposes of this chapter shall demonstrate to the satisfaction of the insurance commissioner that they:

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(a) Have procedures to provide notice to each purchaser of the long-term care consumer education program;

(b) Have procedures that provide for the keeping of individual policy records and procedures for the explanation of coverage and benefits identifying those payments or services available under the policy that meet the purposes of this chapter;

(c) Agree to provide the insurance commissioner any required annual report containing information derived from the long-term care partnership long-term care insurance uniform data set as specified by the office of the insurance commissioner.

NEW SECTION. **Sec. 49.** Sections 17 through 39, 47, and 48 of this act take effect May 1, 2026.

NEW SECTION. **Sec. 50.** Sections 12 through 14 of this act take effect January 1, 2027.

NEW SECTION. **Sec. 51.** Sections 1 through 11, 15, 16, and 40 through 46 of this act take effect January 1, 2026."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Penner, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Cortes; Doglio; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Assistant Ranking Minority Member; Corry; Dye; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading

April 7, 2025

E2SSB 5296 Prime Sponsor, Ways & Means: Improving outcomes for individuals adjudicated of juvenile offenses by increasing opportunities for community placement options and refining procedural requirements. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Human Services.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.40.160 and 2023 c 295 s 9 are each amended to read as follows:

(1) The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357 and this section.

(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsections (2)((~~, (3), (4),~~))through (5)((~~, or (6)~~)) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding ((~~thirty~~))30 days, commitment shall be to the department for the standard range of confinement, except as provided in subsections (2)((~~, (3), (4),~~))through (5)((~~, or (6)~~)) of this section for offenses described in (h) of this subsection.

(c) Except for offenses described in (h) of this subsection, before the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding 30 days, the court shall make an independent finding, supported by a preponderance of the evidence, that commitment to the department is needed because a community-based placement would not adequately protect the community. A stipulation by the parties alone is not sufficient to support an independent finding that commitment to the department is needed under this subsection. Commitment of a juvenile to confinement over 30 days must be to the department for the standard range of confinement, except as provided in this subsection and subsections (2) through (5) of this section.

(d) In making a finding under (c) of this subsection, the court shall consider the following factors:

(i) The severity of the offense or offenses for which the juvenile has most recently been adjudicated, including the juvenile's role in the offense, the juvenile's behavior, and harm done to victims;

(ii) The juvenile's criminal history, including the adequacy and success of previous attempts by the juvenile court to rehabilitate the juvenile;

(iii) Whether the programming, treatment, and education offered and provided in a juvenile rehabilitation facility is appropriate to meet the treatment and security needs of the juvenile;

(iv) Whether the goals of rehabilitation and community safety can be met by assigning the juvenile to a less restrictive disposition that is available to the court; and

(v) The juvenile's age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, and any disabilities or special needs impacting the safety or suitability of committing the juvenile to a term of confinement in juvenile court.

(e) If the court does not make a finding under (c) of this subsection that commitment to the department is needed, the court may impose one or more local sanctions, in addition to a determinate sentence of electronic monitoring for up to the minimum of the juvenile's standard range while on community supervision.

(f) If the court does make a finding under (c) of this subsection, the court must maintain concurrent jurisdiction with the department over the juvenile, except the court's concurrent jurisdiction may be only for the purposes of conducting the review hearings described under RCW 13.40.185(3), and any community supervision that is ordered if a juvenile is released at the review hearing.

(g) If a juvenile is sentenced to a determinate sentence of electronic monitoring for up to the minimum of the juvenile's standard range under (e) of this subsection, and is found by the court to have violated any terms of an electronic monitoring agreement, the court may impose a sanction pursuant to RCW 13.40.200, or if the court makes a finding under RCW 13.40.160(1)(c), revoke the electronic monitoring and order confinement for up to the remainder of the determinate electronic monitoring sentence previously imposed. Upon completion of a sanction, the juvenile may resume electronic monitoring. Any time served in detention due to a violation of the terms of an electronic monitoring agreement shall be applied as credit for time served for the remaining time on electronic monitoring, or if revoked, confinement.

(h) The court finding described in (c) of this subsection is not required for the following:

(i) A serious violent offense as defined in RCW 9.94A.030;

(ii) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: One or more prior serious violent offenses; two or more prior violent offenses; or three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately;

(iii) Rape of a child in the first or second degree under RCW 9A.44.073 and 9A.44.076;

(iv) Rape in the second degree under RCW 9A.44.050;

(v) Hit and run resulting in death under RCW 46.52.020(4)(a); and

(vi) Child molestation in the first degree under RCW 9A.44.083.

(2) If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option D of RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate, subject to RCW 13.40.185(3), and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding ((~~thirty~~))30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition ((~~within the standard range~~))with a term of confinement that is 30 days or more is ((~~not~~)) appealable under RCW 13.40.230. A disposition within the standard range for the offenses in subsection (1)(h) of this section is not appealable under RCW 13.40.230.

(3) If a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court may impose the special sex offender disposition alternative under RCW 13.40.162.

(4) ((~~If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the~~))The court may impose the disposition alternative under RCW 13.40.165 unless a juvenile has been adjudicated of an offense described in subsection (1)(h) of this section.

(5) ((~~If a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose the disposition alternative under RCW 13.40.167.~~

~~(6) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health disposition alternative, the court in a county with a pilot program under RCW 13.40.169 may impose the disposition alternative under RCW 13.40.169.~~

~~(7)~~)) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9.41.040(2)(a)(v) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

((~~(8)~~))(6) RCW 13.40.308 shall govern the disposition of any juvenile adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, possession of a stolen motor vehicle as defined under RCW 9A.56.068, taking a motor vehicle without permission in the first degree under RCW 9A.56.070, and taking a motor vehicle without permission in the second degree under RCW 9A.56.075.

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((~~(9)~~))(7) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

((~~(10)~~))(8) Except as provided under subsections (3)((~~, (4),~~))through (5)((~~, or (6)~~)) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the imposition or the execution of the disposition.

((~~(11)~~))(9) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

Sec. 2. RCW 13.40.165 and 2023 c 449 s 18 are each amended to read as follows:

(1) The purpose of this disposition alternative is to ensure that successful treatment options to reduce recidivism are available to eligible youth, pursuant to RCW 71.24.615. It is also the purpose of the disposition alternative to assure that minors in need of substance use disorder, mental health, and/or co-occurring disorder treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and residential treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the department that provide these services to minors shall jointly plan and deliver these services. It is also the purpose of the disposition alternative to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs and in accordance with sound professional judgment. The mental health, substance abuse, and co-occurring disorder treatment providers shall, to the extent possible, offer services that involve minors' parents, guardians, and family.

(2) The court must consider eligibility for the substance use disorder or mental health disposition alternative when a juvenile offender is subject to a standard range disposition ((~~of local sanctions or 15 to 36 weeks of confinement~~)) and has not committed an ((~~A- or B+ offense, other than a first time B+ offense under chapter 69.50 RCW~~))offense under RCW 13.40.160(1)(h). The court, on its own motion or the motion of the state or the respondent if the evidence shows that the offender may be chemically dependent, substance abusing, or has significant mental health or co-occurring disorders may order an examination by a substance use disorder counselor from a substance use disorder treatment facility approved under chapter 70.96A RCW or a mental health professional as defined in chapter 71.34 RCW to determine if the youth is chemically dependent, substance abusing, or suffers from significant mental health or co-occurring disorders. The state shall pay the cost of any examination ordered under this subsection unless third-party insurance coverage is available.

(3) The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of drug-alcohol problems, mental health diagnoses, previous treatment attempts, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the examiner's information.

(4) The examiner shall assess and report regarding the respondent's relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(a) Whether inpatient and/or outpatient treatment is recommended;

(b) Availability of appropriate treatment;

(c) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(d) Anticipated length of treatment; and

(e) Recommended crime-related prohibitions.

(5) The court on its own motion may order, or on a motion by the state or the respondent shall order, a second examination. The evaluator shall be selected by the party making the motion. The requesting party shall pay the cost of any examination ordered under this subsection unless the requesting party is the offender, in which case the state shall pay the cost if no third-party insurance coverage is available.

(6)(a) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section.

(b) If the court determines that this disposition alternative is appropriate, then the court shall impose the standard range for the offense, or if the court concludes, and enters reasons for its conclusion, that such disposition would effectuate a manifest injustice, the court shall impose a disposition above the standard range as indicated in option D of RCW 13.40.0357 if the disposition is an increase from the standard range and the confinement of the offender does not exceed a maximum of 52 weeks, suspend execution of the disposition, and place the offender on community supervision for up to one year. As a condition of the suspended disposition, the court shall require the offender to undergo available outpatient drug/alcohol, mental health, or co-occurring disorder treatment and/or inpatient mental health or drug/alcohol treatment. The court shall only order inpatient treatment under this section if a funded bed is available. If the inpatient treatment is longer than 90 days, the court shall hold a review hearing every 30 days beyond the initial 90 days. The respondent may appear telephonically at these review hearings if in compliance with treatment. As a condition of the suspended disposition, the court may impose conditions of community supervision and other sanctions, including up to 30 days of confinement, 150 hours of community restitution, and payment of restitution.

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(7) The mental health/co-occurring disorder/drug/alcohol treatment provider shall submit monthly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may impose sanctions pursuant to RCW 13.40.200 or, if the court makes a finding under RCW 13.40.160(1)(c), revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(8) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged. "Victim" may also include a known parent or guardian of a victim who is a minor child or is not a minor child but is incapacitated, incompetent, disabled, or deceased.

(9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(10) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

(11) A disposition under this section is not appealable under RCW 13.40.230.

(12) Subject to funds appropriated for this specific purpose, the costs incurred by the juvenile courts for the mental health, substance use disorder, and/or co-occurring disorder evaluations, treatment, and costs of supervision required under this section shall be paid by the health care authority.

(13) A juvenile, or the parent, guardian, or other person having custody of the juvenile shall not be required to pay the cost of any evaluation or treatment ordered under this section.

Sec. 3. RCW 13.40.185 and 2017 3rd sp.s. c 6 s 608 are each amended to read as follows:

(1) ((~~Any~~))Except as provided under RCW 13.40.160(1)(e), any term of confinement imposed for an offense which exceeds ((~~thirty~~))30 days shall be served under the supervision of the department, although the juvenile court maintains concurrent jurisdiction with the department over the juvenile, only for the purposes of conducting review hearings described under this section and any community supervision that is ordered if a juvenile is released at the review hearing. If the period of confinement imposed for more than one offense exceeds ((~~thirty~~))30 days but the term imposed for each offense is less than ((~~thirty~~))30 days or if the court orders electronic monitoring up to the minimum of the standard range under RCW 13.40.160(1)(e), the confinement may, in the discretion of the court, be served in a juvenile facility operated by or pursuant to a contract with the state or a county.

(a) The juvenile court administrator and the secretary of the department, or the secretary's designee, in alignment with the definition of confinement in RCW 13.40.020(7), shall prioritize capacity-related concerns related to the physical custody of the juvenile when establishing contractual agreements in efforts to provide a humane, safe, and rehabilitative environment.

(b) Subject to the availability of funds appropriated for this specific purpose, the department shall establish contractual agreements with at least four juvenile court administrators, including at least one that is located east of the Cascade mountains, for the confinement of youth in a juvenile facility with terms of confinement that are less than 90 days, as determined by RCW 13.40.210(1), and shall include costs associated with physical custody, treatment or relevant programming, medical costs, and any other costs associated with the confinement of the juvenile. Any existing contractual agreements as of January 1, 2025, created by the department and a juvenile court administrator to confine a juvenile locally pending transport of the youth to a juvenile rehabilitation facility after sentencing do not apply to this subsection (1)(b). The department must negotiate the contractual agreements required under this subsection with each county interested in providing for physical custody of young people as described under this subsection. Counties are not required to provide for the physical custody of young people as described under this subsection under existing contracts.

(2) Whenever a juvenile is confined in a detention facility or is committed to the department, the court may not directly order a juvenile into a particular county or state facility. The juvenile court administrator and the secretary or the secretary's designee, as appropriate, has the sole discretion to determine in which facility a juvenile should be confined or committed. The counties may operate a variety of detention facilities as determined by the county legislative authority subject to available funds.

(3) Excluding the offenses listed in RCW 13.40.160(1)(h), the juvenile court maintains concurrent jurisdiction with the department over a juvenile who is committed to the department, except the court's concurrent jurisdiction may be only for the purposes of scheduling and conducting a review hearing at the mid-point of the minimum range, provided the review does not occur until after the juvenile has served at least four months in the custody of the department, and imposing any community supervision that is ordered if a

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juvenile is released at the review hearing. The court may schedule additional review hearings at its discretion.

(a) The department shall provide a report to the juvenile court at least 14 days before each review hearing detailing:

(i) The services received by the juvenile;

(ii) Any infractions committed by the juvenile;

(iii) How often the juvenile and the juvenile's family have had in-person visitation and video visits since the disposition hearing or the last review hearing, whichever is later; and

(iv) How often the juvenile has been under room confinement due to staffing issues or overpopulation and whether there have been any major disruptions to programming in the three months preceding the review hearing.

(b) During each review hearing the court shall consider the juvenile's progress and, unless the court makes a finding under RCW 13.40.160(1)(c), shall release the juvenile from the custody of the department and place the juvenile on up to a year of community supervision administered by the county, unless the juvenile will be placed on mandatory parole, in which case the juvenile shall be released to parole rather than community supervision.

(c) The prosecutor shall provide notice to the victim at least two weeks before each review hearing described under subsection (3) of this section, if the victim requests such notice be provided.

(d) The respondent shall appear remotely for the hearing described under subsection (3) of this section, unless ordered by the court to appear in person.

Sec. 4. RCW 13.40.0357 and 2023 c 295 s 8 are each amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
	Arson and Malicious Mischief	
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning (9A.48.040)	1D
D	Reckless Burning (9A.48.050)	2E
B	Malicious Mischief (9A.48.070)	1C
C	Malicious Mischief (9A.48.080)	2D
D	Malicious Mischief (9A.48.090)	3E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
	Assault and Other Crimes Involving Physical Harm	
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	A
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

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	Burglary and Trespass	
B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+
A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
	Drugs	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Cannabis <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
E	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	E

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C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
	Firearms and Weapons	
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(v))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	Homicide	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	Kidnapping	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	Obstructing Governmental Operation	
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	Public Disturbance	
C+	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
D+	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	Sex Crimes	
A	Rape 1 (9A.44.040)	B+
B++	Rape 2 (9A.44.050) committed at age 14 or under	B+
A-	Rape 2 (9A.44.050) committed at age 15 through age 17	B+
C+	Rape 3 (9A.44.060)	D+

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B++	Rape of a Child 1 (9A.44.073) committed at age 14 or under	B+
A-	Rape of a Child 1 (9A.44.073) committed at age 15	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B++	Child Molestation 1 (9A.44.083) committed at age 14 or under	B+
A-	Child Molestation 1 (9A.44.083) committed at age 15 through age 17	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (9A.44.132)	D

Theft, Robbery, Extortion, and Forgery

B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200) committed at age 15 or under	B+
A++	Robbery 1 (9A.56.200) committed at age 16 or 17	A
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E

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B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
	Motor Vehicle Related Crimes	
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
	Other	
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1[1] (9A.76.110)	C
C	Escape 2[1] (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)[2]	V

[1]Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement
2nd escape or attempted escape during 12-month period - 8 weeks confinement
3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

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[2]If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D based on a court's finding under RCW 13.40.160(1)(c).

OPTION A

JUVENILE OFFENDER SENTENCING GRID

STANDARD RANGE

	A++	129 to 260 weeks for all category A++ offenses				
	A+	180 weeks to age 21 for all category A+ offenses				
	A	103-129 weeks for all category A offenses				
	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
CURRENT OFFENSE CATEGORY	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR ADJUDICATIONS		0	1	2	3	4 or more

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B
SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

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(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) ((~~Is adjudicated of an A+ or A++ offense~~))Is adjudicated of murder in the first degree (RCW 9A.32.030), or murder in the second degree (RCW 9A.32.050);

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense, except for robbery in the first degree (RCW 9A.56.200);

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of ((~~a~~))an offense under RCW 13.40.160(1)(h) or a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

(4) The court may revoke a suspended disposition only if the court makes a finding under RCW 13.40.160(1)(c).

OR

OPTION C
CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE

((~~If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense~~))Unless a juvenile has been adjudicated of an offense under RCW 13.40.160(1)(h), the court may impose a disposition under RCW 13.40.160(4) and 13.40.165. The court may revoke this disposition alternative only if the court makes a finding under RCW 13.40.160(1)(c).

OR

OPTION D
MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

Sec. 5. RCW 13.40.210 and 2024 c 297 s 16 are each amended to read as follows:

(1) The secretary shall set a release date for each juvenile committed to its custody in accordance with the behavior of the juvenile pursuant to any rules for an internal behavioral management infraction system that have been developed by the department. The department shall prioritize setting the release date for juveniles who would serve less than 90 days under the supervision of the department and shall consider any infractions that the juvenile received while in the custody of the department. The release date shall be within the prescribed range to which a juvenile has been committed under RCW 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing

court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3)(a) Following the release of any juvenile under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for a sex offense as defined under RCW 9.94A.030 the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section and for offenders who receive a juvenile residential commitment sentence for theft of a motor vehicle, possession of a stolen motor vehicle, or taking a motor vehicle without permission 1. A juvenile adjudicated for unlawful possession of a firearm, possession of a stolen firearm, theft of a firearm, or drive-by shooting may participate in aggression replacement training, functional family therapy, or functional family parole aftercare if the juvenile meets eligibility requirements for these services. The decision to place an offender in an evidence-based parole program shall be based on an assessment by the department of the offender's risk for reoffending upon release and an assessment of the ongoing treatment needs of the juvenile. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon, and refrain from committing new offenses or violating any orders issued by the juvenile court pursuant to chapter 7.105 RCW, and may require the juvenile to: (i) Undergo available medical, psychiatric, drug and alcohol, sex offender, mental health, and other offense-related treatment services; (ii) report as directed to a parole officer and/or designee; (iii) pursue a course of study, vocational training, or employment; (iv) notify the parole officer of the current address where he or she resides; (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries; (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals; (x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; (xi) pay any court-ordered fines or restitution; and (xii) perform community restitution. Community restitution for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community restitution may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program. Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the community case manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a)(v) and (vi) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; (v) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; and (vi) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the youth has completed the basic training camp program as described in RCW 13.40.320.

(b) The secretary may modify parole and order any of the conditions or may return the offender to confinement for up to twenty-four weeks if the offender was sentenced for a sex offense as defined under RCW 9A.44.128 and is known to have violated the terms of parole. Confinement beyond thirty days is intended to only be used for a small and limited number of sex offenders. It shall only be used when other graduated sanctions or interventions have not been effective or the behavior is so egregious it warrants the use of the higher level

intervention and the violation: (i) Is a known pattern of behavior consistent with a previous sex offense that puts the youth at high risk for reoffending sexually; (ii) consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to a recent overt act. The total number of days of confinement for violations of parole conditions during the parole period shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying offense pursuant to RCW 13.40.0357. The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation. The department is authorized to engage in rule making pursuant to chapter 34.05 RCW, to implement this subsection, including narrowly defining the behaviors that could lead to this higher level intervention.

(c) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of children, youth, and families shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

Sec. 6. RCW 13.40.230 and 1997 c 338 s 35 are each amended to read as follows:

(1) Dispositions reviewed pursuant to RCW 13.40.160 shall be reviewed in the appropriate division of the court of appeals.

An appeal under this section shall be heard solely upon the record that was before the disposition court. No written briefs may be required, and the appeal shall be heard within thirty days following the date of sentencing and a decision rendered within fifteen days following the argument. The supreme court shall promulgate any necessary rules to effectuate the purposes of this section.

(2) To uphold a disposition outside the standard range, the court of appeals must find: (a) ((~~that~~))That the reasons supplied by the disposition judge are supported by the record which was before the judge and that those reasons clearly and convincingly support the conclusion that a disposition within the range would constitute a manifest injustice((~~,~~)); and (b) that the sentence imposed was neither clearly excessive nor clearly too lenient.

(3) If the court does not find subsection (2)(a) of this section it shall remand the case for disposition within the standard range.

(4) If the court finds subsection (2)(a) of this section but not subsection (2)(b) of this section it shall remand the case with instructions for further proceedings consistent with the provisions of this chapter.

(5) To uphold a finding under RCW 13.40.160(1)(c), the court of appeals must find: (a) That the reasons supplied by the disposition judge are supported by the record which was before the judge; and (b) that those reasons support the conclusion, by the preponderance of the evidence, that commitment to the department is needed because a community-based placement would not adequately protect the community.

(6) The disposition court may impose conditions on release pending appeal as provided in RCW 13.40.040((~~(4)~~))(5) and 13.40.050(6).

((~~(6)~~))(7) Appeal of a disposition under this section does not affect the finality or appeal of the underlying adjudication of guilt.

Sec. 7. RCW 72.01.412 and 2023 c 470 s 3018 are each amended to read as follows:

(1) A person in the custody of the department of children, youth, and families under RCW 72.01.410 is eligible for community transition services under the authority and supervision of the department of children, youth, and families:

(a) After the person's 25th birthday:

(i) If the person's earned release date is after the person's 25th birthday but on or before the person's 26th birthday; and

(ii) The department of children, youth, and families determines that placement in community transition services is in the best interests of the person and the community; or

(b) After 60 percent of their term of confinement has been served, and no less than 15 weeks of total confinement served including time spent in detention prior to sentencing or the entry of a dispositional order if:

(i) The person has an earned release date that is before their 26th birthday; and

(ii) The department of children, youth, and families determines that such placement and retention by the department of children, youth, and families is in the best interests of the person and the community.

(2) "Term of confinement" as used in subsection (1)(b) of this section means the term of confinement ordered, reduced by the total amount of earned time eligible for the offense.

(3) The department's determination under subsection (1)(a)(ii) and (b)(ii) of this section must include consideration of the person's behavior while in confinement and any disciplinary considerations.

(4) The department of children, youth, and families retains the authority to transfer the person to the custody of the department of corrections under RCW 72.01.410.

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(5) A person may only be placed in community transition services under this section for the remaining 18 months of their term of confinement.

(6) A person placed in community transition services under this section must have access to appropriate treatment and programming as determined by the department of children, youth, and families, including but not limited to:

(a) Behavioral health treatment;

(b) Independent living;

(c) Employment;

(d) Education;

(e) Connections to family and natural supports; and

(f) Community connections.

(7) If the person has a sentence that includes a term of community custody, this term of community custody must begin after the current term of confinement has ended.

(8) If a person placed on community transition services under this section commits a violation requiring the return of the person to total confinement after the person's 25th birthday, the person must be transferred to the custody and supervision of the department of corrections for the remainder of the sentence.

(9) The following persons are not eligible for community transition services under this section:

(a) Persons with pending charges or warrants, except those who are charged with an offense that allegedly occurred at a juvenile rehabilitation institution;

(b) Persons who will be transferred to the department of corrections, who are in the custody of the department of corrections, or who are under the supervision of the department of corrections;

(c) Persons who were adjudicated or convicted of the crime of murder in the first or second degree;

(d) Persons who meet the definition of a "persistent offender" as defined under RCW 9.94A.030;

(e) Level III sex offenders; and

(f) Persons requiring out-of-state placement.

(10) As used in this section, "community transition services" means a therapeutic and supportive community-based custody option in which:

(a) A person serves a portion of his or her term of confinement residing in the community, outside of the department of children, youth, and families institutions and community facilities;

(b) The department of children, youth, and families supervises the person in part through the use of technology that is capable of determining or identifying the monitored person's presence or absence at a particular location;

(c) The department of children, youth, and families provides access to developmentally appropriate, trauma-informed, racial equity-based, and culturally relevant programs to promote successful reentry; and

(d) The department of children, youth, and families prioritizes the delivery of available programming from individuals who share characteristics with the individual being served related to: Race; ethnicity; sexual identity; and gender identity.

Sec. 8. RCW 13.40.205 and 2021 c 206 s 4 are each amended to read as follows:

(1) A juvenile sentenced to a term of confinement to be served under the supervision of the department shall not be released from the physical custody of the department prior to the release date established under RCW 13.40.210 except as otherwise provided in this section.

(2) A juvenile serving a term of confinement under the supervision of the department may be released on authorized leave from the physical custody of the department only if consistent with public safety and if:

(a) Sixty percent of the minimum term of confinement has been served; and

(b) The purpose of the leave is to enable the juvenile:

(i) To visit the juvenile's family for the purpose of strengthening or preserving family relationships;

(ii) To make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community; or

(iii) To make plans for a residential placement out of the juvenile's home which requires the juvenile's personal appearance in the community.

(3) No authorized leave may exceed seven consecutive days. The total of all preminimum term authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty days.

(4) Prior to authorizing a leave, the secretary shall require a written leave plan, which shall detail the purpose of the leave and how it is to be achieved, the address at which the juvenile shall reside, the identity of the person responsible for supervising the juvenile during the leave, and a statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify the secretary immediately if the juvenile violates any terms or conditions of the leave. The leave plan shall include such terms and conditions as the secretary deems appropriate and shall be signed by the juvenile.

(5) Upon authorizing a leave, the secretary shall issue to the juvenile an authorized leave order which shall contain the name of the juvenile, the fact that the juvenile is on leave from a designated facility, the time period of the leave, and the identity of an

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appropriate official of the department to contact when necessary. The authorized leave order shall be carried by the juvenile at all times while on leave.

(6) Prior to the commencement of any authorized leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will reside during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave.

(7) The secretary may authorize a leave, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the period of time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. In cases of emergency or medical leave the secretary may waive all or any portions of subsections (2)(a), (3), (4), (5), and (6) of this section.

(8) If requested by the juvenile's victim or the victim's immediate family, the secretary shall give notice of any leave or community transition services under subsection (13) of this section to the victim or the victim's immediate family.

(9) A juvenile who violates any condition of an authorized leave plan or community transition services under subsection (13) of this section may be taken into custody and returned to the department in the same manner as an adult in identical circumstances.

(10) Community transition services is an electronic monitoring program as that term is used in RCW 9A.76.130.

(11) Notwithstanding the provisions of this section, a juvenile placed in minimum security status or in community transition services under subsection (13) of this section may participate in work, educational, community restitution, or treatment programs in the community up to twelve hours a day if approved by the secretary. Such a release shall not be deemed a leave of absence. This authorization may be increased to more than twelve hours a day up to sixteen hours a day if approved by the secretary and operated within the department's appropriations.

(12) Subsections (6), (7), and (8) of this section do not apply to juveniles covered by RCW 13.40.215.

(13)(a) The department may require a person in its custody to serve the remainder of the person's sentence in community transition services if the department determines that such placement is in the best interest of the person and the community using the risk assessment tool and considering the availability of appropriate placements, treatment, and programming. The department's determination described under this subsection must include consideration of the person's behavior while in confinement and any disciplinary considerations. The department shall establish appropriate conditions the person must comply with to remain in community transition services. A person must have served 60 percent of their minimum term of confinement and no less than 15 weeks of total confinement including time spent in detention prior to sentencing or the entry of a dispositional order before becoming eligible for community transition services under the authority and supervision of the department.

(b) A person placed in community transition services under this section must have access to appropriate treatment and programming as determined by the department, including but not limited to:

(i) Behavioral health treatment;

(ii) Independent living;

(iii) Employment;

(iv) Education;

(v) Connections to family and natural supports; and

(vi) Community connections.

(c) Community transition services under this section is in lieu of confinement in an institution or community facility operated by the department, and will not fulfill any period of parole required under RCW 13.40.210.

(d) If a person placed in community transition services under this section violates a condition of participation in the community transition services program, or if the department determines that placement in the program is no longer in the best interests of the person or community, the person may be returned to an institution operated by the department at the department's discretion.

(e) The following persons are not eligible for community transition services under this section:

(i) Persons with pending charges or warrants, except those that are charged with an offense that allegedly occurred at a juvenile rehabilitation institution;

(ii) Persons who will be transferred to the department of corrections, who are in the custody of the department of corrections, or who are under the supervision of the department of corrections;

(iii) Persons who were adjudicated or convicted of the crime of murder in the first or second degree;

(iv) Persons who meet the definition of a "persistent offender" as defined under RCW 9.94A.030;

(v) Level III sex offenders; and

(vi) Persons requiring out-of-state placement.

(14) The department shall design, or contract for the design, and implement a risk assessment tool. The tool must be designed to limit bias related to race, ethnicity, gender, and age. The risk assessment tool must be certified at least every three years based on current academic standards for assessment validation, and can be certified by the office of innovation, alignment, and accountability or an outside researcher.

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NEW SECTION. **Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 8, 2025

ESSB 5303 Prime Sponsor, Agriculture & Natural Resources: Extending the water supply milestone for the Yakima river basin integrated plan to 2035. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass as amended by Committee on Agriculture & Natural Resources. Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Barnard; Dye; Eslick; Fosse; Leavitt; Morgan; Rule; Salahuddin; Walsh; Waters and Zahn.

Referred to Committee on Rules for second reading

April 3, 2025

ESSB 5357 Prime Sponsor, Ways & Means: Concerning actuarial funding of pension systems. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.45.010 and 2009 c 561 s 1 are each amended to read as follows:

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and firefighters' retirement systems, chapter 41.26 RCW; the school employees' retirement system, chapter 41.35 RCW; the public safety employees' retirement system, chapter 41.37 RCW; and the Washington state patrol retirement system, chapter 43.43 RCW.

The funding process established by this chapter is intended to achieve the following goals:

(1) To fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the law enforcement officers' and firefighters' retirement system plan 2 as provided by law;

(2) To fully amortize the total costs of the law enforcement officers' and firefighters' retirement system plan 1, not later than June 30, 2024;

(3) To fully amortize the unfunded actuarial accrued liability in the public employees' retirement system plan 1 and the teachers' retirement system plan 1 within a rolling ten-year period, using methods and assumptions that balance needs for increased benefit security, decreased contribution rate volatility, and affordability of pension contribution rates;

(4) To amortize the costs of benefit improvements in the public employees' retirement system plan 1 and the teachers' retirement system plan 1 over a fixed 15-year period;

(5) To establish long-term employer contribution rates which will remain a relatively predictable proportion of the future state budgets; and

((~~(5)~~))(6) To fund, to the extent feasible, all benefits for plan 2 and 3 members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

Sec. 2. RCW 41.45.035 and 2016 sp.s. c 36 s 922 are each amended to read as follows:

(1) Beginning July 1, ((~~2001~~))2025, the following long-term economic assumptions shall be used by the state actuary for the purposes of RCW 41.45.030 and 44.44.040(4):

(a) The growth in inflation assumption shall be ((~~3.5~~))2.75 percent;

(b) The growth in salaries assumption, exclusive of merit or longevity increases, shall be ((~~4.5~~))3.25 percent;

(c) The investment rate of return assumption shall be ((~~8~~))7.25 percent; and

(d) The growth in system membership assumption shall be ((~~1.25~~))1.00 percent for the public employees' retirement system, the public safety employees' retirement system, the school employees' retirement system, the teachers' retirement system, and the law enforcement officers' and firefighters' retirement system. ((~~The assumption shall be .90 percent for the teachers' retirement system; and~~

~~(c) From July 1, 2016, until July 1, 2017, the growth in system membership for the teachers' retirement system shall be 1.25 percent. It is the intent of the legislature to continue this growth rate assumption in the 2017-2019 fiscal biennium.~~))

(2) Beginning July 1, 2009, the growth in salaries assumption for the public employees' retirement system, the public safety employees' retirement system, the teachers' retirement system, the school employees' retirement system, plan 1 of the law enforcement officers' and firefighters' retirement system, and the Washington state patrol retirement system, exclusive of merit or longevity increases, shall be the sum of:

(a) The growth in inflation assumption in subsection (1)(a) of this section; and

(b) The productivity growth assumption of 0.5 percent.

(3) ((~~The following investment rate of return assumptions for the public employees' retirement system, the public safety employees' retirement system, the teachers' retirement system, the school employees' retirement system, plan 1 of the law enforcement officers' and firefighters' retirement system, and the Washington state patrol retirement system, shall be used by the state actuary for the purposes of RCW 41.45.030:~~

~~(a) Beginning July 1, 2013, the investment rate of return assumption shall be 7.9 percent.~~

~~(b) Beginning July 1, 2015, the investment rate of return assumption shall be 7.8 percent.~~

~~(c) Beginning July 1, 2017, the investment rate of return assumption shall be 7.7 percent.~~

~~(d)~~)) For valuation purposes, the state actuary shall only use the assumptions in ((~~(a) through (c) of this~~)) subsection (1) of this section after the effective date in ((~~(a) through (c) of this~~)) subsection (1) of this section.

((~~(c) By June 1, 2017, the state actuary shall submit to the council information regarding the experience and financial condition of each state retirement system, and make recommendations regarding the long-term investment rate of return assumptions set forth in this subsection. The council shall review this and such other information as it may require.~~))

(4)(a) Beginning with actuarial studies done after July 1, 2003, changes to plan asset values that vary from the long-term investment rate of return assumption shall be recognized in the actuarial value of assets over a period that varies up to eight years depending on the magnitude of the deviation of each year's investment rate of return relative to the long-term rate of return assumption. Beginning with actuarial studies performed after July 1, 2004, the actuarial value of assets shall not be greater than one hundred thirty percent of the market value of assets as of the valuation date or less than seventy percent of the market value of assets as of the valuation date. Beginning April 1, 2004, the council, by affirmative vote of four councilmembers, may adopt changes to this asset value smoothing technique. Any changes adopted by the council shall be subject to revision by the legislature.

(b) The state actuary shall periodically review the appropriateness of the asset smoothing method in this section and recommend changes to the council as necessary. Any changes adopted by the council shall be subject to revision by the legislature.

Sec. 3. RCW 41.45.060 and 2020 c 103 s 4 are each amended to read as follows:

(1) The state actuary shall provide preliminary actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035.

(2) Not later than July 31, 2008, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and firefighters' retirement system plan 1;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system; and

(c) Basic employer contribution rates for the school employees' retirement system and the public safety employees' retirement system for funding both those systems and the public employees' retirement system plan 1.

The council may adopt annual rate changes for any plan for any rate-setting period. The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the law enforcement officers' and firefighters' retirement system plan 1 not later than June 30, 2024;

(b) To fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the school employees' retirement system plans 2 and 3 in accordance with RCW 41.45.061, 41.45.067, and this section; and

(c) To fully fund the public employees' retirement system plan 1 and the teachers' retirement system plan 1 in accordance with RCW 41.45.070, 41.45.150, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 normal cost, a Washington state patrol retirement system normal cost, and a public safety employees' retirement system normal cost.

(5) A modified entry age normal cost method, as set forth in this chapter, shall be used to calculate employer contributions to the public employees' retirement system plan 1 and the teachers' retirement system plan 1.

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(6) The employer contribution rate for the public employees' retirement system and the school employees' retirement system shall equal the sum of:

(a) The amount required to pay the combined plan 2 and plan 3 normal cost for the system, subject to any minimum rates applied pursuant to RCW 41.45.155; plus

(b) The amount required to amortize the unfunded actuarial accrued liability in plan 1 of the public employees' retirement system over a rolling ten-year period using projected future salary growth and growth in system membership, and subject to any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(c) ((~~The~~))Except as described in (d) of this subsection, the amounts required to amortize the costs of any benefit improvements in plan 1 of the public employees' retirement system that become effective after June 30, 2009. The cost of each benefit improvement shall be amortized over a fixed ((~~ten-year~~))15-year period using projected future salary growth and growth in system membership. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(d) The amounts required to fully amortize the remaining costs of benefit improvements in the public employees' retirement system plan 1 effective from July 1, 2018, through June 30, 2025, over a fixed 15-year period based on the following schedule, 0.16 percent between July 1, 2025, and June 30, 2029, and 0.31 percent from July 1, 2029, onwards. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150.

(7) The employer contribution rate for the public safety employees' retirement system shall equal the sum of:

(a) The amount required to pay the normal cost for the system, subject to any minimum rates applied pursuant to RCW 41.45.155; plus

(b) The amount required to amortize the unfunded actuarial accrued liability in plan 1 of the public employees' retirement system over a rolling ten-year period using projected future salary growth and growth in system membership, and subject to any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(c) ((~~The~~))Except as described in (d) of this subsection, the amounts required to amortize the costs of any benefit improvements in plan 1 of the public employees' retirement system that become effective after June 30, 2009. The cost of each benefit improvement shall be amortized over a fixed ((~~ten-year~~))15-year period using projected future salary growth and growth in system membership. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(d) The amounts required to fully amortize the remaining costs of benefit improvements in the public employees' retirement system plan 1 effective from July 1, 2018, through June 30, 2025, over a fixed 15-year period based on the following schedule, 0.16 percent between July 1, 2025, and June 30, 2029, and 0.31 percent from July 1, 2029, onwards. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150.

(8) The employer contribution rate for the teachers' retirement system shall equal the sum of:

(a) The amount required to pay the combined plan 2 and plan 3 normal cost for the system, subject to any minimum rates applied pursuant to RCW 41.45.155; plus

(b) The amount required to amortize the unfunded actuarial accrued liability in plan 1 of the teachers' retirement system over a rolling ten-year period using projected future salary growth and growth in system membership, and subject to any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(c) ((~~The~~))Except as described in (d) of this subsection, the amounts required to amortize the costs of any benefit improvements in plan 1 of the teachers' retirement system that become effective after June 30, 2009. The cost of each benefit improvement shall be amortized over a fixed ((~~ten-year~~))15-year period using projected future salary growth and growth in system membership. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(d) The amounts required to fully amortize the remaining costs of benefit improvements in the teachers' retirement system plan 1 effective from July 1, 2018, through June 30, 2025, over a fixed 15-year period based on the following schedule, 0.31 percent between September 1, 2025, and August 31, 2029, and 0.61 percent from September 1, 2029, onwards. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150.

(9) The employer contribution rate for each of the institutions of higher education for the higher education supplemental retirement benefits must be sufficient to fund, as a level percentage of pay, a portion of the projected cost of the supplemental retirement benefits for the institution beginning in 2035, with the other portion supported on a pay-as-you-go basis, either as direct payments by each institution to retirees, or as contributions to the higher education retirement plan supplemental benefit fund. Contributions must continue until the council determines that the institution for higher education supplemental retirement benefit liabilities are satisfied.

(10) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

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(11) The director shall collect those rates adopted by the council. The rates established in RCW 41.45.062, or by the council, shall be subject to revision by the legislature.

(12) The state actuary shall prepare final actuarial valuation results based on the economic assumptions, asset value smoothing technique, and contribution rates included in or adopted under RCW 41.45.030, 41.45.035, and this section.

Sec. 4. RCW 41.45.070 and 2009 c 561 s 4 are each amended to read as follows:

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or 41.45.054, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, public safety employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsections (6), (7), and (9) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic member, employer, and state contribution rate established in RCW 41.45.0604 for the law enforcement officers' and firefighters' retirement system plan 2, the department shall also establish supplemental rates to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and firefighters' retirement system plan 2. Except as provided in subsection (6) of this section, these supplemental rates shall be calculated by the actuary retained by the law enforcement officers' and firefighters' board and the state actuary through the process provided in RCW 41.26.720(1)(a) and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) ((~~Beginning July 1, 2009, the~~))The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of all system pay needed to fund the cost of the benefit over a fixed ((~~ten-year~~))15-year period, using projected future salary growth and growth in system membership. The supplemental rate to fund benefit increases provided to active members of the public employees' retirement system plan 1 shall be charged to all system employers in the public employees' retirement system, the school employees' retirement system, and the public safety employees' retirement system. The supplemental rate to fund benefit increases provided to active members of the teachers' retirement system plan 1 shall be charged to all system employers in the teachers' retirement system.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan 2 and plan 3, the teachers' retirement system plan 2 and plan 3, the public safety employees' retirement system plan 2, the school employees' retirement system plan 2 and plan 3, or the Washington state patrol retirement system shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.45.060, 41.45.061, 41.45.0631, or 41.45.067.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. ((~~Beginning July 1, 2009, the~~))The supplemental rate charged under this section to fund increases in the automatic postretirement adjustments for active or retired members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments over a fixed ((~~ten-year~~))15-year period, using projected future salary growth and growth in system membership. The supplemental rate to fund increases in the automatic postretirement adjustments for active members or retired members of the public employees' retirement system plan 1 shall be charged to all system employers in the public employees' retirement system, the school employees' retirement system, and the public safety employees' retirement system. The supplemental rate to fund increases in automatic postretirement adjustments for active members or retired members of the teachers' retirement system plan 1 shall be charged to all system employers in the teachers' retirement system.

(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 340, Laws of 1998.

(7) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.31A RCW; section 309, chapter 341, Laws of 1998; or section 701, chapter 341, Laws of 1998.

(8) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members and survivors pursuant to chapter 94, Laws of 2006.

(9) A supplemental rate shall not be charged to pay for the cost of the additional benefits granted to members of the teachers' retirement system and the school employees' retirement system plans 2 and 3 in sections 2, 4, 6, and 8, chapter 491, Laws of 2007 until September 1, 2008. A supplemental rate shall not be charged to pay for the cost of the additional benefits granted to members of the public employees' retirement system plans 2 and 3 under sections 9 and 10, chapter 491, Laws of 2007 until July 1, 2008.

NEW SECTION. **Sec. 5.** A new section is added to chapter 41.45 RCW to read as follows, but because of its temporary nature is not codified:

The legislature hereby revises the contribution rates adopted by the council at its July 17, 2024, meeting to reflect the funding policy changes in this act, while completing the council's phase-in of the impact of the 2021 changes in actuarial assumptions on the long-term rate of return:

(1)(a) Beginning July 1, 2025, and ending June 30, 2026, the required total employer contribution rate for the public employees' retirement system shall be 7.04 percent.

(b) Beginning July 1, 2026, and ending June 30, 2027, the required total employer contribution rate for the public employees' retirement system shall be 6.04 percent.

(c) Of the total rate for each fiscal year, 0.16 percent reflects reamortizing the costs of benefit improvements in plan 1 of the public employees' retirement system as provided in RCW 41.45.060(6)(d).

(2)(a) Beginning July 1, 2025, and ending June 30, 2026, the required total employer contribution rate for the public safety employees' retirement system shall be 8.57 percent.

(b) Beginning July 1, 2026, and ending June 30, 2027, the required total employer contribution rate for the public safety employees' retirement system shall be 7.57 percent.

(c) Of the total rate for each fiscal year, 0.16 percent reflects reamortizing the costs of benefit improvements in plan 1 of the public employees' retirement system as provided in RCW 41.45.060(7)(d).

(3)(a) Beginning September 1, 2025, and ending August 31, 2027, the required total employer contribution rate for the teachers' retirement system shall be 7.85 percent.

(b) Of the total rate for each school year, 0.31 percent reflects reamortizing the unfunded actuarial accrued liability in plan 1 of the teachers' retirement system as provided in RCW 41.45.060(8)(d).

(4)(a) Beginning September 1, 2025, and ending August 31, 2026, the required total employer contribution rate for the school employees' retirement system shall be 8.53 percent.

(b) Beginning September 1, 2026, and ending August 31, 2027, the required total employer contribution rate for the school employees' retirement system shall be 7.53 percent.

(c) Of the total rate for each school year, 0.16 percent reflects reamortizing the costs of benefit improvements in plan 1 of the public employees' retirement system as provided in RCW 41.45.060(6)(d).

(5) Beginning July 1, 2025, and ending June 30, 2027, the required total employer contribution rate for the Washington state patrol retirement system shall be 15.85 percent.

(6) Beginning July 1, 2025, and ending June 30, 2027, the required member contribution rate for the public employees' retirement system plan 2 shall be 5.38 percent.

(7) Beginning July 1, 2025, and ending June 30, 2027, the required member contribution rate for the public safety employees' retirement system plan 2 shall be 6.91 percent.

(8) Beginning September 1, 2025, and ending August 31, 2027, the required member contribution rate for the teachers' retirement system plan 2 shall be 7.54 percent.

(9) Beginning September 1, 2025, and ending August 31, 2027, the required member contribution rate for the school employees' retirement system plan 2 shall be 6.87 percent.

(10) Beginning July 1, 2025, and ending June 30, 2027, the required member contribution rate for the Washington state patrol retirement system shall be 8.75 percent.

NEW SECTION. **Sec. 6.** 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 July 1, 2025."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2025

2SSB 5358 Prime Sponsor, Ways & Means: Concerning career and technical education in sixth grade. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

SSB 5388 Prime Sponsor, Ways & Means: Concerning department of corrections behavioral health certification. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

draft

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that in 2020, the governor signed Second Substitute Senate Bill No. 6211 into law, which made various changes to the drug offender sentencing alternative statutes. As part of that legislation, revisions were made to RCW 9.94A.662 to state that substance use disorder treatment services provided in prisons be licensed by the department of health.

As a result, under RCW 71.24.037, the department of health is also required to license mental health services provided in prisons.

The legislature finds that prior to the passing of Second Substitute Senate Bill No. 6211 in 2020, the department of social and health services created the department of corrections substance use disorder treatment services in collaboration with the department of corrections.

It is the intent of the legislature to require the department of health to monitor the provision of behavioral health services to individuals in correctional facilities based on standards jointly established by the department of health and the department of corrections. Monitoring shall be done in lieu of licensure by the department of health.

Sec. 2. RCW 9.94A.662 and 2021 c 215 s 103 are each amended to read as follows:

(1) The court may only order a prison-based special drug offender sentencing alternative if the high end of the standard sentence range for the current offense is greater than one year.

(2) A sentence for a prison-based special drug offender sentencing alternative shall include:

(a) A period of total confinement in a state facility for one-half the midpoint of the standard sentence range or ((~~twelve~~))12 months, whichever is greater;

(b) One-half the midpoint of the standard sentence range as a term of community custody, which must include appropriate substance use disorder treatment in a program that has been approved by the department of health, and for co-occurring drug and domestic violence cases, must also include an appropriate domestic violence treatment program by a state-certified domestic violence treatment provider pursuant to RCW 43.20A.735;

(c) Crime-related prohibitions, including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.701 to be imposed upon the failure to complete or administrative termination from the special drug offender sentencing alternative program.

(3)(a) During incarceration in the state facility, ((~~offenders~~))individuals sentenced under this section shall undergo a comprehensive substance use disorder assessment and receive, within available resources, treatment services appropriate for the ((~~offender~~))individual. The substance use disorder treatment services shall be ((~~licensed by the department of health~~))provided by individuals licensed by the state of Washington.

(b) When applicable for cases involving domestic violence, domestic violence treatment must be provided by a state-certified domestic violence treatment provider pursuant to RCW 43.20A.735 during the term of community custody.

(4) If the department finds that conditions of community custody have been willfully violated, the ((~~offender~~))individual may be reclassified to serve the remaining balance of the original sentence. An ((~~offender~~))individual who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court.

(5) If an ((~~offender~~))individual sentenced to the prison-based alternative under this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the ((~~offender~~))individual, and, if the department finds that the ((~~offender~~))individual is subject to a valid deportation order, the department may administratively terminate the ((~~offender~~))individual from the program and reclassify the ((~~offender~~))individual to serve the remaining balance of the original sentence.

NEW SECTION. **Sec. 3.** A new section is added to chapter 72.09 RCW to read as follows:

(1) By July 1, 2026, the department and the department of health shall jointly establish and adopt standards for the provision of behavioral health services to individuals in correctional facilities.

(2) Beginning July 1, 2027, the department shall fully implement the standards adopted under this section when providing behavioral health services to individuals in correctional facilities.

(3) Beginning July 1, 2027, the department of health shall conduct annual inspections to determine compliance by the department with the standards adopted under this section. The department of health shall issue a report documenting any instances of noncompliance to the department. The department shall submit a corrective plan of action to the department of health within 45 days of the presentation of the report for feedback from the department of health on how the department proposes to resolve the noncompliance. The department of health may provide technical assistance to the department with complying with the standards adopted under this section.

Draft

(4) By July 1, 2027, the department and the department of health shall enter into an agreement, to be renewed biennially, that shall include, but not be limited to, the following provisions:

(a) The process for the department of health to conduct the annual inspections required under this section; and

(b) Reimbursement to the department of health by the department for costs related to providing technical assistance and conducting the annual inspections required under this section.

(5) By July 20, 2030, and every four years thereafter, the department and the department of health shall jointly review and update the standards adopted under this section as necessary.

(6) The department shall reimburse the department of health for costs related to providing technical assistance and conducting the annual inspections required under this section.

(7) For purposes of this section, "behavioral health services" has the same meaning as provided in RCW 71.24.025.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Corry; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representative Manjarrez.

Referred to Committee on Rules for second reading

April 5, 2025

SB 5420 Prime Sponsor, Senator Lovick: Ensuring access to state benefits and opportunities for veterans, uniformed service members, and military spouses. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Technology, Economic Development, & Veterans. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

ESSB 5484 Prime Sponsor, Transportation: Concerning payments to tow truck operators for the release of vehicles to indigent persons. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Bronoske; Dent; Duerr; Entenman; Griffey; Hunt; Klicker; Ley; Nance; Orcutt; Paul; Ramel; Richards; Stuebe; Taylor; Timmons; Volz; Wylie and Zahn.

Referred to Committee on Rules for second reading

April 5, 2025

ESSB 5509 Prime Sponsor, Local Government: Concerning the siting of child care centers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5545 Prime Sponsor, Early Learning & K-12 Education: Modifying provisions regarding family home providers overseen and certified by a federal military service. Reported by Committee on Appropriations

draft

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 5, 2025

ESB 5559 Prime Sponsor, Senator Lovelett: Streamlining the subdivision process inside urban growth areas. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Local Government.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 58.17.020 and 2002 c 262 s 1 are each amended to read as follows:

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(1) "Subdivision" is the division or redivision of land into five or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in subsection (6) of this section.

(2) "Plat" is a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.

(3) "Dedication" is the deliberate appropriation of land by an owner for any general and public uses, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of such plat for filing by the appropriate governmental unit.

A dedication of an area of less than two acres for use as a public park may include a designation of a name for the park, in honor of a deceased individual of good character.

(4) "Preliminary plat" is a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

(5) "Final plat" is the final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in this chapter and in local regulations adopted under this chapter.

(6) "Short subdivision" is the division or redivision of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. However, the legislative authority of any city or town may by local ordinance increase the number of lots, tracts, or parcels to be regulated as short subdivisions to a maximum of nine. The legislative authority of any county planning under RCW 36.70A.040 that has adopted a comprehensive plan and development regulations in compliance with chapter 36.70A RCW may by ordinance increase the number of lots, tracts, or parcels to be regulated as short subdivisions to a maximum of nine in any urban growth area.

(7) "Binding site plan" means a drawing to a scale specified by local ordinance which: (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations; (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan; and (c) contains provisions making any development be in conformity with the site plan.

(8) "Short plat" is the map or representation of a short subdivision.

(9) "Lot" is a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

(10) "Block" is a group of lots, tracts, or parcels within well defined and fixed boundaries.

(11) "County treasurer" shall be as defined in chapter 36.29 RCW or the office or person assigned such duties under a county charter.

(12) "County auditor" shall be as defined in chapter 36.22 RCW or the office or person assigned such duties under a county charter.

(13) "County road engineer" shall be as defined in chapter 36.40 RCW or the office or person assigned such duties under a county charter.

(14) "Planning commission" means that body as defined in chapter 36.70, 35.63, or 35A.63 RCW as designated by the legislative body to perform a planning function or that body assigned such duties and responsibilities under a city or county charter.

(15) "County commissioner" shall be as defined in chapter 36.32 RCW or the body assigned such duties under a county charter.

Draft

(16) "Parent lot" means a residential lot that is subdivided into unit lots through the unit lot subdivision process.

(17) "Unit lot" means a subdivided lot within a residential development as created from a parent lot and approved through the unit lot subdivision process.

(18) "Unit lot subdivision" means a subdivision or short subdivision proposed as part of a residential development project that meets the development standards applicable to the parent lot at the time the application is vested, but which may result in development on one or more individual unit lots becoming nonconforming as to specified land use and development standards based on the analysis of the individual unit lot. By June 30, 2026, all unit lot subdivisions shall require notification to purchasers of their legal status as further described in RCW 58.17.060.

(19) "Clear and objective design and development standards" means locally adopted development regulations that involve no personal or subjective judgment by a public official, and are ascertainable by reference to measurable written or graphic criteria available and knowable to the permit applicant, the public, and public officials prior to submittal.

Sec. 2. RCW 58.17.060 and 2023 c 337 s 11 are each amended to read as follows:

(1) The legislative body of a city, town, or county shall adopt regulations and procedures, and appoint administrative personnel for the summary approval of short plats and short subdivisions or alteration or vacation thereof. When an alteration or vacation involves a public dedication, the alteration or vacation shall be processed as provided in RCW 58.17.212 or 58.17.215. Such regulations shall be adopted by ordinance and shall provide that a short plat and short subdivision may be approved only if written findings that are appropriate, as provided in RCW 58.17.110, are made by the administrative personnel, and may contain wholly different requirements than those governing the approval of preliminary and final plats of subdivisions and may require surveys and monumentations and shall require filing of a short plat, or alteration or vacation thereof, for record in the office of the county auditor: PROVIDED, That such regulations must contain a requirement that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains fewer than four parcels, nothing in this section shall prevent the owner who filed the short plat from filing an alteration within the five-year period to create up to a total of four lots within the original short plat boundaries: PROVIDED FURTHER, That such regulations are not required to contain a penalty clause as provided in RCW 36.32.120 and may provide for wholly injunctive relief.

An ordinance requiring a survey shall require that the survey be completed and filed with the application for approval of the short subdivision.

(2) Cities, towns, and counties shall include in their short plat regulations and procedures pursuant to subsection (1) of this section provisions for considering sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

(3) All cities((~~,~~))and towns((~~, and counties shall include in their short plat regulations~~))located in a county planning under RCW 36.70A.040 shall adopt or enact procedures for unit lot subdivisions ((~~allowing division of a parent lot into separately owned unit lots~~)). Portions of the parent lot not subdivided for individual unit lots shall be owned in common by the owners of the individual unit lots, or by a homeowners' association comprised of the owners of the individual unit lots.

(a) These procedures shall include, at a minimum, the requirement that prominent informational notes be placed on the unit lot subdivision's plat, and recorded in the county or counties in which such land is located, to acknowledge each of the following:

(i) Approval of the design and layout of the unit lot's housing development project was granted based on detailed review of that specified project, as a whole, on the parent lot, including specific reference to the applicable permit or file number for that specified project;

(ii) Subsequent subdivision actions, additions, or modifications to the unit lot housing development project's structures may not create or increase any nonconformity of the parent lot as a whole, and shall conform to the approved unit lot housing development project or to the land use and development standards in effect at the time of the proposed actions, additions, or modifications;

(iii) If a structure or portion of a structure within the unit lot housing development project has been damaged or destroyed, any repair, reconstruction, or replacement of any structure shall conform to the approved unit lot housing development project or to the land use and development standards in effect at the time the proposed repair, reconstruction, or replacement project's permit application becomes vested; and

(iv) Additional development or redevelopment of the individual unit lots may be limited as a result of the application of development standards to the parent lot.

(b) These procedures shall also:

(i) Not require any public predecision meeting or hearing, nor any design review other than administrative design review, except for those required to comply with state law, including chapter 90.58 RCW. A city must ensure that the community and property owners within 250 feet of the unit lot to be subdivided are provided notice consistent with RCW 36.70B.110 of how to provide written comments to the administrative decision maker, including through notice posted on the closest public sidewalk or roadway;

(ii) Apply only clear and objective design and development standards;

(iii) Be logically integrated with the application, review, and approval procedures that apply to the underlying unit lot housing development project to the greatest extent feasible; and

(iv) Be specifically subject to the maximum time period for local government actions as set forth in RCW 36.70B.080, unless extended pursuant to project-specific mutual agreement as permitted by RCW 36.70B.080.

(c) After the deadlines in (e) of this subsection, no city or town subject to this section may decline to accept, process, or approve an application for a unit lot subdivision, consistent with the procedural requirements of (a) and (b) of this subsection, solely because that city or town has not completed adoption or enactment of the procedures required under this section.

(d) Nothing in this section:

(i) Prohibits a city or county from applying public health, safety, building code, and environmental permitting requirements to a development project that is subject to or integrated with a unit lot subdivision process;

(ii) Requires a city or county to authorize a development project or a unit lot subdivision in a location where development is restricted under other laws, rules, or ordinances, such as in locations where development is limited as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property.

(e) Cities and towns that are required to submit their next comprehensive plan update in 2027 pursuant to RCW 36.70A.130 must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls, the requirements of this section in their next comprehensive plan update. All other cities and towns must implement the requirements of this section within two years of the effective date of this section.

(f) Nothing in this subsection alters the vesting requirements set forth in RCW 58.17.033."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

ESSB 5576 Prime Sponsor, Ways & Means: Providing a local government option for the funding of essential affordable housing programs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Finance.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1)(a) The legislative body of a county, city, or town may impose a special excise tax on the sale of or charge made for the furnishing of lodging of short-term rentals subject to tax under chapter 82.08 RCW, as provided in this section.

(b) The tax under this section applies to the sale of or charge made for the furnishing of lodging of short-term rentals.

(c) The rate of tax under this section is imposed on the sale of, or charge made for, the furnishing of lodging of a short-term rental subject to tax under chapter 82.08 RCW. The rate of tax may not exceed four percent on the sale of or charge made for the furnishing of lodging of short-term rentals. The rate of tax under this section must not be imposed in increments of less than one percent. The department shall perform the collection of the tax on behalf of a county, city, or town imposing the tax at no cost to the county, city, or town.

(d) A change to the special excise tax under this section may take effect:

(i) No sooner than 75 days after the department is notified in writing of the change. The written notification must include a copy of the signed ordinance or resolution. If the change to the special excise tax results from an annexation, the written notification must also include a copy of the complete ordinance containing a legal description, a map showing specifically the boundaries of the annexed territory, and a list of all included parcel numbers in the annexed territory; and

(ii) Only on the first day of January, April, or July.

(e) Any county ordinance or resolution adopted under this section must contain a provision allowing a credit against the county tax for the full amount of any city or town tax imposed under this section upon the same taxable event. The legislative authority of any county or any city may impose the tax authorized in this section throughout the county for the county tax and in the corporate limits of the city for the city tax.

(f) Proceeds from the tax must be deposited in the essential affordable housing local assistance account created in subsection (5) of this section. The department must make

deposits into the account on a monthly basis on the last business day of the month in which distributions required in subsection (5)(b)(i) of this section are due.

(2)(a) The legislative body of a county, city, or town must adopt a resolution of intent to adopt legislation authorizing the tax under this section before imposing the tax under this section.

(b) Adoption of the resolution of intent and legislation requires simple majority approval of the enacting legislative authority.

(c) The enacting legislative authority may exclude from the tax short-term rentals that:

(i) Are located in a common interest community as defined in RCW 64.90.010 that is approved by the county, city, or town as a resort, second home, or vacation community including short-term rentals as a permitted use; or

(ii) Are exempt from any ordinance of the county, city, or town regulating or licensing short-term rentals or vacation lodging.

(d) The relevant local jurisdiction must provide any information requested by the department to determine which properties are exempted from the tax.

(3)(a) Except as provided in (b) of this subsection, moneys collected from the special excise tax under this section must be deposited into a separate fund to be used exclusively for the following purposes:

(i) Acquiring, rehabilitating, or constructing affordable or workforce housing, which may include new units of affordable housing within an existing structure, or facilities providing supportive housing services;

(ii) Funding the operations and maintenance costs of units of affordable, workforce, or supportive housing;

(iii) Providing rental assistance to tenants; or

(iv) Funding the operations of social service organizations and nonprofit organizations dedicated to providing services and assistance related to attaining and maintaining housing including, but not limited to, employment assistance, utilities assistance, nutritional assistance, and child care assistance.

(b) A county, city, or town may retain up to 15 percent of the moneys collected under this section in each calendar year for the direct and indirect costs incurred in the administration of services and programs as provided in (a) of this subsection.

(c) A county, city, or town imposing the tax authorized under this section may enter into an interlocal agreement under chapter 39.34 RCW with another county, city, or town, to jointly undertake projects satisfying the requirements of (b) of this subsection.

(4) Beginning the year after the special excise tax authorized in this section is first collected, a county, city, or town imposing the tax must publish an annual report by March 1st of each year detailing how the revenue from the tax was spent in the prior year. The report must be made available to the public. This may include posting the report on the county's, city's, or town's website.

(5)(a) The essential affordable housing local assistance account is hereby created in the state treasury. All proceeds from the tax authorized under this section must be deposited into the account.

(b) Moneys in the essential affordable housing local assistance account may be withdrawn only for:

(i) Distributions to counties, cities, and towns on a monthly basis; and

(ii) Making refunds of taxes imposed under the authority of this section.

(6) A city, town, or county may not impose the tax authorized under this section before April 1, 2026.

(7) All administrative provisions in chapters 82.08, 82.12, and 82.32 RCW, insofar as they are applicable, apply to the local option tax authorized under this section.

(8) For the purposes of this section:

(a) "Change to the special excise tax" means an enactment or revision of the tax imposed under this section, including changes resulting from a referendum or annexation.

(b) "Operator" has the same meaning as in RCW 64.37.010.

(c) "Short-term rental" has the same meaning as in RCW 64.37.010.

NEW SECTION. **Sec. 2.** To the extent applicable, all of the provisions of RCW 82.08.050 and 82.08.060 and chapter 82.32 RCW not inconsistent with the provisions of this chapter have full force and application with respect to taxes imposed under this chapter.

Sec. 3. RCW 67.28.181 and 2015 3rd sp.s. c 24 s 703 are each amended to read as follows:

(1) The legislative body of any municipality may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW. The rate of tax shall not exceed the lesser of two percent or a rate that, when combined with all other taxes imposed upon sales of lodging within the municipality under this chapter and chapters 36.100, ((~~67.40,~~)) 82.08, and 82.14 RCW, equals twelve percent. A tax under this chapter shall not be imposed in increments smaller than tenths of a percent.

(2) Notwithstanding subsection (1) of this section:

(a) If a municipality was authorized to impose taxes under this chapter or RCW 67.40.100 or both with a total rate exceeding four percent before July 27, 1997, such total authorization shall continue through January 31, 1999, and thereafter the municipality may impose a tax under this section at a rate not exceeding the rate actually imposed by the municipality on January 31, 1999.

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(b) If a city or town, other than a municipality imposing a tax under (a) of this subsection, is located in a county that imposed taxes under this chapter with a total rate of four percent or more on January 1, 1997, the city or town may not impose a tax under this section.

(c) If a city has a population of ((~~four hundred thousand~~))400,000 or more and is located in a county with a population of ((~~one million~~))1,000,000 or more, the rate of tax imposed under this chapter by the city shall not exceed the lesser of four percent or a rate that, when combined with all other taxes imposed upon sales of lodging in the municipality under this chapter and chapters 36.100, ((~~67.40,~~)) 82.08, and 82.14 RCW, equals ((~~fifteen and two-tenths~~))15.2 percent.

(d) If a municipality was authorized to impose taxes under this chapter or RCW 67.40.100, or both, at a rate equal to six percent before January 1, 1998, the municipality may impose a tax under this section at a rate not exceeding the rate actually imposed by the municipality on January 1, 1998.

(3) Any county ordinance or resolution adopted under this section shall contain a provision allowing a credit against the county tax for the full amount of any city or town tax imposed under this section upon the same taxable event.

(4) In determining the effective combined rate of tax for purposes of the limit in subsections (1) and (2)(c) of this section, the tax rates under RCW 82.14.530 ((~~is~~))and section 1 of this act are not included.

Sec. 4. RCW 82.14.410 and 2015 3rd sp.s. c 24 s 704 are each amended to read as follows:

(1) A local sales and use tax change adopted after December 1, 2000, must provide an exemption for those sales of lodging for which, but for the exemption, the total sales tax rate imposed on sales of lodging would exceed the greater of:

(a) Twelve percent; or

(b) The total sales tax rate that would have applied to the sale of lodging if the sale were made on December 1, 2000.

(2) For the purposes of this section:

(a) "Local sales and use tax change" is defined as provided in RCW 82.14.055.

(b) "Sale of lodging" means the sale of or charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property.

(c) "Total sales tax rate" means the combined rates of all state and local taxes imposed under this chapter and chapters 36.100, 67.28, ((~~67.40,~~)) and 82.08 RCW, and any other tax authorized after March 29, 2001, if the tax is in the nature of a sales tax collected from the buyer, but excluding taxes imposed under RCW 81.104.170 before December 1, 2000, ((~~and~~)) taxes imposed under RCW 82.14.530, and taxes imposed under section 1 of this act.

NEW SECTION. **Sec. 5.** Sections 1 and 2 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representative Leavitt.

Referred to Committee on Rules for second reading

April 7, 2025

SSB 5587 Prime Sponsor, Housing: Concerning affordable housing development in counties not closing the gap between estimated existing housing units within the county and existing housing needs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

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ESB 5595 Prime Sponsor, Senator Alvarado: Establishing shared streets. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 46.61 RCW to read as follows:

(1)(a) A local authority may designate a nonarterial highway, except as provided in (b) of this subsection, to be a shared street under this section, if the local authority has developed procedures for establishing shared streets.

(b) Nonarterial highways that are state highways may not be designated shared streets unless they are the primary roads through a central business district.

(2) Vehicular traffic traveling along a shared street shall yield the right-of-way to any pedestrian, bicyclist, or operator of a micromobility device on the shared street.

(3) A bicyclist or operator of a micromobility device shall yield the right-of-way to any pedestrian on a shared street.

(4) Any local authority that designates a nonarterial highway to be a shared street as provided by this section must post an annual report on the local authority's website of the number of traffic accidents, including those that involve a pedestrian, bicyclist, or operator of a micromobility device, that occurred on the designated shared street. The report must also include the number of speeding violations and driving under the influence violations that occurred on the designated shared street.

(5) For purposes of this section:

(a) "Micromobility device" means personal or shared nonmotorized scooters, "motorized foot scooters" as defined in RCW 46.04.336, and "electric personal assistive mobility devices" (EPAMD) as defined in RCW 46.04.1695; and

(b) "Shared street" means a city street designated by placement of official traffic control devices where pedestrians, bicyclists, and vehicular traffic share a portion or all of the same street.

Sec. 2. RCW 46.61.250 and 2022 c 235 s 3 are each amended to read as follows:

(1) Where sidewalks are provided and are accessible, it is unlawful for any pedestrian to walk or otherwise move along and upon an adjacent roadway. Where sidewalks are provided but wheelchair access is not available, persons with disabilities who require such access may walk or otherwise move along and upon an adjacent roadway until they reach an access point in the sidewalk.

(2) Where sidewalks are not provided or are inaccessible, a pedestrian walking or otherwise moving along and upon a highway, and any personal delivery device moving along and upon a highway, shall:

(a) When shoulders are provided and are accessible, walk or move on the shoulder of the roadway as far as is practicable from the edge of the roadway, facing traffic when a shoulder is available in this direction; or

(b) When shoulders are not provided or are inaccessible, walk or move as near as is practicable to the outside edge of the roadway facing traffic, and when practicable, move clear of the roadway upon meeting an oncoming vehicle.

(3) A pedestrian traveling to the nearest emergency reporting device on a one-way roadway of a controlled access highway is not required to travel facing traffic as otherwise required by subsection (2) of this section.

(4) When walking or otherwise moving along and upon an adjacent roadway, a pedestrian shall exercise due care to avoid colliding with any vehicle upon the roadway.

(5) Subsections (1) and (2) of this section do not apply when the roadway is duly closed to vehicular traffic by placement of official traffic control devices for the sole purposes of pedestrian and bicyclist use of the roadway.

(6) Subsections (1), (2), and (4) of this section do not apply on a shared street as defined in section 1 of this act.

Sec. 3. RCW 46.61.415 and 2022 c 235 s 1 are each amended to read as follows:

(1) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under RCW 46.61.400 or 46.61.440 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which

(a) Decreases the limit at intersections; or

(b) Increases the limit but not to more than 60 miles per hour; or

(c) Decreases the limit but not to less than 20 miles per hour.

(2) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon, which may be greater or less than the maximum speed permitted under RCW 46.61.400(2) but shall not exceed 60 miles per hour.

(3)(a) Local authorities in their respective jurisdictions may establish a maximum speed limit of 20 miles per hour on a nonarterial highway or part of a nonarterial highway or a maximum speed limit of 10 miles per hour on a shared street as defined in section 1 of this act.

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(b) A speed limit established under this subsection by a local authority does not need to be determined on the basis of an engineering and traffic investigation if the local authority has developed procedures regarding establishing a maximum speed limit under this subsection. Any speed limit established under this subsection may be canceled within one year of its establishment, and the previous speed limit reestablished, without an engineering and traffic investigation. This subsection does not otherwise affect the requirement that local authorities conduct an engineering and traffic investigation to determine whether to increase speed limits.

(c) When establishing speed limits under this subsection, local authorities shall consult the manual on uniform traffic control devices as adopted by the Washington state department of transportation.

(4) The secretary of transportation is authorized to establish speed limits on county roads and city and town streets as shall be necessary to conform with any federal requirements, which are a prescribed condition for the allocation of federal funds to the state.

(5) Any altered limit established as hereinbefore authorized shall be effective when appropriate signs giving notice thereof are erected. Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon such signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(6) Any alteration of maximum limits on state highways within incorporated cities or towns by local authorities shall not be effective until such alteration has been approved by the secretary of transportation.

Sec. 4. RCW 46.61.110 and 2023 c 471 s 4 are each amended to read as follows:

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction:

(1)(a) The driver of a vehicle overtaking other traffic proceeding in the same direction shall pass to the left of it at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken traffic.

(b)(i) When the vehicle being overtaken is a motorcycle, motor-driven cycle, or moped, a driver of a motor vehicle found to be in violation of (a) of this subsection must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(ii) The additional fine imposed under (b)(i) of this subsection must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

(2)(a) The driver of a vehicle approaching an individual who is traveling as a pedestrian or on a bicycle, riding an animal, or using a farm tractor or implement of husbandry without an enclosed shell, and who is traveling in the right lane of a roadway or on the right-hand shoulder or bicycle lane of the roadway, shall:

(i) On a roadway with two lanes or more for traffic moving in the direction of travel, before passing and until safely clear of the individual, move completely into a lane to the left of the right lane when it is safe to do so;

(ii) On a roadway with only one lane for traffic moving in the direction of travel:

(A) When there is sufficient room to the left of the individual in the lane for traffic moving in the direction of travel, before passing and until safely clear of the individual:

(I) Reduce speed to a safe speed for passing relative to the speed of the individual; and

(II) Pass at a safe distance, where practicable of at least three feet, to clearly avoid coming into contact with the individual or the individual's vehicle or animal; or

(B) When there is insufficient room to the left of the individual in the lane for traffic moving in the direction of travel to comply with (a)(ii)(A) of this subsection, before passing and until safely clear of the individual, move completely into the lane for traffic moving in the opposite direction when it is safe to do so and in compliance with RCW 46.61.120 and 46.61.125.

(b) A driver of a motor vehicle found to be in violation of this subsection (2) must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(c) The additional fine imposed under (b) of this subsection must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

(d) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.5259.

(e) This subsection (2) does not apply on a shared street as defined in section 1 of this act.

(3) Except when overtaking and passing on the right is permitted, overtaken traffic shall give way to the right in favor of an overtaking vehicle on audible signal and shall not increase speed until completely passed by the overtaking vehicle.

Sec. 5. RCW 46.61.240 and 2019 c 214 s 13 are each amended to read as follows:

(1) Every pedestrian or personal delivery device crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(2) Where curb ramps exist at or adjacent to intersections or at marked crosswalks in other locations, persons with disabilities or personal delivery devices may enter the roadway from the curb ramps and cross the roadway within or as closely as practicable to the crosswalk. All other pedestrian rights and duties as defined elsewhere in this chapter remain applicable.

(3) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(4) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(5) No pedestrian or personal delivery device shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians and personal delivery devices shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(6) No pedestrian or personal delivery device shall cross a roadway at an unmarked crosswalk where an official sign prohibits such crossing.

(7) This section does not apply on a shared street as defined in section 1 of this act.

Sec. 6. RCW 46.61.770 and 2019 c 403 s 10 are each amended to read as follows:

(1) Every person operating a bicycle upon a roadway at a rate of speed less than the normal flow of traffic at the particular time and place shall ride as near to the right side of the right through lane as is safe except:

(a) While preparing to make or while making turning movements at an intersection or into a private road or driveway;

(b) When approaching an intersection where right turns are permitted and there is a dedicated right turn lane, in which case a person may operate a bicycle in this lane even if the operator does not intend to turn right;

(c) While overtaking and passing another bicycle or vehicle proceeding in the same direction; and

(d) When reasonably necessary to avoid unsafe conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicyclists, pedestrians, animals, and surface hazards.

(2) A person operating a bicycle upon a roadway or highway other than a limited access highway, which roadway or highway carries traffic in one direction only and has two or more marked traffic lanes, may ride as near to the left side of the left through lane as is safe.

(3) A person operating a bicycle upon a roadway may use the shoulder of the roadway or any specially designated bicycle lane.

(4) When the operator of a bicycle is using the travel lane of a roadway with only one lane for traffic moving in the direction of travel and it is wide enough for a bicyclist and a vehicle to travel safely side-by-side within it, the bicycle operator shall operate far enough to the right to facilitate the movement of an overtaking vehicle unless other conditions make it unsafe to do so or unless the bicyclist is preparing to make a turning movement or while making a turning movement.

(5) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(6) This section does not apply on a shared street as defined in section 1 of this act."

Correct the title.

Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Bronoske; Duerr; Entenman; Hunt; Nance; Paul; Ramel; Richards; Taylor; Timmons; Wylie and Zahn.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Dent; Griffey; Klicker; Ley; Orcutt; and Stuebe.

Referred to Committee on Rules for second reading

April 7, 2025

ESSB 5627 Prime Sponsor, Environment, Energy & Technology: Improving safe excavation practices and preventing damage to underground utilities. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.122.010 and 2011 c 263 s 1 are each amended to read as follows:

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In this chapter, the underground utility damage prevention act, the legislature intends to protect public health and safety and prevent disruption of vital utility services through a comprehensive damage prevention program that includes:

(1) Assigning responsibility for providing notice of proposed excavation, free locating and marking underground utilities, and reporting and repairing damage;

(2) Setting safeguards for construction and excavation near hazardous liquid and gas pipelines;

(3) Improving worker safety and public knowledge of safe practices;

(4) Collecting and analyzing damage data;

(5) Reviewing alleged violations; and

(6) Enforcing this chapter.

Sec. 2. RCW 19.122.020 and 2020 c 162 s 1 are each amended to read as follows:

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

(1) "Bar hole" means a hole made in the soil or pavement with a hand-operated bar for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator.

(2) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

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

(4) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected facility operator determines that repairs are required.

(5) "Emergency" means any condition constituting a clear and present danger to life, health, or property, or a customer service outage due to an unplanned utility outage that requires immediate action where an excavator or facility operator has a crew on-site or en route.

(6) "End user" means any utility customer or consumer of utility services or commodities provided by a facility operator.

(7) "Equipment operator" means an individual conducting an excavation.

(8) "Excavation" and "excavate" means any operation, including the installation of signs, in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means.

(9) "Excavation confirmation code" means a code or ticket issued by a one-number locator service for the site where an excavation is planned. The code must be accompanied by the date and time it was issued and the work-to-begin date on the notice as provided in RCW 19.122.030(2). The excavation confirmation code is not valid until the work-to-begin date.

(10) "Excavator" means any person who engages directly in excavation.

(11) "Facility operator" means any person who owns an underground facility or is in the business of supplying any utility service or commodity for compensation. "Facility operator" does not include a utility customer who owns a service lateral that terminates at a facility operator's main utility line.

(12) "Gas" means natural gas, flammable gas, or toxic or corrosive gas.

(13) "Hazardous liquid" means:

(a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 as in effect on March 1, 1998;

(b) Carbon dioxide; and

(c) Other substances designated as hazardous by the secretary of transportation and incorporated by reference by the commission by rule.

(14) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

(15) "Large project" means a project that exceeds seven hundred linear feet.

(16) "Locatable underground facility" means an underground facility which can be marked with reasonable accuracy.

(17) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type, best known width, and identification of the operator of the underground facility. Locate marks are not required to indicate the depth of the underground facility given the potential change of topography over time.

(18) "Notice" or "notify" means contact in person or by telephone or other electronic method, and, with respect to contact of a one-number locator service, also results in the receipt of ((~~a valid~~))an excavation confirmation code.

(19) "One-number locator service" means a service through which a person can notify facility operators and request marking of underground facilities and includes the web-based platform required under RCW 19.122.027(1).

(20) "Person" means an individual, partnership, franchise holder, association, corporation, the state, a city, a county, a town, or any subdivision or instrumentality of the state, including any unit of local government, and its employees, agents, or legal representatives.

(21) "Pipeline" or "pipeline system" means all or parts of a pipeline facility through which hazardous liquid or gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated

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assemblies associated with pumping or compressor units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Pipeline" or "pipeline system" does not include process or transfer pipelines.

(22) "Pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid or gas. "Pipeline company" does not include:

(a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or

(b) Excavation contractors or other contractors that contract with a pipeline company.

(23) "Reasonable accuracy" means location within twenty-four inches of the outside dimensions of both sides of an underground facility.

(24) "Service lateral" means an underground water, stormwater, or sewer facility located in a public right-of-way or utility easement that connects an end user's building or property to a facility operator's underground facility, and terminates beyond the public right-of-way or utility easement.

(25) "Transfer pipeline" means a buried or aboveground pipeline used to carry hazardous liquid between a tank vessel or transmission pipeline and the first valve inside secondary containment at a facility, provided that any discharge on the facility side of the first valve will not directly impact waters of the state. "Transfer pipeline" includes valves and other appurtenances connected to the pipeline, pumping units, and fabricated assemblies associated with pumping units. "Transfer pipeline" does not include process pipelines, pipelines carrying ballast or bilge water, transmission pipelines, or tank vessel or storage tanks.

(26) "Transmission pipeline" means a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength.

(27) "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors that are below ground. This definition does not include pipelines as defined in subsection (21) of this section, but does include distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail.

(28) "Unlocatable underground facility" means, subject to the provisions of RCW 19.122.030, an underground facility that cannot be marked with reasonable accuracy using available information to designate the location of an underground facility. "Unlocatable underground facility" includes, but is not limited to, service laterals, storm drains, and nonconductive and nonmetallic underground facilities that do not contain trace wires.

(29) "Utility easement" means a right held by a facility operator to install, maintain, and access an underground facility or pipeline.

(30) "Blind boring" means engaging in directional underground boring without potholing the underground facility, relying on surface markings only to approximate the location of underground utilities in three dimensions.

(31) "Design locating" means locating for planning purposes. "Design locating" does not include locating for excavation purposes.

(32) "Force majeure" means: Natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; embargoes; epidemics; terrorist acts; riots; insurrections; explosions; and nuclear accidents.

(33) "General contractor" has the same meaning as defined in RCW 18.27.010.

(34) "Hard surface" means an area covered with asphalt, concrete, interlocking brick or block solid stone, wood, or any similar impervious or nonporous material on the surface of the ground.

(35) "Physical exposure" means processes, such as potholing or daylighting.

(36) "Positive response" means a notification from the owner or operator of the underground facility, or the owner's or operator's authorized locating contractor, to the one-number locator service confirming that the facility owner, operator, or contracted locator has completed marking or provided location information regarding unlocatable facilities in response to a notice.

(37) "Potholing" means an excavation process that involves making a series of small test holes to accurately locate underground lines. Potholing is also known as daylighting.

(38) "Safe and careful work methods" means methods of excavation, including pot holing, hand digging when practical, vacuum excavation methods, pneumatic hand tools, or other technical methods that may be developed.

(39) "White lining" means the use of any white paint, flags, stakes, whiskers, or other locally accepted method that is distinguishable from the surrounding area.

(40) "Work-to-begin date" means an identified date not less than two full business days and not more than 10 full business days, not including Saturdays, Sundays, legal local, state, or federal holidays, from the date notice is given to a one-number locator service.

Sec. 3. RCW 19.122.027 and 2011 c 263 s 3 are each amended to read as follows:

(1) The commission must establish a single statewide toll-free telephone number to be used for referring excavators to the appropriate one-number locator service. The one-number

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locator service shall maintain a web-based platform that provides the same services as the toll-free telephone number online. The web-based platform must meet the requirements outlined in RCW 19.122.030 (1) and (2). The web-based platform must be free of charge to those requesting location of underground facilities and operated in the same manner as the toll-free telephone number. The one-number locator service must require that an excavator provide a work-to-begin date in the notice. The one-number locator service must allow an option for the submission of a notice that generates multiple unique and individual excavation confirmation codes in accordance with RCW 19.122.030(1). This notice option does not alter any duties, obligations, or liabilities of excavators or facility operators.

(2) The commission, in consultation with the ((~~Washington utilities coordinating council~~))entity administering the one-number locator service, must establish minimum standards and best management practices for one-number locator services.

(3) One-number locator services must be operated by nongovernmental agencies.

(4) All facility operators within a one-number locator service area must subscribe to the service.

(5) Failure to subscribe to a one-number locator service constitutes willful intent to avoid compliance with this chapter.

Sec. 4. RCW 19.122.030 and 2011 c 263 s 4 are each amended to read as follows:

(1)(a) Unless exempted under RCW 19.122.031, before commencing any excavation, an excavator must mark the boundary of the excavation area with white ((~~paint~~))lining or, when necessary, white pin flags, applied on the ground of the worksite, then provide notice of the scheduled commencement of excavation to all facility operators through a one-number locator service. An excavator shall provide the work-to-begin date in the notice provided to the one-number locator service.

(b) If boundary marking required by (a) of this subsection is infeasible, an excavator must ((~~communicate directly with affected facility operators to ensure that the boundary of the excavation area is accurately identified~~))provide notice electronically to a one-number locator service.

(c) An excavator may use a third-party entity, including a general contractor, to provide the required notice of the scheduled commencement of excavation to all facility operators through a one-number locator service as required in this subsection. An excavator that uses a third-party entity to provide such required notice retains all legal duties and responsibilities for compliance with this chapter.

(d) Excavators and facility operators are encouraged to incorporate best practices for underground damage prevention, improve worker safety, protect vital underground infrastructure, and ensure public safety during excavation activities conducted in the vicinity of existing underground facilities.

(2) An excavator must provide the notice required by subsection (1) of this section to a one-number locator service not less than two full business days and not more than ((~~ten~~))10 full business days before the scheduled work-to-begin date ((~~for commencement of excavation~~)), unless otherwise agreed by the excavator and facility operators in writing. If an excavator intends to work at multiple sites or at a large project, the excavator must take reasonable steps to confer with facility operators to enable them to locate underground facilities reasonably in advance of the start of excavation for each phase of the work.

(3) Upon receipt of the notice provided for in subsection (1) of this section, a facility operator must, with respect to:

(a)(i) The facility operator's locatable underground facilities, provide the excavator with reasonably accurate information by marking ((~~their~~))facility location. Hazardous liquid and gas pipeline operators are required to locate all facilities in accordance with Title 49 C.F.R. Secs. 195.442(c)(4) through (6) and 192.614(c)(4) through (6) as they existed on the effective date of this section, or such subsequent date as may be provided by the commission by rule, consistent with the purpose of this section. This information must be provided free of charge subject to the limitations in subsections (6)(b) and (8) of this section, and the grant of authority in subsection (11) of this section;

(ii) In the event of force majeure, the facility operator's deadline to mark underground facilities as provided in subsection (4)(a) of this section, must be extended by an agreement in writing between the affected parties. The facility operator shall notify the excavator of the need for extension of the deadline as soon as reasonable, but no later than the expiration of the deadline established in subsection (4)(a) of this section;

(b) The facility operator's unlocatable or identified but unlocatable underground facilities, provide the excavator with available information as to their location prior to the work-to-begin date provided in the notice under subsection (1) of this section. For any gas or hazardous liquid pipeline, locate all facilities in accordance with Title 49 C.F.R. Secs. 195.442(c)(4) through (6) and 192.614(c)(4) through (6) as they existed on the effective date of this section, or such subsequent date as may be provided by the commission by rule, consistent with the purpose of this section; and

(c) Service laterals, designate their presence or location, if the service laterals:

(i) Connect end users to the facility operator's main utility line; and

(ii) Are within a public right-of-way or utility easement and the boundary of the excavation area identified under subsection (1) of this section.

(4)(a) A facility operator must provide information to an excavator pursuant to subsection (3) of this section no later than ((~~two business days after the receipt of the notice provided for in subsection (1) of this section or before excavation commences, at the option of the facility operator, unless otherwise agreed by the parties~~))the work-to-begin

date on the notice provided for in subsections (1) and (2) of this section, unless otherwise agreed by written agreement between the facility operator and excavator.

(b) A facility operator complying with subsection (3)(b) and (c) of this section may do so in a manner that includes any of the following methods:

(i) Placing within a proposed excavation area a triangular mark at the main utility line pointing at the building, structure, or property in question, indicating the presence of an unlocatable or identified but unlocatable underground facility, including a service lateral;

(ii) Arranging to meet an excavator at a worksite to provide available information about the location of service laterals; or

(iii) Providing copies of the best reasonably available records by electronic message, mail, facsimile, or other delivery method.

(c) A facility operator's good faith attempt to comply with subsection (3)(b) and (c) of this section:

(i) Constitutes full compliance with the requirements of this section, and no person may be found liable for damages or injuries that may result from such compliance, apart from liability for arranging for repairs or relocation as provided in RCW 19.122.050(2); and

(ii) Does not constitute any assertion of ownership or operation of a service lateral by the facility operator.

(d) An end user is responsible for determining the location of a service lateral on their property or a service lateral that they own. An end user is responsible for locating on their own property the underground facilities that they own. The one-number locator service shall maintain a list of private-line locate service providers who may be hired at the cost of the end user for the location of service laterals. Nothing in this section may be interpreted to require an end user to subscribe to a one-number locator service or to locate a service lateral within a right-of-way or utility easement.

(e) Facility operators may direct the one-number locator service to send notices provided for in subsection (1) of this section to a contract locator. The facility operator retains all legal responsibility for compliance with this section.

(5) An excavator must not excavate until all known facility operators have marked ((~~or provided information regarding~~))their locatable underground facilities or, in the case of nonhazardous liquid or nongas pipeline facilities, provided information regarding their unlocatable underground facilities as provided in this section. On and after January 1, 2026, an excavator may not commence excavation until the excavator has received positive response from all operators with underground facilities in the area identified in the notice.

(6)(a) Once marked by a facility operator, an excavator is responsible for maintaining the accuracy of the facility operator's markings of underground facilities for the lesser of:

(i) Forty-five calendar days from the date that the excavator provided notice to a one-number locator service pursuant to subsection (1) of this section; or

(ii) The duration of the excavation portion of the project.

(b) An excavator that makes repeated requests for location of underground facilities due to its failure to maintain the accuracy of a facility operator's markings as required by this subsection (6) may be charged by the facility operator for services provided.

(c) A facility operator's markings of underground utilities expire forty-five calendar days from the date that the excavator provided notice to a one-number locator service pursuant to subsection (1) of this section. For excavation occurring after that date, an excavator must provide additional notice to a one-number locator service pursuant to subsection (1) of this section.

(7) An excavator has the right to receive reasonable compensation from a facility operator for costs incurred by the excavator if the facility operator does not locate its underground facilities in accordance with the requirements specified in this section.

(8) A facility operator has the right to receive reasonable compensation from an excavator for costs incurred by the facility operator if the excavator does not comply with the requirements specified in this section.

(9) A facility operator is not required to comply with subsection (4) of this section with respect to service laterals conveying only water if their presence can be determined from other visible water facilities, such as water meters, water valve covers, and junction boxes in or adjacent to the boundary of an excavation area identified under subsection (1) of this section.

(10) If an excavator discovers underground facilities that are not identified, the excavator must cease excavating in the vicinity of the underground facilities and immediately notify the facility operator ((~~or~~))through a one-number locator service. If an excavator discovers identified but unlocatable underground facilities, the excavator must notify the facility operator through a one-number locator service. Upon notification by a one-number locator service or an excavator, a facility operator must allow for location of the uncovered portion of an underground facility identified by the excavator, and may accept location information from the excavator for marking of the underground facility.

(11) Each facility operator shall provide to a one-number locator service directions on how a requestor may obtain, for design locating, information regarding the location of underground facilities. For the purpose of this subsection, a "requestor" is any person seeking the location of underground facilities for design locating. Facility operators may attach fees for design locating. However, the fees under this subsection may not be imposed on the department of transportation.

(12) Design locating is required whenever any individual applies for a development permit of any type within 700 feet of a transmission pipeline.

(a) Prior to any activity that involves grade modification, excavation, or additional loading of the soil on property within 700 feet of a transmission pipeline, the requestor

must contact the transmission pipeline operator and provide documentation detailing the proposed activity.

(b) The transmission pipeline operator must respond to the requestor within 30 days to confirm a review of the documents describing the proposed activity and indicate any potential impacts from the activity on the transmission line.

(c) If after 30 days, the transmission pipeline operator does not respond to the requestor, then development activity may resume without violation.

(13) Except as provided in subsections (6)(b), (8), and (11) of this section, facility operators are prohibited from charging a fee for locating and marking their underground facilities.

(14) Nothing in this section limits a facility operator regulated by the commission from seeking recovery of costs for locating and marking its underground facilities as part of rates.

Sec. 5. RCW 19.122.031 and 2011 c 263 s 5 are each amended to read as follows:

(1) The requirements specified in RCW 19.122.030 do not apply to any of the following activities:

(a) An emergency excavation, but only with respect to ((~~boundary marking~~))white lining and notice requirements specified in RCW 19.122.030 (1) and (2), and provided that the excavator provides notice to a one-number locator service at the earliest practicable opportunity. Facility operators must promptly respond to a notice of emergency excavation. Prompt means to dispatch locating personnel without undue delay;

(b) An excavation of less than twelve inches in depth on private noncommercial property, if the excavation is performed by the person or an employee of the person who owns or occupies the property on which the excavation is being performed;

(c) The tilling of soil for agricultural purposes less than:

(i) Twelve inches in depth within a utility easement; and

(ii) Twenty inches in depth outside of a utility easement;

(d) The replacement of an official traffic sign installed prior to January 1, 2013, no deeper than the depth at which it was installed;

(e) Road maintenance activities involving excavation less than six inches in depth below the original road grade and ditch maintenance activities involving excavation less than six inches in depth below the original ditch flowline, or alteration of the original ditch horizontal alignment;

(f) The creation of bar holes less than twelve inches in depth, or of any depth during emergency leak investigations, provided that the excavator takes reasonable measures to eliminate electrical arc hazards; ((~~or~~))

(g) Construction, operation, or maintenance activities by an irrigation district on rights-of-way, easements, or facilities owned by the federal bureau of reclamation in federal reclamation projects; or

(h) Any facility operator using safe and careful work methods to physically expose an unlocatable facility in response to a one-call notification.

(2) Any activity described in subsection (1) of this section is subject to the requirements specified in RCW 19.122.050.

Sec. 6. RCW 19.122.040 and 2011 c 263 s 8 are each amended to read as follows:

(1) Project owners shall indicate in bid or contract documents the existence of underground facilities known by the project owner to be located within the proposed area of excavation. The following are deemed to be changed or differing site conditions:

(a) An underground facility not identified as required by this chapter or other provision of law; or

(b) An underground facility not located, as required by this chapter or other provision of law, by the project owner, facility operator, or excavator if the project owner or excavator is also a facility operator.

(2) An excavator shall use reasonable care to avoid damaging underground facilities. An excavator must:

(a) Determine the precise location of underground facilities which have been marked pursuant to RCW 19.122.030;

(b) Plan the excavation to avoid damage to or minimize interference with underground facilities in and near the excavation area; ((~~and~~))

(c) Provide such support for underground facilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such facilities;

(d) Use safe and careful work methods, taking into consideration the known and unknown underground facilities and the surface and subsurface to be excavated. If the marking is on a hard surface, methods of excavation may include pneumatic hand tools or other excavation methods that are commonly accepted as permissible for the type of surface encountered; and

(e) When directional boring will be implemented as a method of underground excavation, supplement white lining with physical exposure to avoid blind boring.

(3) If an underground facility is damaged and such damage is the consequence of the failure to fulfill an obligation under this chapter, the party failing to perform that obligation is liable for any damages. Any clause in an excavation contract which attempts to allocate liability, or requires indemnification to shift the economic consequences of liability, that differs from the provisions of this chapter is against public policy and

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unenforceable. Nothing in this chapter prevents the parties to an excavation contract from contracting with respect to the allocation of risk for changed or differing site conditions.

(4) In any action brought under this section, the prevailing party is entitled to reasonable attorneys' fees.

Sec. 7. RCW 19.122.050 and 2020 c 162 s 2 are each amended to read as follows:

(1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the facility operator directly, if the facility operator is known, and a one-number locator service, and report the damage as required under RCW 19.122.053. If the damage causes an emergency condition, the excavator causing the damage shall also call 911 to alert the appropriate local public safety agencies and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

(2) A facility operator notified in accordance with subsection (1) of this section shall arrange for repairs or relocation as soon as is practical, or permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

Sec. 8. RCW 19.122.055 and 2011 c 263 s 10 are each amended to read as follows:

(1)(a) Any excavator who ((~~fails to notify a one-number locator service~~))violates any provision of this chapter and causes damage to a hazardous liquid or gas underground facility is subject to a civil penalty of not more than ((~~ten thousand dollars~~))$25,000 for each violation.

(b) The civil penalty in this subsection may also be imposed on any excavator who violates RCW 19.122.090.

(2) Any hazardous liquid or gas pipeline operator who (a): (i) Fails to accurately locate the underground facility as required under RCW 19.122.030 (3) and (4); or (ii) fails to mark its underground facilities as required under RCW 19.122.030(1), and (b) whose underground facility is damaged as a result of the failure in (a) of this subsection is subject to a civil penalty of not more than $25,000 for each violation.

(3) A civil penalty of up to $5,000 for each violation may be imposed on any excavator or facility operator that violates any provision of this chapter involving an underground pipeline facility, but does not cause damage to an underground pipeline facility.

(4) All civil penalties recovered under this section must be deposited into the damage prevention account created in RCW 19.122.160.

Sec. 9. RCW 19.122.090 and 2005 c 448 s 5 are each amended to read as follows:

(1) Any excavator who excavates, without ((~~a valid~~))an excavation confirmation code when required under this chapter, within ((~~thirty-five~~))35 feet of a transmission pipeline is guilty of a misdemeanor.

(2) Any excavator who excavates within 35 feet of a transmission pipeline, prior to the work-to-begin date on the notice when required under this chapter, is guilty of a misdemeanor.

(3) Any excavator who excavates within 35 feet of a transmission pipeline, prior to receiving positive response from the facility operator of the transmission pipeline when required under this chapter, is guilty of a misdemeanor.

Sec. 10. RCW 19.122.100 and 2011 c 263 s 16 are each amended to read as follows:

If charged with a violation of RCW 19.122.090, an equipment operator is deemed to have established an affirmative defense to such charges if:

(1) The equipment operator was provided ((~~a valid~~))an excavation confirmation code;

(2) The excavation was performed in an emergency situation;

(3) The equipment operator was provided a false confirmation code by an identifiable third party; or

(4) Notice of the excavation was not required under this chapter.

Sec. 11. RCW 19.122.130 and 2020 c 162 s 3 are each amended to read as follows:

(1) The commission must contract with a statewide, nonprofit entity whose purpose is to reduce damages to underground and above ground facilities, promote safe excavation practices, and review complaints of alleged violations of this chapter. The contract must not obligate funding by the commission for activities performed by the nonprofit entity or the safety committee under this section.

(2) The contracting entity must create a safety committee to:

(a) Advise the commission and other state agencies, the legislature, and local governments on best practices and training to prevent damage to underground utilities, and policies to enhance worker and public safety; and

(b) Review complaints alleging violations of this chapter involving practices related to underground facilities.

(3)(a) The safety committee will consist of thirteen members, who must be nominated by represented groups and appointed by the contracting entity to staggered three-year terms. The safety committee must include representatives of:

(i) Local governments;

(ii) A natural gas utility subject to regulation under Titles 80 and 81 RCW;

(iii) Contractors;

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(iv) Excavators;
(v) An electric utility subject to regulation under Title 80 RCW;
(vi) A consumer-owned utility, as defined in RCW 19.27A.140;
(vii) A pipeline company;
(viii) A water-sewer district subject to regulation under Title 57 RCW;
(ix) The commission; ((~~and~~))
(x) A telecommunications company; and
(xi) A labor organization that historically represents workers who perform underground utility or excavation work.

(b) The safety committee may pass bylaws and provide for those organizational processes that are necessary to complete the safety committee's tasks.

(4) The safety committee must meet at least once every three months.

(5) The safety committee may review complaints of alleged violations of this chapter involving practices related to underground facilities, except for those complaints relating to damage to pipeline facilities or which involve violations of RCW 19.122.075 or 19.122.090. Any person may bring a complaint to the safety committee regarding an alleged violation occurring on or after January 1, 2013.

(6) To review complaints of alleged violations, the safety committee must first receive sufficient evidence that a probable violation occurred. Once sufficient evidence has been received, the safety committee must appoint at least three and not more than five members as a review committee. The review committee must be a balanced group, including at least one excavator and one facility operator.

(7) Before reviewing a complaint alleging a violation of this chapter, the review committee must ((~~notify the person making the complaint and the alleged violator of its review and of~~))provide all complaint forms, materials, and supporting evidence that will be presented or used by the person or company making the complaint, to the alleged violator no less than 30 days prior to the scheduled date of review. Both parties must be notified of the review and be provided the opportunity to participate.

(8) The safety committee may provide written notification to the commission, with supporting documentation, that a person has likely committed a violation of this chapter, and recommend remedial action that may include a penalty amount, training, or education to improve public safety, or some combination thereof.

Sec. 12. RCW 19.122.150 and 2017 c 20 s 3 are each amended to read as follows:

(1) The commission may investigate and enforce violations of ((~~RCW 19.122.055, 19.122.075, and 19.122.090~~))any provision of this chapter relating to pipeline facilities without initial referral to the safety committee created under RCW 19.122.130.

(2) If the commission's investigation of notifications received pursuant to RCW 19.122.140 or subsection (1) of this section substantiates violations of this chapter, the commission may impose penalties authorized by RCW 19.122.055, 19.122.070, 19.122.075, and 19.122.090, and require training, education, or any combination thereof.

(3) With respect to referrals from the safety committee, the commission must consider any recommendation by the committee regarding enforcement and remedial actions involving an alleged violator.

(4) In an action to impose a penalty initiated by the commission under subsection (1) or (2) of this section, the penalty is due and payable when the person incurring the penalty receives a notice of penalty in writing from the commission describing the violation and advising the person that the penalty is due. The person incurring the penalty has fifteen days from the date the person receives the notice of penalty to file with the commission a request for mitigation or a request for a hearing. The commission must include this time limit information in the notice of penalty. After receiving a timely request for mitigation or hearing, the commission must suspend collection of the penalty until it issues a final order concerning the penalty or mitigation of that penalty. A person aggrieved by the commission's final order may seek judicial review, subject to provisions of the administrative procedure act, chapter 34.05 RCW.

(5) If a penalty imposed by the commission is not paid, the attorney general may, on the commission's behalf, file a civil action in superior court to collect the penalty."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

E2SSB 5686 Prime Sponsor, Ways & Means: Expanding and funding the foreclosure mediation program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Housing. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

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MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representative Caldier.

Referred to Committee on Rules for second reading

April 7, 2025

E2SSB 5745 Prime Sponsor, Ways & Means: Concerning legal representation under the involuntary treatment act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

SECOND SUPPLEMENTAL REPORT OF STANDING COMMITTEES

April 8, 2025

HB 1207 Prime Sponsor, Representative Thai: Concerning superior court clerk fees. Reported by Committee on Appropriations

MAJORITY recommendation: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Civil Rights & Judiciary. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 8, 2025

HB 1472 Prime Sponsor, Representative Ormsby: Closing the Yakima Valley school and Rainier school. Reported by Committee on Appropriations

MAJORITY recommendation: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Human Services. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Cortes; Doglio; Fitzgibbon; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representatives Callan; and Leavitt.

Referred to Committee on Rules for second reading

April 3, 2025

HB 1476 Prime Sponsor, Representative Ormsby: Delaying the rebasing of the nursing home payment rates to 2028. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 7, 2025

HB 1958 Prime Sponsor, Representative Fey: Concerning the interstate bridge replacement toll bond authority. Reported by Committee on Transportation

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MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Bronoske; Dent; Duerr; Entenman; Hunt; Nance; Paul; Ramel; Taylor; Timmons; Wylie and Zahn.

MINORITY recommendation: Do not pass. Signed by Representatives Griffey; Klicker; Ley; Orcutt; Stuebe; and Volz.

MINORITY recommendation: Without recommendation. Signed by Representative Richards.

Referred to Committee on Rules for second reading

April 8, 2025

HB 2020 Prime Sponsor, Representative Berg: Creating a business and occupation tax deduction and increasing the rate for persons conducting payment card processing activities. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 8, 2025

HB 2033 Prime Sponsor, Representative Stonier: Concerning the taxation of nicotine products. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 8, 2025

HB 2039 Prime Sponsor, Representative Macri: Concerning child support pass through. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 8, 2025

EHB 2044 Prime Sponsor, Representative Ormsby: Addressing unexcused student absences. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 8, 2025

HB 2061 Prime Sponsor, Representative Fitzgibbon: Regarding concession fees by duty-free sales enterprises. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

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MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 8, 2025

ESSB 5009 Prime Sponsor, Early Learning & K-12 Education: Accommodating multiple vehicle types for transporting students. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.160.150 and 2009 c 548 s 304 are each amended to read as follows:

Funds allocated for transportation costs, except for funds provided for transportation and transportation services to and from school shall be in addition to the basic education allocation. The distribution formula developed in RCW 28A.160.150 through 28A.160.180 shall be for allocation purposes only and shall not be construed as mandating specific levels of pupil transportation services by local districts nor the type of vehicle to be used for pupil transportation, except as provided in RCW 28A.160.195. School districts are encouraged to use a vehicle type deemed by a district to be a safe and cost-effective manner of transporting its students, including using school buses and other vehicles, and may use the student transportation allocation accordingly. Operating costs as determined under RCW 28A.160.150 through 28A.160.180 shall be funded at ((~~one hundred~~))100 percent or as close thereto as reasonably possible for transportation of an eligible student to and from school as defined in RCW 28A.160.160(3). In addition, funding shall be provided for transportation services for students living within the walk area as determined under RCW 28A.160.160(5).

Sec. 2. RCW 28A.160.170 and 2021 c 234 s 3 are each amended to read as follows:

Each district shall submit three times each year to the superintendent of public instruction during October, February, and May of each year a report containing the following:

(1)(a) The number of eligible students transported to and from school as provided for in RCW 28A.160.150, along with identification of stop locations and school locations, and (b) the number of miles driven per vehicle type for pupil transportation services as authorized in RCW 28A.160.150 the previous school year; and

(2) Other operational data and descriptions as required by the superintendent to determine allocation requirements for each district. The superintendent shall require that districts separate the costs of operating the program for the transportation of eligible students to and from school as defined by RCW 28A.160.160(3), non-to-and-from-school pupil transportation costs, and costs to provide expanded services under RCW 28A.160.185(1) in the annual financial statement. The cost, quantity, and type of all fuel purchased by school districts for use in to-and-from-school transportation shall be included in the annual financial statement.

Each district shall submit the information required in this section on a timely basis as a condition of the continuing receipt of school transportation moneys.

Sec. 3. RCW 28A.160.180 and 2009 c 548 s 307 are each amended to read as follows:

Each district's annual student transportation allocation shall be determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate the transportation allocation for those services provided for in RCW 28A.160.150, inclusive of all vehicle types used. The allocation formula may be adjusted to include such additional differential factors as basic and special passenger counts as defined by the superintendent of public instruction, average distance to school, and number of locations served.

(2) The allocation shall be based on a regression analysis of the number of basic and special students transported and as many other site characteristics that are identified as being statistically significant.

(3) The transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.160.010 for services provided for in RCW 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus ((~~is the private vehicle reimbursement rate in effect on September 1st of each school year~~))must be included in the overall determination of the district's annual student transportation allocation. Students transported in district-owned passenger cars must be included in the corresponding basic or special passenger counts, average distance to school, and number of locations served.

(4) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the education and fiscal committees of the legislature, a report outlining the methodology and rationale used in determining the statistical coefficients for each site characteristic used to determine the allocation for the following year.

draft

Sec. 4. RCW 28A.160.195 and 2024 c 345 s 4 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the regional transportation coordinators of the educational service districts, shall establish a minimum number of ((~~school bus~~))student transportation vehicle categories considering the capacity and type of vehicles required by school districts in Washington. The superintendent, in consultation with the regional transportation coordinators of the educational service districts, shall establish competitive specifications for each category of ((~~school bus~~))vehicle. The categories shall be developed to produce minimum long-range operating costs, including costs of equipment and all costs in operating the vehicles. The competitive specifications shall meet federal motor vehicle safety standards, minimum state specifications as established by rule by the superintendent, and supported options as determined by the superintendent in consultation with the regional transportation coordinators of the educational service districts. The superintendent may solicit and accept price quotes for a rear-engine category school bus that shall be reimbursed at the price of the corresponding front engine category.

(2) After establishing ((~~school bus~~))vehicle categories and competitive specifications, the superintendent of public instruction shall solicit competitive price quotes for base ((~~buses~~))vehicles from ((~~school bus~~)) dealers to be in effect for one year and shall establish a list of all accepted price quotes in each category obtained under this subsection. The superintendent shall also solicit price quotes for optional features and equipment.

(3)(a) The superintendent shall base the level of reimbursement to school districts and educational service districts for ((~~school buses~~))vehicles on the lowest quote for the base ((~~bus~~))vehicle in each category. School districts and educational service districts shall be reimbursed for ((~~buses~~))vehicles purchased only through a lowest-price competitive bid process conducted under RCW 28A.335.190 or through the state bid process established by this section.

(b) Once the total cost of ownership of zero emission school buses is at or below the total cost of ownership of diesel school buses, as determined under the formulas adopted by rule pursuant to RCW 28A.160.260, school districts may only receive reimbursement for the purchase of zero emission school buses, unless the district has been granted an exception under RCW 28A.160.260(3). For the purposes of this subsection, "zero emission school bus" means a school bus that produces zero exhaust emission of any air pollutant and any greenhouse gas other than water vapor. This subsection (3)(b) applies to other vehicles used in lieu of school buses.

(4) Notwithstanding RCW 28A.335.190, school districts and educational service districts may purchase at the quoted price directly from any dealer who is on the list established under subsection (2) of this section. School districts and educational service districts may make their own selections for ((~~school buses~~))vehicles, but shall be reimbursed at the rates determined under subsection (3) of this section and RCW 28A.160.200. District-selected options shall not be reimbursed by the state.

(5) This section does not prohibit school districts or educational service districts from conducting their own competitive bid process.

(6) As used in this section, "student transportation vehicle" and "vehicle" mean a school bus or other vehicle used in lieu of a school bus.

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

Sec. 5. RCW 28A.160.210 and 2006 c 263 s 906 are each amended to read as follows:

(1) In addition to other powers and duties, the superintendent of public instruction shall adopt rules governing the training and qualifications of school bus drivers. Such rules shall be designed to insure that persons will not be employed to operate school buses unless they possess such physical health and driving skills as are necessary to safely operate school buses: PROVIDED, That such rules shall insure that school bus drivers are provided a due process hearing before any certification required by such rules is canceled: PROVIDED FURTHER, That such rules shall not conflict with the authority of the department of licensing to license school bus drivers in accordance with chapter 46.25 RCW. The superintendent of public instruction may obtain a copy of the driving record, as maintained by the department of licensing, for consideration when evaluating a school bus driver's driving skills.

(2) A driver that exclusively transports students in a Washington state patrol-inspected school vehicle other than a school bus must have the appropriate driver's license for the vehicle, and may not be required to hold a commercial driver's license.

Sec. 6. RCW 46.25.010 and 2023 c 35 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

draft

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial learner's permit" (CLP) means a permit issued under RCW 46.25.052 for the purposes of behind-the-wheel training.

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of any towed unit or units with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds or more), whichever is greater; or

(b) Has a gross vehicle weight rating or gross vehicle weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater; or

(c) Is designed to transport 16 or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15)(a) "Nondomiciled CLP or CDL" means a permit or license, respectively, issued under RCW 46.25.054 to a person who meets one of the following criteria:

(i) Is domiciled in a foreign country as provided in 49 C.F.R. Sec. 383.23(b)(1) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(ii) Is domiciled in another state as provided in 49 C.F.R. Sec. 383.23(b)(2) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(b) The definition in this subsection (15) applies exclusively to the use of the term in this chapter and is not to be applied in any other chapter of the Revised Code of Washington.

(16) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(17) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(18) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include <u>a student transportation vehicle with a seating capacity of 10 or fewer persons, including the driver, or</u> a bus used as a common carrier.

(19) "Serious traffic violation" means:

Draft

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) Driving while using a personal electronic device, defined as a violation of RCW 46.61.672, which includes in the activities it prohibits driving while holding a personal electronic device in either or both hands and using a hand or finger for texting, or an equivalent administrative rule or local law, ordinance, rule, or resolution;

(d) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(e) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(f) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic violation";

(g) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(h) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(20) "State" means a state of the United States and the District of Columbia.

(21) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(22) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

(23) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(d) "Excepted intrastate," which means the CDL or CLP holder wishes to maintain a CDL or CLP but not operate a commercial motor vehicle without changing his or her self-certification type.

(24) "United States" means the 50 states and the District of Columbia.

(25) "Collector truck" means a vehicle that:

(a) Has current registration;

(b) Is older than 30 years old;

(c) Is a vehicle that meets the weight criteria of subsection (6) of this section;

(d) Is capable of safely operating on the highway;

(e) Is used for occasional use to and from truck conventions, auto shows, circuses, parades, displays, special excursions, and antique vehicle club meetings;

(f) Is used for the pleasure of others without compensation; and

(g) Is not used in the operations of a common or contract motor carrier and not used for commercial purposes.

(26) "Collector truck operator" means an operator of a noncommercial vehicle that is being exclusively owned and operated as a collector truck.

Sec. 7. RCW 46.25.050 and 2019 c 195 s 2 are each amended to read as follows:

Draft

(1) Drivers of commercial motor vehicles must obtain a commercial driver's license as required under this chapter. Except when driving under a commercial learner's permit and a valid driver's license and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle unless the person holds and is in immediate possession of a commercial driver's license and applicable endorsements valid for the vehicle they are driving. However, this requirement does not apply to any person:

(a) Who is the operator of a farm vehicle, and the vehicle is:

(i) Controlled and operated by a farmer;

(ii) Used to transport either agricultural products, which in this section include Christmas trees and wood products harvested from private tree farms and transported by vehicles weighing no more than forty thousand pounds licensed gross vehicle weight, farm machinery, farm supplies, animal manure, animal manure compost, or any combination of those materials to or from a farm;

(iii) Not used in the operations of a common or contract motor carrier; and

(iv) Used within one hundred fifty miles of the person's farm; or

(b) Who is a firefighter or law enforcement officer operating emergency equipment, and:

(i) The firefighter or law enforcement officer has successfully completed a driver training course approved by the director; and

(ii) The firefighter or law enforcement officer carries a certificate attesting to the successful completion of the approved training course; or

(c) Who is operating a recreational vehicle for noncommercial purposes. As used in this section, "recreational vehicle" includes a vehicle towing a horse trailer for a noncommercial purpose; or

(d) Who is operating a commercial motor vehicle for military purposes. This exception is applicable to active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. This exception is not applicable to United States reserve technicians; or

(e) Who is a collector truck operator using the vehicle in accordance with RCW 46.25.010; or

(f) Who operates a student transportation vehicle other than a school bus as defined in RCW 46.25.010.

(2) No person may drive a commercial motor vehicle while his or her driving privilege is suspended, revoked, or canceled, while subject to disqualification, or in violation of an out-of-service order. Violations of this subsection shall be punished in the same way as violations of RCW 46.20.342(1).

(3) The department must, to the extent possible, enter into reciprocity agreements with adjoining states to allow the waivers described in subsection (1) of this section to apply to drivers holding commercial driver's licenses from those adjoining states.

NEW SECTION. **Sec. 8.** Sections 2 through 4 of this act take effect September 1, 2026."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 7, 2025

ESSB 5023 Prime Sponsor, Labor & Commerce: Providing labor market protections for domestic workers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** Whereas domestic workers were historically excluded from many basic labor protections and whereas these protections have been identified as a priority to the people of the state of Washington, this act declares that health, safety, wage protections, and general welfare are guaranteed for domestic workers. This includes basic protections for wages, meal and rest breaks, clarity on what constitutes working time, and the freedom from intimidating and hostile work environments.

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

(1) "Casual labor" means work that is irregular, uncertain, and incidental in nature and duration and is different in nature from the type of paid work in which the worker is customarily engaged in.

draft

(2) "Department" means the department of labor and industries.
(3) "Director" means the director of the department.
(4)(a) "Domestic worker" includes any worker who:
(i) Is an hourly employee, salaried employee, or independent contractor;
(ii) Works for one or more hiring entities; and
(iii) Works in one or more residences as a nanny, house cleaner, home care worker, cook, gardener, or household manager.
(b) "Domestic worker" does not include:
(i) Any person who provides babysitting on a casual labor basis;
(ii) Any person employed in casual labor in or about a private home, unless employed by a hiring entity for work performed in the course of the hiring entity's trade, business, or profession;
(iii) Any individual provider, as defined in RCW 74.39A.240;
(iv) Any person who performs house sitting, pet sitting, or dog walking duties; or
(v) Any person in a family relationship with the hiring entity.
(5) "Employ" includes to permit to work.
(6) "Family member" shall be liberally construed to include, but not be limited to, a parent, child, sibling, aunt, uncle, cousin, grandparent, grandchild, grandniece, or grandnephew, or such relatives when related by marriage.
(7)(a) "Hiring entity" means any person, group of persons, partnership, association, corporation, business trust, employer as defined in RCW 49.46.010, or any combination thereof, that pays wages or compensation to a domestic worker or pays for the services of a domestic worker. It includes any such person, entity, or employer acting directly or indirectly in the interest of the hiring entity in relation to the worker. However, when any person, entity, or household contracts with a separate hiring entity for the services of one or more domestic workers, the separate hiring entity is solely responsible for the requirements in this chapter and violations arising therefrom unless the person, entity, or household interferes with the rights or obligations in this chapter.
(b) "Hiring entity" does not include state agencies or in-home services agencies as defined in RCW 70.127.010 if the home care agency receives funds through chapter 74.39A RCW.

NEW SECTION. **Sec. 3.** (1)(a) A hiring entity employing a domestic worker shall pay the domestic worker at least the minimum hourly rate as provided by RCW 49.46.020. This constitutes a wage payment requirement as defined in RCW 49.48.082.
(b) A hiring entity employing a domestic worker shall pay the domestic worker overtime compensation at a rate of one and one-half times the worker's regular rate for hours worked for the hiring entity in excess of 40 hours in a workweek as provided by RCW 49.46.130. This constitutes a wage payment requirement as defined in RCW 49.48.082.
(c) The compensation owed to a domestic worker under this chapter is subject to the provisions of RCW 49.52.050 and 49.52.070, where a hiring entity is subject to the same obligations and remedies as an employer under those sections.
(2)(a) A hiring entity shall provide a domestic worker an uninterrupted meal period of at least 30 minutes which commences no less than two hours nor more than five hours from the beginning of the shift worked for the hiring entity. Meal periods are on the hiring entity's time when the domestic worker is required by the hiring entity to remain on duty on the premises or at a prescribed worksite in the interest of the hiring entity.
(b) A domestic worker may not be required to work more than five consecutive hours for the hiring entity without a meal period.
(c) A hiring entity shall provide a domestic worker working three or more hours longer than a normal workday for the hiring entity at least one 30-minute meal period prior to or during the overtime period.
(d) A hiring entity shall provide a domestic worker with an uninterrupted rest period of not less than 10 minutes, on the hiring entity's time, for each four hours of time worked for the hiring entity. The rest periods must be scheduled as near as possible to the midpoint of the work period. A domestic worker may not be required to work more than three hours without a rest period.
(e) A hiring entity may not discourage meal and rest periods and may not request that a domestic worker voluntarily waive meal and rest periods.
(f) If the nature of the work does not allow a domestic worker to be relieved of all duties, making uninterrupted meal or rest periods impractical or impossible, a hiring entity shall compensate the domestic worker for the time at the regular rate of pay.
(3) Subsections (1) and (2) of this section do not apply where a domestic worker voluntarily provides additional home care in excess of a written agreement between only the domestic worker and a family member to whom the domestic worker is providing services.
(4) The domestic worker has the right to retain personal effects, including any legal documents, including forms of identification, passports, or other immigration documents.
(5)(a) The hiring entity responsible for paying compensation to the domestic worker shall provide the terms and conditions of employment in a written agreement, including the rate of pay and any other applicable benefits or other requirements, and including work schedules, overtime expectations, compensation for additional duties, deduction, sick days, vacation days, personal days, holidays, transportation costs and benefits, severance benefits, health insurance coverage and costs, and any fees or other costs for the domestic worker associated with expectations of employment. The written agreement must be in a language or languages understood by the worker and hiring entity, and may not include conditions specified under section 4 (7) and (8) of this act.

Draft

(b) The hiring entity shall provide the domestic worker with a copy of the written agreement and a disclosure of rights specified in section 14 of this act.

(6)(a) The hiring entity shall provide a minimum two-week written notification period before termination of employment. For a live-in domestic worker, the hiring entity shall provide a minimum four-week written notification period before termination of employment. The advance notification period under this subsection is not required if:

(i) The applicable work performed by the domestic worker was on a casual labor basis;

(ii) The termination occurs during an agreed-upon probationary period;

(iii) The termination is based on a good faith belief that the domestic worker has engaged in misconduct as defined in RCW 50.04.294;

(iv) The termination is caused by circumstances outside of the hiring entity's control, including death;

(v) The hiring entity and domestic worker agree that the applicable care needs have significantly changed and cannot be addressed by the current employment relationship;

(vi) The domestic worker becomes unable to fulfill the requirements of the position as provided in the written agreement; or

(vii) The domestic worker was hired on a one-time or intermittent basis without an expectation for ongoing employment.

(b) If a hiring entity does not provide notification as required under this subsection, the hiring entity shall provide the domestic worker with severance pay in the amount of the worker's standard rate of pay multiplied by the regular number of hours worked over the period of time during which the required notification was not provided. For purposes of this subsection, "standard rate of pay" means the agreed-upon rate of pay between the hiring entity and domestic worker, as reflected in the written agreement.

(7) A hiring entity shall create and maintain records documenting hours worked, rate of pay, and, if applicable, the leave time earned and used. If a complaint is filed with the department, the hiring entity shall make the records and the written agreement accessible to the department.

(8) The department or the court shall maintain the confidentiality of all records it obtains in connection with enforcement activities to the full extent permitted by law.

NEW SECTION. **Sec. 4.** A hiring entity that employs a domestic worker may not:

(1) Request that the domestic worker allow the hiring entity, on either a mandatory or voluntary basis, to have possession of any personal effects, including any legal documents, including forms of identification, passports, or other immigration documents;

(2) Subject a domestic worker to conduct with the purpose or effect of unreasonable interfering with the domestic worker's work performance by creating an intimidating, hostile, or offensive work environment;

(3) Monitor or record, through any means, the activities of the domestic worker using a bathroom or similar facility, in the domestic worker's private living quarters, or while the domestic worker is engaged in personal activities associated with dressing or changing clothes;

(4) Monitor, record, or interfere with the private communications of a domestic worker;

(5) Communicate to a person exercising rights protected under this chapter, directly or indirectly, the willingness or intent to inform a government employee or contracted organization suspected citizenship or immigration status of a domestic worker or a family member to a federal, state, or local agency because the domestic worker has exercised any right under this chapter;

(6) Take any adverse action against a domestic worker because the domestic worker has exercised their rights provided under this chapter. Such rights include, but are not limited to: Filing an action, organizing or communicating amongst themselves, participating in political speech, disclosing their immigration status, or instituting or causing to be instituted any proceeding under or related to this chapter;

(7) Request, direct, or require, as a condition of employment, that a domestic worker waive his or her rights under federal, state, or local law; or

(8) Request, direct, or require, as a condition of employment, that the domestic worker agree to a mandatory predispute arbitration clause for employee claims of their legal rights, nondisclosure agreements or nondisparagement agreements that inhibit the domestic worker from pursuing claims or complaints under this chapter, or noncompete agreements that limit the ability of the domestic worker to seek any other form of domestic work postemployment.

NEW SECTION. **Sec. 5.** (1) If a domestic worker files a complaint with the department alleging a violation of the domestic worker's rights under section 3 or 4 of this act, the department may investigate the complaint under this section.

(a) The department may not investigate any such alleged violation of rights that occurred more than three years before the date that the domestic worker filed the complaint.

(b) If a domestic worker files a timely complaint with the department, the department may investigate the complaint and issue either a citation assessing a civil penalty or a closure letter within 60 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the domestic worker and the hiring entity setting forth good cause for an extension of the period and specifying the duration of the extension.

(c) If the department investigates a violation under this section, the department may send notice of a citation assessing a civil penalty or the closure letter to both the hiring

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entity and the domestic worker by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(2) Unless otherwise resolved, if the department's investigation finds that the domestic worker's allegation cannot be substantiated, the department shall issue a closure letter to the domestic worker and the hiring entity detailing such finding.

(3) If the department determines that the violation of rights under this chapter was a willful violation, the department may order the hiring entity to pay the department a civil penalty as specified in (a) of this subsection.

(a) A citation assessing a civil penalty for a willful violation of such rights must be $1,000 for each willful violation. For a repeat willful violator, the citation assessing a civil penalty must not be less than $2,000 for each repeat willful violation, but no greater than $20,000 for each repeat willful violation.

(b) The department may not issue a citation assessing a civil penalty if the hiring entity reasonably relied on:

(i) A written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or

(ii) An interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department shall maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether a hiring entity is immune from civil penalties under this subsection (3)(b).

(c) The department may, at any time, waive or reduce a civil penalty assessed under this section.

(d) The department must deposit civil penalties paid under this section into the supplemental pension fund established in RCW 51.44.033.

(4) For purposes of this section, the following definitions apply:

(a) "Repeat willful violator" means any hiring entity that has been the subject of a final and binding citation for a willful violation of one or more rights under this chapter, and all applicable rules, within three years of the date of issuance of the most recent citation for a willful violation of one or more such rights.

(b) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

NEW SECTION. **Sec. 6.** (1) Any person, hiring entity, or other entity aggrieved by a citation assessing a civil penalty issued by the department under section 5 of this act may appeal the citation to the director by filing a notice of appeal with the director within 30 days of the department's issuance of the citation. A citation not appealed within 30 days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the director under this section stays the effectiveness of the citation pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the director shall assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures must be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation must be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within 30 days after service of the initial order. The director shall conduct the administrative review in accordance with chapter 34.05 RCW.

(4) The director shall issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(5) Orders that are not appealed within the period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(6) A hiring entity that fails to allow adequate inspection of records in an investigation by the department within a reasonable time period may not use such records in any appeal under this section to challenge the correctness of any determination by the department of penalties assessed.

NEW SECTION. **Sec. 7.** Collections of unpaid citations and penalties administered under this chapter must be handled pursuant to the procedures in RCW 49.48.086.

NEW SECTION. **Sec. 8.** (1) It is unlawful for a hiring entity to interfere with, restrain, or deny the exercise of any right provided under or in connection with this chapter. This means a hiring entity may not use a domestic worker's exercise of any of the rights provided in this chapter as a negative factor in any employment action such as evaluation, promotion, or termination, or otherwise subject a domestic worker to discipline for the exercise of any rights provided under this chapter.

(2) A hiring entity or any other person may not communicate to a person exercising rights protected under this chapter, directly or indirectly, the willingness or intent to report suspected citizenship or immigration status of a domestic worker or a family member to a federal, state, or local agency or other applicable entity because the domestic worker has exercised a right under this chapter.

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(3) It is unlawful for a hiring entity to take any adverse action against a domestic worker because the domestic worker has exercised their rights provided under this chapter. Such rights include, but are not limited to: Disclosing their immigration status or instituting or causing to be instituted any proceeding under or related to this chapter.

(4) It shall be considered a rebuttable presumption of retaliation if the hiring entity or any other person takes an adverse action against a domestic worker within 90 calendar days of the domestic worker's exercise of rights protected under this chapter. However, in the case of seasonal employment that ended before the close of the 90 calendar day period, the presumption also applies if the hiring entity fails to rehire a former domestic worker at the next opportunity for work in the same position. The hiring entity may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

(5) For purposes of this section, "adverse action" means any action taken or threatened by a hiring entity against a domestic worker for their exercise of rights under this chapter, which may include, but is not limited to:

(a) Denying the use of any rights provided under this chapter;

(b) Denying or delaying payment due under this chapter;

(c) Terminating, suspending, demoting, or denying a promotion;

(d) Reducing the number of work hours for which the domestic worker is scheduled;

(e) Altering the domestic worker's preexisting work schedule;

(f) Reducing the domestic worker's rate of pay; and

(g) Threatening to take, or taking action, based upon the immigration status of a domestic worker or a domestic worker's family member.

NEW SECTION. **Sec. 9.** (1) A domestic worker who believes that they were subject to retaliation by their hiring entity, as defined in this chapter, for the exercise of any domestic worker right under this chapter, may file a complaint with the department within 180 days of the alleged retaliatory action. The department may, at its discretion, extend the 180 day period on recognized equitable principles or because extenuating circumstances exist. For example, the department may extend the 180 day period when there is evidence that the hiring entity has concealed or misled the domestic worker regarding the alleged retaliatory action.

(2) If a domestic worker files a timely complaint with the department alleging retaliation, the department may investigate the complaint and issue either a citation and notice of assessment or a determination of compliance within 90 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the domestic worker and the hiring entity setting forth good cause for an extension of the period and specifying the duration of the extension.

(3) The department may consider a complaint to be otherwise resolved when the domestic worker and the hiring entity reach a mutual agreement to remedy any retaliatory action, or the domestic worker voluntarily and on the domestic worker's own initiative withdraws the complaint. Mutual agreements include, but are not limited to, rehiring, reinstatement, back pay, and reestablishment of benefits.

(4) If the department's investigation finds that the domestic worker's allegation of retaliation cannot be substantiated, the department may issue a determination of compliance to the domestic worker and the hiring entity detailing such finding.

(5) If the department's investigation finds that the hiring entity retaliated against the domestic worker, and the complaint is not otherwise resolved, the department may, at its discretion, notify the hiring entity that the department intends to issue a citation and notice of assessment, and may provide up to 30 days after the date of such notification for the hiring entity to take corrective action to remedy the retaliatory action. If the complaint is not otherwise resolved, then the department may issue a citation and notice of assessment. The department's citation and notice of assessment may:

(a) Order the hiring entity to make payable to the domestic worker earnings that the domestic worker did not receive due to the hiring entity's retaliatory action, including interest of one percent per month on all earnings owed. The earnings and interest owed must be calculated from the first date earnings were owed to the domestic worker;

(b) Order the hiring entity to restore the domestic worker to the position of employment held by the domestic worker when the retaliation occurred, or restore the domestic worker to an equivalent position with equivalent employment hours, work schedule, benefits, pay, and other terms and conditions of employment; and

(c) Order the hiring entity to pay the department a civil penalty as provided in section 10 of this act.

(6) If the department issues a citation and notice of assessment or determination of compliance, the department shall send the citation and notice of assessment or determination of compliance to both the hiring entity and domestic worker by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(7) During an investigation of the domestic worker's retaliation complaint, if the department discovers information suggesting alleged violations by the hiring entity of the domestic worker's other rights under this chapter, and all applicable rules, the department may investigate and take appropriate enforcement action without requiring the domestic worker to file a new or separate complaint. If the department determines that the hiring entity violated additional rights of the domestic worker under this chapter, and all applicable rules, the hiring entity may be subject to additional enforcement actions for the violation

of such rights. If the department discovers information alleging the hiring entity retaliated against or otherwise violated rights of other domestic workers under this chapter, and all applicable rules, the department may launch further investigation under this chapter, and all applicable rules, without requiring additional complaints to be filed.

(8) The department may prioritize retaliation investigations as needed to allow for timely resolution of complaints.

(9) Nothing in this chapter limits the department's ability to investigate under any other authority.

(10) Nothing in this chapter limits a domestic worker's right to pursue private legal action.

NEW SECTION. **Sec. 10.** (1) If the department's investigation finds that a hiring entity retaliated against a domestic worker, pursuant to sections 8 and 9 of this act, the department may order the hiring entity to pay the department a civil penalty. A civil penalty for a hiring entity's retaliatory action must not be less than $1,000 or an amount equal to 10 percent of the total amount of unpaid earnings attributable to the retaliatory action, whichever is greater. The maximum civil penalty for a hiring entity's retaliatory action shall be $20,000 for the first violation, and $40,000 for each repeat violation.

(2) The department may, at any time, waive or reduce any civil penalty assessed against a hiring entity under this section if the department determines that the hiring entity has taken corrective action to remedy the retaliatory action.

(3) The department shall deposit civil penalties paid under this section in the supplemental pension fund established in RCW 51.44.033.

NEW SECTION. **Sec. 11.** (1) A person, hiring entity, or other entity aggrieved by a citation and notice of assessment or a determination of compliance may, within 30 days after the date of such decision, submit a request for reconsideration to the department setting forth the grounds for seeking such reconsideration, or submit an appeal to the director pursuant to the procedures outlined in subsection (4) of this section. If the department receives a timely request for reconsideration, the department shall either accept the request or treat the request as a notice of appeal.

(2) If a request for reconsideration is accepted, the department shall send notice of the request for reconsideration to the hiring entity and the domestic worker. The department shall determine if there are any valid reasons to reverse or modify the department's original decision to issue a citation and notice of assessment or determination of compliance within 30 days of receipt of such request. The department may extend this period by providing advance written notice to the domestic worker and hiring entity setting forth good cause for an extension of the period and specifying the duration of the extension. After reviewing the reconsideration, the department must either:

(a) Notify the domestic worker and the hiring entity that the citation and notice of assessment or determination of compliance is affirmed; or

(b) Notify the domestic worker and the hiring entity that the citation and notice of assessment or determination of compliance has been reversed or modified.

(3) A request for reconsideration submitted to the department shall stay the effectiveness of the citation and notice of assessment or the determination of compliance pending the reconsideration decision by the department.

(4) Within 30 days after the date the department issues a citation and notice of assessment or a determination of compliance, or within 30 days after the date the department issues its decision on the request for reconsideration, a person, hiring entity, or other entity aggrieved by a citation and notice of assessment or a determination of compliance may file with the director a notice of appeal.

(5) A notice of appeal filed with the director under this section shall stay the effectiveness of the citation and notice of assessment or the determination of compliance pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(6) Upon receipt of a notice of appeal, the director shall assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures shall be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation and notice of assessment or determination of compliance shall be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within 30 days after service of the initial order. The director shall conduct administrative review in accordance with chapter 34.05 RCW.

(7) If a request for reconsideration is not submitted to the department within 30 days after the date of the original citation and notice of assessment or determination of compliance, and a person, hiring entity, or other entity aggrieved by a citation and notice of assessment or determination of compliance did not submit an appeal to the director, then the citation and notice of assessment or determination of compliance is final and binding, and not subject to further appeal.

(8) The director shall issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(9) Director's orders that are not appealed within the time period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

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(10) A hiring entity who fails to allow adequate inspection of records in an investigation by the department within a reasonable time period may not use such records in any appeal to challenge the correctness of any determination by the department.

NEW SECTION. **Sec. 12.** The department may adopt rules to implement this chapter.

NEW SECTION. **Sec. 13.** This chapter establishes minimum standards and rights of domestic workers in this state, unless exempted herefrom, and is in addition to and supplementary to any other federal, state, or local law or ordinance, or any rule or regulation issued thereunder. Any standards or rights established by any applicable federal, state, or local law or ordinance, or any rule or regulation issued thereunder, which are more favorable to domestic workers than the minimum standards and rights established by this chapter, or any rule or regulation issued hereunder, shall not be affected by this chapter and such other laws, or rules or regulations, shall be in full force and effect and may be enforced as provided by law. The remedies provided by this chapter are not exclusive and are concurrent with any other remedy provided by law.

NEW SECTION. **Sec. 14.** (1) The department shall develop and make available a model disclosure statement which describes a hiring entity's obligations and domestic worker's rights under this chapter, in at least eight of the most commonly spoken languages in the state. The disclosure statement must include notice about any state law, rule, or regulation governing maternity disability leave and indicate that federal or local ordinances, laws, rules, or regulations may also apply. The model disclosure must also include a telephone number and an address of the department to enable domestic workers to obtain more rights, obligations, and enforcement.

(2) The department shall develop and make available a model written agreement, which describes a hiring entity's obligations and domestic worker's rights under this act in at least eight of the most commonly spoken languages in the state.

NEW SECTION. **Sec. 15.** (1) A domestic worker who deems themselves injured by a violation of this act has the right to bring forward any civil action, in a court of competent jurisdiction, for any violation of rights pursuant to this act. This means any legal action necessary to collect such claim, and the hiring entity shall be required to pay the costs and such reasonable attorneys' fees as may be allowed by the court.

(2) Any agreement between such domestic worker and the hiring entity allowing the domestic worker to receive less than what is due under this chapter is not a defense to such action.

NEW SECTION. **Sec. 16.** (1) The department may:

(a) Upon obtaining information indicating a hiring entity may be committing a violation under this chapter, conduct investigations to ensure compliance with this chapter;

(b) Order the payment of all compensation owed the domestic worker and institute actions necessary for the collection of the sums determined owed, in accordance with section 7 of this act; and

(c) Take assignments of compensation claims and prosecute actions for the collection of compensation of persons who are financially unable to employ counsel when in the judgment of the director of the department the claims are valid and enforceable in the courts.

(2) The director of the department or any authorized representative may, for the purpose of carrying out this chapter:

(a) Issue subpoenas to compel the attendance of witnesses or parties and the production of books, papers, or records;

(b) Administer oaths and examine witnesses under oath;

(c) Take the verification of proof of instruments of writing; and

(d) Take depositions and affidavits. If assignments for compensation claims are taken, court costs shall not be payable by the department for prosecuting such suits.

(3) The director shall have a seal inscribed "Department of Labor and Industries—State of Washington" and all courts shall take judicial notice of such seal. Obedience to subpoenas issued by the director or authorized representative shall be enforced by the courts in any county.

Sec. 17. RCW 49.46.010 and 2024 c 132 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Employ" includes to permit to work;

(3) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from ((~~his or her~~))the individual's permanent residence to the farm on which ((~~he or she~~))the individual is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

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(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using ((~~his or her~~))their own equipment, chooses to submit material for publication for free or a fee when such material is published;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the individual's place of ((~~his or her~~)) employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties, except for domestic workers as defined in section 2 of this act;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) Any farm intern providing ((~~his or her~~))the farm intern's services to a small farm which has a special certificate issued under RCW 49.12.471;

(p) An individual who is at least 16 years old but under twenty-one years old, in ((~~his or her~~))the individual's capacity as a player for a junior ice hockey team that is a member of a regional, national, or international league and that contracts with an arena owned, operated, or managed by a public facilities district created under chapter 36.100 RCW; or

(q) Any individual who has entered into a contract to play baseball at the minor league level and who is compensated pursuant to the terms of a collective bargaining agreement that expressly provides for wages and working conditions;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(6) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry;

(7) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director.

NEW SECTION. **Sec. 18.** (1) The department of labor and industries shall study models for providing domestic workers with access to industrial insurance coverage. The department may evaluate a third-party administrator model, a consumer-directed employer model, and other models involving an intermediary nonprofit organization. The study must evaluate legislative, regulatory, or other policy changes needed to implement models. In conducting the study, the department shall consult with representatives of domestic workers and day laborers, labor organizations, workers' centers, relevant nonprofit organizations, hiring entities, and other relevant experts and interested parties.

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(2) The department of labor and industries shall report its findings to the governor and the appropriate committees of the legislature by October 1, 2026.
(3) This section expires December 31, 2027.

NEW SECTION. **Sec. 19.** Sections 1 through 16 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. **Sec. 20.** Sections 1 through 17 and 19 of this act take effect July 1, 2026."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Burnett; Dye; Keaton; Manjarrez; Marshall; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representatives Schmick, Assistant Ranking Minority Member; Caldier; and Corry.

Referred to Committee on Rules for second reading

April 8, 2025

SB 5032 Prime Sponsor, Senator Wilson, C.: Expanding the duties of the office of the family and children's ombuds to include juvenile rehabilitation facilities operated by the department of children, youth, and families. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.06A.010 and 2013 c 23 s 71 are each amended to read as follows:
There is hereby created an office of the family and children's ombuds within the office of the governor for the purpose of promoting public awareness and understanding of family, youth, and children services provided by the department of children, youth, and families, identifying system issues and responses for the governor and the legislature to act upon, and monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family, youth, and children's services and the placement, supervision, and treatment of children, youth, and individuals in the state's care or in state-licensed facilities or residences and juvenile rehabilitation facilities. The ombuds shall report directly to the governor and shall exercise ((~~his or her~~))the ombuds' powers and duties independently of the secretary.

Sec. 2. RCW 43.06A.030 and 2018 c 58 s 77 are each amended to read as follows:
(1) The ombuds shall perform the following duties:
((~~(1)~~))(a) Provide information as appropriate on the rights and responsibilities of individuals receiving services from the department of children, youth, and families, including family, youth, and children's services, juvenile justice, juvenile rehabilitation, and child early learning, and on the procedures for providing these services;
((~~(2)~~))(b) Investigate, upon ((~~his or her~~))the ombud's own initiative or upon receipt of a complaint, an administrative act by the department of children, youth, and families alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds; however, the ombuds may decline to investigate any complaint as provided by rules adopted under this chapter;
((~~(3)~~))(c) Monitor the procedures as established, implemented, and practiced by the department of children, youth, and families to carry out its responsibilities in delivering family, youth, and children's services and juvenile rehabilitation services, with a view toward appropriate preservation of families and ensuring ((~~children's~~)) health and safety;
((~~(4)~~))(d) Review periodically the facilities and procedures of state institutions including juvenile rehabilitation facilities serving children, youth, individuals, and families, and state-licensed facilities or residences;
((~~(5)~~))(e) Recommend changes in the procedures for addressing the needs of children, youth, individuals, and families, who receive care or services from the department of children, youth, and families;
((~~(6)~~))(f) Submit annually to the oversight board for children, youth, and families created in RCW 43.216.015 and to the governor by November 1st a report analyzing the work of the department of children, youth, and families, including recommendations;
((~~(7)~~))(g) Grant the oversight board for children, youth, and families access to all relevant records in the possession of the ombuds unless prohibited by law; and
((~~(8)~~))(h) Adopt rules necessary to implement this chapter.

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(2) For the purposes of this section, "child, youth, or individual" includes any person in the state's care or in state-licensed facilities or residences and juvenile rehabilitation facilities who is receiving services from the department of children, youth, and families.

Sec. 3. RCW 43.06A.100 and 2017 3rd sp.s. c 6 s 810 are each amended to read as follows:

(1) The department of children, youth, and families shall:

(a) Allow the ombuds or the ombuds's designee to communicate privately with any child or person in the custody of the department of children, youth, and families, or any child or person who is part of a near fatality investigation by the department of children, youth, and families, for the purposes of carrying out its duties under this chapter;

(b) Permit the ombuds or the ombuds designee physical access to state institutions serving children, youth, and families, including juvenile rehabilitation facilities and state licensed facilities or residences, for the purpose of carrying out its duties under this chapter;

(c) Upon the ombuds's request, grant the ombuds or the ombuds's designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department of children, youth, and families that the ombuds considers necessary in an investigation; and

(d) Grant the office of the family and children's ombuds unrestricted online access to the child welfare case management information system, the juvenile rehabilitation case management system, and the department of children, youth, and families data information system for the purpose of carrying out its duties under this chapter.

(2) For the purposes of this section((~~, "near~~)):

(a) "Near fatality" means an act that, as certified by a physician, places the child or person in serious or critical condition.

(b) "Child, youth, or individual" includes any person in the state's care or in state-licensed facilities or residences and juvenile rehabilitation facilities who is receiving services from the department of children, youth, and families.

(3) Nothing in this section creates a duty for the office of the family and children's ombuds under RCW 43.06A.030 as related to children in the care of an early learning program described in RCW 43.216.500 through 43.216.550, a licensed child care center, or a licensed child care home.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5127 Prime Sponsor, Transportation: Creating additional requirements for collector vehicle and horseless carriage license plates to improve compliance and public safety. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.30.020 and 2019 c 60 s 1 are each amended to read as follows:

(1)(a) No person may operate a motor vehicle subject to registration under chapter 46.16A RCW in this state unless the person is insured under a motor vehicle liability policy with liability limits of at least the amounts provided in RCW 46.29.090, is self-insured as provided in RCW 46.29.630, is covered by a certificate of deposit in conformance with RCW 46.29.550, or is covered by a liability bond of at least the amounts provided in RCW 46.29.090. Proof of financial responsibility for motor vehicle operation must be provided on the request of a law enforcement officer in the format specified under RCW 46.30.030.

(b) A person who drives a motor vehicle that is required to be registered in another state that requires drivers and owners of vehicles in that state to maintain insurance or financial responsibility shall, when requested by a law enforcement officer, provide evidence of financial responsibility or insurance as is required by the laws of the state in which the vehicle is registered.

(c) When asked to do so by a law enforcement officer, failure to display proof of financial responsibility for motor vehicle operation as specified under RCW 46.30.030 creates a presumption that the person does not have motor vehicle insurance.

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(d) Failure to provide proof of motor vehicle insurance is a traffic infraction and is subject to penalties as set by the supreme court under RCW 46.63.110 or community restitution.

(e) For the purposes of this section, when a person uses a portable electronic device to display proof of financial security to a law enforcement officer, the officer may only view the proof of financial security and is otherwise prohibited from viewing any other content on the portable electronic device.

(f) Whenever a person presents a portable electronic device pursuant to this section, that person assumes all liability for any damage to the portable electronic device.

(2) If a person cited for a violation of subsection (1) of this section appears in person before the court or a violations bureau and provides written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, the citation shall be dismissed and the court or violations bureau may assess court administrative costs of ((~~twenty-five dollars~~))$25 at the time of dismissal. In lieu of personal appearance, a person cited for a violation of subsection (1) of this section may, before the date scheduled for the person's appearance before the court or violations bureau, submit by mail to the court or violations bureau written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, in which case the citation shall be dismissed without cost, except that the court or violations bureau may assess court administrative costs of ((~~twenty-five dollars~~))$25 at the time of dismissal.

(3) The provisions of this chapter shall not govern:

(a) The operation of a motor vehicle ((~~registered under RCW 46.18.220 or 46.18.255,~~)) governed by RCW 46.16A.170((~~,~~)) or registered with the Washington utilities and transportation commission as common or contract carriers; or

(b) The operation of a motor-driven cycle as defined in RCW 46.04.332, a moped as defined in RCW 46.04.304, or a wheeled all-terrain vehicle as defined in RCW 46.09.310.

(4) RCW 46.29.490 shall not be deemed to govern all motor vehicle liability policies required by this chapter but only those certified for the purposes stated in chapter 46.29 RCW.

Sec. 2. RCW 46.04.199 and 2017 c 147 s 1 are each amended to read as follows:

"Horseless carriage license plate" is a special license plate that may be assigned to a vehicle ((~~that is at least forty years old~~))manufactured or built before January 1, 1916, and meets the qualifications listed in RCW 46.18.255.

Sec. 3. RCW 46.18.255 and 2020 c 18 s 15 are each amended to read as follows:

(1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a horseless carriage license plate for a motor vehicle that is ((~~at least forty years old~~))manufactured or built before January 1, 1916. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the horseless carriage license plate shall:

(a) Purchase a registration for the motor vehicle as required under chapters 46.16A and 46.17 RCW; and

(b) Pay the special license plate fee established under RCW 46.17.220(11), in addition to any other fees or taxes required by law.

(2) Horseless carriage license plates:

(a) Are valid for the life of the motor vehicle;

(b) Are not required to be renewed;

(c) Are not transferable to any other motor vehicle; and

(d) Must be displayed on the rear of the motor vehicle.

Sec. 4. RCW 46.18.220 and 2024 c 131 s 1 are each amended to read as follows:

(1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a collector vehicle license plate for a motor vehicle or travel trailer that is at least 30 years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the collector vehicle license plate shall:

(a) After January 15, 2026, provide proof of ownership and a valid registration certificate for a second vehicle that will be used for daily driving, commuting, or business purposes;

(b) After January 15, 2026, provide proof of a current collector vehicle insurance policy for the vehicle being registered, with liability limits of at least the amounts listed under RCW 46.29.090;

(c) Purchase a registration for the motor vehicle or travel trailer as required under chapters 46.16A and 46.17 RCW; and

((~~(b)~~))(d) Pay the special license plate fee established under RCW 46.17.220(5), in addition to any other fees or taxes required by law.

(2) A person applying for a collector vehicle license plate may:

(a) Receive a collector vehicle license plate assigned by the department; or

(b) Provide an actual Washington state issued license plate designated for general use in the year of the vehicle's manufacture.

(3) Collector vehicle license plates:

(a) Are valid for the life of the motor vehicle or travel trailer;

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(b) Are not required to be renewed; and

(c) Must be displayed on the rear of the motor vehicle or travel trailer.

(4) A collector vehicle registered under this section may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving.

(5) Collector vehicle license plates under subsection (2)(b) of this section may be transferred from one vehicle to another vehicle described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) A person driving a motor vehicle with a collector vehicle license plate must maintain collector vehicle insurance with respect to the vehicle and comply with all requirements of chapter 46.30 RCW.

(7) Any person who knowingly provides a false or facsimile license plate under subsection (2)(b) of this section is subject to a traffic infraction and fine in an amount equal to the monetary penalty for a violation of RCW 46.16A.200(7)(b). Additionally, the person must pay for the cost of a collector vehicle license plate as listed in RCW 46.17.220(5), unless already paid.

((~~(7)~~))(8) A collector vehicle that is a motor vehicle may tow a trailer if the trailer is being used for participation in club activities, exhibitions, tours, and parades.

(9) Any person who does not meet the requirements of subsections (1) through (8) of this section must surrender the current license plate or plates to the department, county auditor or other agent, or subagent appointed by the director. A person whose collector vehicle registration has been canceled may operate the vehicle once the applicable requirements of chapters 46.16A and 46.17 RCW have been satisfied.

(10) The department is authorized to make exceptions to the requirements under subsection (1)(a) of this section if the owner demonstrates to the department's satisfaction that the owner has alternative means for addressing the owner's regular transportation needs.

(11) The requirements of subsections (1)(b) and (6) of this section apply only when the collector vehicle is operated on a public highway pursuant to RCW 46.30.020.

(12) The department shall adopt rules to define collector vehicle insurance for the purposes of this section.

Sec. 5. RCW 46.16A.070 and 2011 c 171 s 44 are each amended to read as follows:

(1) The department may refuse to issue or may cancel a registration certificate at any time when the department determines that an applicant for registration is not entitled to a registration certificate. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the registered or legal owner or owners, and completing an affidavit of first-class mail. It is unlawful for any person to remove, drive, or operate the vehicle until a proper registration certificate has been issued. A person removing, driving, or operating a vehicle after the refusal to issue or cancellation of the registration is guilty of a gross misdemeanor.

(2)(a) The suspension, revocation, cancellation, or refusal by the director of a registration certificate provided under this chapter is conclusive unless the person whose registration or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county or the person's county of residence.

(b) Notice of appeal must be filed within ((~~ten~~))10 days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal, the court shall issue an order to the director to show cause why the registration should not be granted or reinstated and return the order not less than ((~~ten~~))10 days after the date of service to the director. Service must be in the same manner as prescribed for the service of a summons and complaint in other civil actions.

(c) Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation, cancellation, or refusal of the registration and shall enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal.

(3) The department may cancel the registration of a vehicle registered under RCW 46.18.220 if the registered owner fails to respond to a request for information from the department regarding collector vehicle insurance and whether collector plates are in use, within 45 days. The request for information shall include a statement with the necessary information and deadline for compliance, as well as the consequences of failure to respond to the request for information.

NEW SECTION. **Sec. 6.** This act takes effect January 15, 2026."

Correct the title.

Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Bronoske; Dent; Duerr; Entenman; Griffey; Hunt; Klicker; Ley; Nance; Ramel; Richards; Stuebe; Taylor; Timmons; Volz; Wylie and Zahn.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Low, Assistant Ranking Minority Member; Mendoza, Assistant Ranking Minority Member; and Orcutt.

Referred to Committee on Rules for second reading

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April 7, 2025

E2SSB 5148 Prime Sponsor, Ways & Means: Ensuring compliance with the housing element requirements of the growth management act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A RCW to read as follows:

(1) A county or city that is required or chooses to plan under RCW 36.70A.040 may submit their housing element required under RCW 36.70A.070(2) and any housing development regulations adopted or amended on or after the effective date of this section to the department for review to determine whether the housing element or housing development regulations comply with the laws and regulations identified in subsection (7) of this section.

(2)(a) Not less than 120 days prior to applying for approval of a housing element, the county or city must notify the department in writing that it intends to apply for approval under subsection (1) of this section. The department shall review proposed housing elements prior to final adoption and advise the county or city of the actions necessary to receive approval.

(b) Prior to advising the county or city of the actions necessary to receive approval under (a) of this subsection, the department, along with the county or city, may consult with other relevant state agencies in making its determination.

(c) Prior to advising the county or city of the actions necessary to receive approval under (a) of this subsection, the department, along with the county or city, may consult with housing providers, developers, and builders that are located in or have completed work in the county or city.

(d) The department shall publish notice in the Washington state register that a city or county has notified the department of its intent to apply for approval and the department shall post a copy of the notice on the department website.

(3)(a) A county or city submitting a housing element or housing development regulation for review under subsection (1) of this section must submit its application to the department within 10 days after any final action to amend, repeal, or replace the housing element or housing development regulations.

(b) Notwithstanding subsection (1) of this section, the department may review housing development regulations adopted or amended before the effective date of this section if amendments to those regulations are necessary to implement the housing element or any laws and regulations identified in subsection (7) of this section.

(4) Notwithstanding RCW 36.70A.320(1), a housing element or housing development regulation subject to review under this section does not take effect until the department issues a final decision determining that the housing element or housing development regulation complies with the laws and regulations identified in subsection (7) of this section.

(5)(a) An application for review must include, at a minimum, the following:

(i) A cover letter from the legislative authority requesting review of the housing element or housing development regulations;

(ii) A copy of the adopted ordinance or resolution taking the legislative action or actions required to adopt the housing element or housing development regulations;

(iii) A statement explaining how the adopted housing element or housing development regulations comply with the laws and regulations identified in subsection (7) of this section; and

(iv) A copy of the record developed by the city or county at any public meeting or public hearing at which action was taken on the housing element or housing development regulations.

(b) For the purposes of this subsection, "action" and "meeting" have the same meanings as in RCW 42.30.020.

(6)(a) Within 120 days of the date of receipt of an application, the department shall issue a decision determining whether the housing element and any housing development regulations comply with the laws and regulations identified in subsection (7) of this section. The department may extend the review period with written agreement of the city or county.

(b) The department must issue its decision in the form of a written statement, including findings of fact and conclusions, and noting the date of the issuance of its decision. The department's issued decision must conspicuously and plainly state that it is the department's final decision. In issuing a decision that finds that a city's or county's housing element and any housing development regulations are not in compliance with the laws and regulations identified in subsection (7) of this section, the department must demonstrate that the city's or county's housing element or development regulations are clearly erroneous.

(c) The department shall promptly publish its decision as follows:

(i) Notify the city or county in writing of its decision;

(ii) Publish a notice of action in the Washington state register;

(iii) Post a notice of its decision on the agency website; and

(iv) Notify other relevant state agencies regarding the decision.

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(7)(a) The department shall issue a determination of compliance for a housing element or housing development regulation unless it finds that the housing element or housing development regulation is not consistent with any of the following laws and regulations:

(i) The housing planning goal set forth in RCW 36.70A.020(4);

(ii) The housing element requirements set forth in RCW 36.70A.070(2);

(iii) Any relevant rules adopted by the department;

(iv) Any relevant state environmental policy act requirements in chapter 43.21C RCW;

(v) The county's or city's comprehensive plan;

(vi) Emergency shelters, transitional housing, emergency housing, and permanent supportive housing requirements in RCW 35.21.683 and 35A.21.430;

(vii) Co-living housing requirements in RCW 36.70A.535;

(viii) Density bonuses required in RCW 36.70A.545;

(ix) Parking requirements in RCW 36.70A.620 and 36.70A.622; or

(x) Housing requirements in RCW 36.70A.115, 36.70A.635, 36.70A.636, 36.70A.637, 36.70A.638, 36.70A.680, 36.70A.681, 36.70A.682, 36.70A.696, 36.70A.697, 36.70A.698, and 36.70A.699.

(b) Within six months of the effective date of this section, the department shall publish a defined set of minimum objective standards that jurisdictions must meet in order to comply with this section.

(8)(a) The department shall publish and regularly update a local government compliance list that includes, at minimum, the following information for each city or county:

(i) Whether the city or county is subject to a targeted review under subsection (9) of this section;

(ii) Whether the city or county has applied for a determination of compliance and, if so, the date of the application; and

(iii) Whether the department has issued a decision on compliance for the city or county and, if so, the nature of the decision, the date that the decision was issued, and the status or outcome of any appeals.

(b) The local government compliance list must be made publicly available on the department's website.

(9)(a)(i) A city or county that is required or chooses to plan under RCW 36.70A.040 and that does not voluntarily submit their housing element and any housing development regulations under subsection (1) of this section must submit their housing element required under RCW 36.70A.070(2) and any housing development regulations adopted or amended on or after the effective date of this section to the department for review no later than three years after enacting a new comprehensive land use plan or updating an existing comprehensive land use plan.

(ii) During review of a city or county under this subsection, the department may consult with housing developers and builders that are located in or have completed work in the city or county.

(b)(i) If the department determines that a city or county submitting its housing element and housing development regulations under this section is not in compliance with the laws and regulations identified in subsection (7) of this section, the department shall notify the city or county of the deficiencies identified and propose amendments to correct any deficiencies. The city or county has 120 days to amend its housing element and any relevant housing development regulations to address any deficiencies noted by the department in its decision issued under subsection (6)(a) of this section and must submit any amendments to its housing element or housing development regulations to the department in the same manner of the initial application for review under subsection (5)(a) of this section.

(ii) If the department determines that a housing element or housing development regulation amended under subsection (9)(b)(i) of this section does not comply with the laws and regulations identified in subsection (7) of this section, the city or county has an additional 120 days to address any deficiencies noted by the department, and must submit any amendments to its housing element or housing development regulations to the department in the same manner as the initial application for review under subsection (5)(a) of this section.

(iii) If, subsequent to the procedure under (b)(ii) of this subsection, the department determines that the amended housing element or housing development regulations do not comply with the laws and regulations identified in subsection (7) of this section, then the city or county is subject to the requirements of subsection (12) of this section.

(c) The department may extend any correction period in this subsection with written agreement of the city or county.

(10) The department may conduct up to a maximum of 60 reviews per year under this section and must establish a process for prioritizing submissions for review. The department must give top priority to voluntary submissions for review under subsection (1) of this section. Submissions for review under subsection (9) of this section must be prioritized after any voluntary submissions under subsection (1) of this section based on factors such as a jurisdiction's size, growth rate, and the progress a jurisdiction has made towards accommodating its growth allocation.

(11) The department's decision on compliance, including subsequent reviews under subsection (9)(b) of this section, and any housing element or housing development regulations subject to review under this section, may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(12)(a) A noncompliant city or county may not deny an affordable or moderate-income housing development, or approve an affordable or moderate-income housing development with conditions or restrictions that have a substantial adverse impact on the viability of the

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development or the degree of affordability of the development unless at least one of the following conditions is met:

(i) The city or county has received a final decision from the department determining that its housing element and any housing development regulations comply with the laws and regulations identified in subsection (7) of this section;

(ii) The denial of the affordable or moderate-income housing development, or the approval of the affordable or moderate-income housing development with conditions or restrictions that have a substantial adverse impact on the viability of the development or the degree of affordability of the development, is required in order to comply with specific state or federal law;

(iii) The affordable or moderate-income housing development or proposed development site is located outside an urban growth area, in a critical area, in a critical area buffer, or in an area where residential uses are not allowed by the applicable shoreline master program; or

(iv) The affordable or moderate-income housing development or proposed development site is located in an area where neither the local jurisdiction's comprehensive plan nor zoning ordinance permits residential or mixed uses.

(b) The county or city must require the developer of an affordable or moderate-income housing development to include legally binding, enforceable restrictions on the development, recorded as a covenant or deed restriction, to ensure that the following measures of affordability are met for a minimum 25-year period:

(i) At least 20 percent of the units are affordable housing as defined in RCW 36A.70A.030;

(ii) At least 50 percent of the units are workforce housing; or

(iii) All of the units are moderate-income housing as defined in RCW 36.70A.030.

(c) The county or city must periodically audit compliance with the restrictions or provide another mechanism to ensure that the units committed to affordable or workforce housing meet the measures of affordability described in (b) of this subsection during the agreed term.

(d) For the purposes of this subsection, "noncompliant city or county" means a city or county that:

(i) Does not take amendatory actions under subsection (9)(b)(i) of this section following a determination from the department that the city's or county's housing element or housing development regulations do not comply with the laws and regulations identified in subsection (7) of this section; or

(ii) Has a housing element or housing development regulation that does not comply with the laws and regulations identified in subsection (7) of this section as determined by the department under subsection (9)(b)(iii) of this section or, if appealed, the board under RCW 36.70A.290(3)(b).

(13) A city or county may not be required to submit their housing element or housing development regulations for department review and compliance under this section as a condition of eligibility or prioritization for funds or other programs and opportunities unless a city or county is required to submit their housing element or housing development regulations under subsection (9)(a)(i) of this section.

(14) The department may adopt any rules necessary to implement this section.

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

(a) "Affordable housing" has the same meaning as in RCW 36.70A.030.

(b) "Workforce housing" means housing with monthly costs, including utilities other than telephone, that do not exceed 30 percent of the monthly income of a household whose income is:

(i) For a rental: At or below 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development;

(ii) For ownership: At or below 100 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(c) "Moderate-income housing" has the same meaning as "moderate-income household" in RCW 36.70A.030.

(d) "Housing development regulations" means any development regulations related to the housing element requirements under RCW 36.70A.070(2) including, but not limited to, development regulations related to affordable housing, middle housing, co-living housing, accessory dwelling units, emergency shelters, transitional housing, emergency housing, permanent supportive housing, conversions of nonresidential buildings to residential use, and any zoning maps and zoning districts.

Sec. 2. RCW 36.70A.280 and 2023 c 334 s 7, 2023 c 332 s 6, and 2023 c 228 s 7 are each reenacted and amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance based on a city or county's

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actions taken to implement the requirements of RCW 36.70A.680 and 36.70A.681 within an urban growth area;

(b) That the 20-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction;

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous;

(f) That the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendments by a local government planning under RCW 36.70A.040 was not in compliance with the joint guidance issued by the department pursuant to RCW 70A.45.120; ((~~or~~))

(g) That the department's final decision to approve or reject actions by a city implementing RCW 36.70A.635 is clearly erroneous; or

(h) That the department's determination of compliance of a housing element and any related housing development regulations under section 1 of this act is clearly erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within 60 days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section, "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

Sec. 3. RCW 36.70A.290 and 2011 c 277 s 1 are each amended to read as follows:

(1) All requests for review to the growth management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board. The board shall render written decisions articulating the basis for its holdings. The board shall not issue advisory opinions on issues not presented to the board in the statement of issues, as modified by any prehearing order.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days after publication as provided in (a) through ((~~(c)~~)) (d) of this subsection.

(a) Except as provided in (c) and (d) of this subsection, the date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published.

(b) Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

Except as provided in (c) and (d) of this subsection, for purposes of this section the date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(c) For local governments planning under RCW 36.70A.040, promptly after approval or disapproval of a local government's shoreline master program or amendment thereto by the department of ecology as provided in RCW 90.58.090, the department of ecology shall publish a notice that the shoreline master program or amendment thereto has been approved or disapproved. For purposes of this section, the date of publication for the adoption or amendment of a shoreline master program is the date the department of ecology publishes notice that the shoreline master program or amendment thereto has been approved or disapproved.

(d) For purposes of this section, the date of publication for a housing element and any housing development regulations submitted to the department for review under section 1 of this act is the date the department publishes its final decision on compliance in the Washington State Register or on the department's website, whichever is later.

(3)(a) All petitions relating to whether the department's final decision under section 1 of this act is clearly erroneous must be filed within 60 days after the department publishes its final decision in the Washington State Register or on the department's website, whichever is later.

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(b) A decision of the board concerning an appeal of the department's final decision under section 1 of this act must be based solely on whether the relevant housing element or housing development regulations comply with the laws and regulations identified in section 1(7) of this act.

(4) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, or the parties have filed an agreement to have the case heard in superior court as provided in RCW 36.70A.295, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

((~~(4)~~))(5) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

((~~(5)~~))(6) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations.

Sec. 4. RCW 36.70A.130 and 2024 c 17 s 1 are each amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b)(i) A city or town located within a county planning under RCW 36.70A.040 may opt out of a full review and revisions of its comprehensive plan established in this section if the city or town meets the following criteria:

(A) Has a population fewer than 500;

(B) Is not located within 10 miles of a city with a population over 100,000;

(C) Experienced a population growth rate of fewer than 10 percent in the preceding 10 years; and

(D) Has provided the department with notice of its intent to participate in a partial review and revision of its comprehensive plan.

(ii) The department shall review the population growth rate for a city or town participating in the partial review and revision of its comprehensive plan process at least three years before the periodic update is due as outlined in subsection (4) of this section and notify cities of their eligibility.

(iii) A city or town that opts out of a full review and revision of its comprehensive plan must update its critical areas regulations and its capital facilities element and its transportation element.

(c) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(d) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent 10-year population forecast by the office of financial management.

(e) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the 100 year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; ((~~or~~))

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440, provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all

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persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment; or

(vi) The adoption or amendment of any housing element necessary to receive a determination of compliance under section 1 of this act.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, patterns of development occurring within the urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding 20-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;

(ii) The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance;

(iii) Less than 15 percent of the areas added to the urban growth area are critical areas;

(iv) The areas added to the urban growth areas are suitable for urban growth;

(v) The transportation element and capital facility plan element have identified the transportation facilities, and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(vi) The urban growth area is not larger than needed to accommodate the growth planned for the succeeding 20-year planning period and a reasonable land market supply factor;

(vii) The areas removed from the urban growth area do not include urban growth or urban densities; and

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands.

(4) Except as otherwise provided in subsections (6) and (8) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) Except as provided in subsection (10) of this section, on or before December 31, 2024, with the following review and, if needed, revision on or before June 30, 2034, and then every 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before December 31, 2025, with the following review and, if needed, revision on or before June 30, 2035, and then every 10 years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2026, and every 10 years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2027, and every 10 years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the 24 months following the deadline established in subsection (5) of this section: The county has a population of less than 50,000 and has had its population increase by no more than 17 percent in the 10 years preceding the deadline established in subsection (5) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the 24 months following the deadline established in subsection (5) of this section: The city has a population of no more than 5,000 and has had its population increase by the greater of either no more than 100 persons or no more than 17 percent in the 10 years preceding the deadline established in subsection (5) of this section as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW:

(i) ((~~Complying~~))The county or city is in compliance with the deadlines in this section; ((~~or~~))

(ii) ((~~Demonstrating~~))The county or city demonstrates substantial progress towards compliance with the ((~~schedules~~))deadlines in this section for development regulations that protect critical areas. ((~~(b) A~~))For the purposes of this subsection (7)(a)(ii), a county or city that is fewer than 12 months out of compliance with the ((~~schedules~~))deadlines in this section for development regulations that protect critical areas is making substantial progress towards compliance with the deadlines in this section; or

(iii) The county or city demonstrates substantial progress towards compliance with the deadlines in this section for any housing element and any housing development regulations required to be submitted to the department for review under section 1 of this act. For the purposes of this subsection (7)(a)(iii), a county or city that applies to the department for review within the timelines specified under section 1 of this act demonstrates substantial progress towards compliance with the deadlines in this section and is eligible for grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW until the department or the growth management hearings board issues a final decision determining that the county's or city's housing element or any related housing development regulations are not in compliance with the laws and regulations identified in section 1(7) of this act.

(b) Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning 10 years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

(9)(a) Counties subject to planning deadlines established in subsection (5) of this section that are required or that choose to plan under RCW 36.70A.040 and that meet either criteria of (a)(i) or (ii) of this subsection, and cities with a population of more than 6,000 as of April 1, 2021, within those counties, must provide to the department an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan. Once a county meets the criteria in (a)(i) or (ii) of this subsection, the

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implementation progress report requirements remain in effect thereafter for that county and the cities therein with populations greater than 6,000 as of April 1, 2021, even if the county later no longer meets either or both criteria. A county is subject to the implementation progress report requirement if it meets either of the following criteria on or after April 1, 2021:

(i) The county has a population density of at least 100 people per square mile and a population of at least 200,000; or

(ii) The county has a population density of at least 75 people per square mile and an annual growth rate of at least 1.75 percent as determined by the office of financial management.

(b) The department shall adopt guidelines for indicators, measures, milestones, and criteria for use by counties and cities in the implementation progress report that must cover:

(i) The implementation of previously adopted changes to the housing element and any effect those changes have had on housing affordability and availability within the jurisdiction;

(ii) Permit processing timelines; and

(iii) Progress toward implementing any actions required to achieve reductions to meet greenhouse gas and vehicle miles traveled requirements as provided for in any element of the comprehensive plan under RCW 36.70A.070.

(c) If a city or county required to provide an implementation progress report under this subsection (9) has not implemented any specifically identified regulations, zoning and land use changes, or taken other legislative or administrative action necessary to implement any changes in the most recent periodic update in their comprehensive plan by the due date for the implementation progress report, the city or county must identify the need for such action in the implementation progress report. Cities and counties must adopt a work plan to implement any necessary regulations, zoning and land use changes, or take other legislative or administrative action identified in the implementation progress report and complete all work necessary for implementation within two years of submission of the implementation progress report.

(10) Any county or city that is required by RCW 36.70A.095 to include in its comprehensive plan a climate change and resiliency element and that is also required by subsection (5)(a) of this section to review and, if necessary, revise its comprehensive plan on or before December 31, 2024, must update its transportation element and incorporate a climate change and resiliency element into its comprehensive plan as part of the first implementation progress report required by subsection (9) of this section if funds are appropriated and distributed by December 31, 2027, as required under RCW 36.70A.070(10).

Sec. 5. RCW 43.21C.495 and 2023 c 334 s 6 and 2023 c 332 s 8 are each reenacted and amended to read as follows:

(1) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city to implement: The actions specified in section 2, chapter 246, Laws of 2022 unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat; and the increased residential building capacity actions identified in RCW 36.70A.600(1), with the exception of the action specified in RCW 36.70A.600(1)(f), are not subject to administrative or judicial appeals under this chapter.

(2) Amendments to development regulations and other nonproject actions taken by a city to implement the requirements under RCW 36.70A.635 pursuant to RCW 36.70A.636(3)(b) are not subject to administrative or judicial appeals under this chapter.

(3) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city or county consistent with the requirements of RCW 36.70A.680 and 36.70A.681 are not subject to administrative or judicial appeals under this chapter.

(4) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions by a city or county to implement the housing element requirements set forth in RCW 36.70A.070(2) are not subject to administrative or judicial appeals under this chapter.

Sec. 6. RCW 43.155.070 and 2021 c 65 s 49 are each amended to read as follows:

(1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time

periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

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

(4)(a) The board must develop a process to prioritize applications and funding of loans and grants for public works projects submitted by local governments. The board must consider, at a minimum and in any order, the following factors in prioritizing projects:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages other funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality, as applicable;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed-use and mixed income development consistent with chapter 36.70A RCW;

(viii) Whether the system is being well-managed in the present and for long-term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services and transportation; and

(G) Reduction of the overall cost of public infrastructure;

(xi) Whether the applicant sought or is seeking funding for the project from other sources; ((~~and~~))

(xii) Whether the city or county has voluntarily submitted their housing element and housing development regulations under section 1 of this act; and

(xiii) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before September 1, 2018, and each year thereafter, the board must develop and submit a report regarding the construction loans and grants to the office of financial management and appropriate fiscal committees of the senate and house of representatives. The report must include:

(i) The total number of applications and amount of funding requested for public works projects;

(ii) A list and description of projects approved in the preceding fiscal year with project scores against the board's prioritization criteria;

(iii) The total amount of loan and grants disbursements made from the public works assistance account in the preceding fiscal year;

(iv) The total amount of loan repayments in the preceding fiscal year for outstanding loans from the public works assistance account;

(v) The total amount of loan repayments due for outstanding loans for each fiscal year over the following ten-year period; and

(vi) The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year.

(c) The maximum amount of funding that the board may provide for any jurisdiction is ten million dollars per biennium.

(5) Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before September 1st of each year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans and grants made under RCW 43.155.065 and 43.155.068.

(7) The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds to the board for the purpose of funding public works projects under this chapter.

(8) To qualify for loans, grants, or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70A.205 RCW.

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

(10) For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan or grant.

(11) The board must implement policies and procedures designed to maximize local government consideration of other funds to finance local infrastructure.

NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A RCW to read as follows:

The state, through the department and the attorney general, shall represent its interest before agencies of the United States, interstate agencies, and the courts with regard to comprehensive plans, regulations, activities, or uses approved under this act. Where federal or interstate agency plans, activities, or procedures conflict with state policies, all reasonable steps available shall be taken by the state to preserve the integrity of its policies.

NEW SECTION. **Sec. 8.** This act may be known and cited as the housing accountability act.

NEW SECTION. **Sec. 9.** 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. 10.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Caldier; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Penner, Assistant Ranking Minority Member; Corry; Dye; Keaton; Marshall; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representatives Connors, Assistant Ranking Minority Member; Burnett; and Manjarrez.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5165 Prime Sponsor, Agriculture & Natural Resources: Concerning compensation in frontier one counties for deer and elk damage. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2025

SB 5189 Prime Sponsor, Senator Wellman: Supporting the implementation of competency-based education. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(1) "Competencies" mean the rigorous, shared expectations for learning that encompass knowledge, skills, and abilities across grade levels. Competencies are broader than learning standards and may encompass multiple learning standards. Competencies are transparent, measurable, relevant, and transferable to multiple contexts.

(2)(a) "Competency-based education" means education that includes the following elements:

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(i) Students are empowered daily to make important decisions about their learning experiences, how they will create and apply knowledge, and how they will demonstrate their learning;

(ii) Assessment is a meaningful, positive, and empowering learning experience for students that yields timely, relevant, and actionable evidence;

(iii) Students receive timely, differentiated support based on their individual learning needs;

(iv) Students progress based on evidence of mastery, not seat time;

(v) Students learn actively using different pathways and varied pacing;

(vi) Strategies to ensure equity for all students are embedded in the culture, structure, and pedagogy of schools and education systems; and

(vii) Rigorous, common expectations for learning, including knowledge, skills, and dispositions, are explicit, transparent, measurable, and transferable.

(b) "Mastery-based learning" has the same meaning as "competency-based education."

NEW SECTION. **Sec. 2.** (1) By September 1, 2025, the office of the superintendent of public instruction shall adopt rules to authorize full-time enrollment funding for students enrolled in competency-based education programs identified by the state board of education based on:

(a) School membership in the mastery-based learning collaborative established in section 502(2), chapter 334, Laws of 2021 or the school having a current waiver from credit-based graduation requirements granted by the state board of education under RCW 28A.300.750; or

(b) The process developed by the state board of education under section 3 of this act.

(2) Rules adopted pursuant to this section must permit school districts to report full-time equivalent students in eligible competency-based education programs for general apportionment funding.

NEW SECTION. **Sec. 3.** (1) The state board of education shall design and recommend a process to identify and designate schools and school districts that are implementing competency-based education and identify costs associated with this process. This process must consider the extent to which competency-based education is being implemented as compared to the seven elements of the definition in section 1 of this act. The office of the superintendent of public instruction shall consult with the state board of education on how this designation can be displayed on the Washington state report card website.

(2) The office of the superintendent of public instruction, in consultation with the state board of education, shall develop and recommend a process for the office of the superintendent of public instruction to create competencies aligned with the state learning standards and identify costs associated with this process. This process must incorporate relevant materials and guidance developed through the mastery-based learning collaborative established in section 502(2), chapter 334, Laws of 2021. The office of the superintendent of public instruction shall submit the recommendations and associated costs developed in accordance with this subsection to the state board of education by December 1, 2025.

(3) The state board of education shall include the recommendations and associated costs developed in accordance with this section in the report required by section 502(2), chapter 475, Laws of 2023 that is due December 31, 2025.

NEW SECTION. **Sec. 4.** The Washington interscholastic activities association shall include in its rule adoption process a review of whether the rule would create any potential barriers related to students participating in competency-based education in order to ensure continued equitable access to interscholastic activities for those students.

Sec. 5. RCW 28A.230.125 and 2024 c 202 s 5 are each amended to read as follows:

(1) ((~~The~~)) (a) Before the 2026-27 school year, the superintendent of public instruction, in consultation with the four-year institutions as defined in RCW 28B.76.020, the state board for community and technical colleges, the state board of education, and the workforce training and education coordinating board, shall develop and update for use by all public school districts a standardized high school transcript. The superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

((~~(2)~~)) (b) The standardized high school transcript must include a notation of whether the student has earned the Washington state seal of biliteracy established under RCW 28A.300.575.

(2) Before the 2026-27 school year, the state board of education, in consultation with the four-year institutions as defined in RCW 28B.76.020, the state board for community and technical colleges, the office of the superintendent of public instruction, the Washington student achievement council, and the workforce training and education coordinating board, shall develop or identify and recommend to the office of the superintendent of public instruction a format for a competency-based education high school transcript that can be used by all public school districts as part of, or as an alternative to, the standardized high school transcript developed under subsection (1) of this section.

(3) The office of the superintendent of public instruction must inform public school districts of updates to the transcripts developed under this section.

(4) For the purposes of this section, "competency-based education" has the same meaning as in section 1 of this act.

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NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. **Sec. 7.** RCW 28A.300.810 (Innovative learning pilot program) and 2020 c 353 s 2 are each repealed.

NEW SECTION. **Sec. 8.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Penner, Assistant Ranking Minority Member; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Corry; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representatives Burnett; Caldier; Dye; Keaton; and Manjarrez.

Referred to Committee on Rules for second reading

April 5, 2025

ESSB 5192 Prime Sponsor, Ways & Means: Concerning school district materials, supplies, and operating costs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

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

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

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

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

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that

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data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

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

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

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

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

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

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

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

	Laboratory science average class size
Grades 9-12	19.98

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

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

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

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

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

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

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

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

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

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators	1.253	1.353	1.880
Teacher-librarians, a function that includes information literacy, technology, and media to support school library media programs	0.663	0.519	0.523
Paraeducators, including any aspect of educational instructional services provided by classified employees	1.012	0.776	0.728
Office support and other noninstructional aides	2.088	2.401	3.345

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Custodians.	1.657	1.942	2.965
Nurses.	0.585	0.888	0.824
Social workers.	0.311	0.088	0.127
Psychologists.	0.104	0.024	0.049
Counselors.	0.993	1.716	3.039
Classified staff providing student and staff safety	0.079	0.092	0.141
Parent involvement coordinators.	0.0825	0.00	0.00

(b)(i) The superintendent may only allocate funding, up to the combined minimum allocations, for nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, and parent involvement coordinators under (a) of this subsection to the extent of and proportionate to a school district's demonstrated actual ratios of: Full-time equivalent physical, social, and emotional support staff to full-time equivalent students.

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

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

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

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

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

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

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

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs as provided in the ((~~2023-24~~))2025-26 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

	Per annual average full-time equivalent student in grades K-12
Technology.	((~~$178.98~~))$187.86
Utilities and insurance.	((~~$430.26~~))$451.58
Curriculum and textbooks.	((~~$164.48~~))$172.63
Other supplies	((~~$326.54~~))$342.72
Library materials.	((~~$22.65~~))$23.78
Instructional professional development for certificated and classified staff.	((~~$28.94~~))$30.38
Facilities maintenance.	((~~$206.22~~))$216.44
Security and central office administration.	((~~$146.37~~))$153.62

(b) In addition to the amounts provided in (a) of this subsection, beginning in the ((~~2023-24~~))2025-26 school year, the omnibus appropriations act shall provide the following minimum allocation for each annual average full-time equivalent student in grades nine through 12 for the following materials, supplies, and operating costs, to be adjusted annually for inflation:

	Per annual average full-time equivalent student in grades 9-12
Technology.	((~~$44.05~~))$46.22
Curriculum and textbooks.	((~~$48.06~~))$50.44

Other supplies. . . . . ((~~$94.07~~))$98.73
Library materials. . . . . ((~~$6.05~~))$6.35
Instructional professional development for certificated and
classified staff. . . . . ((~~$8.01~~))$8.41

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

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

(a) Exploratory career and technical education courses for students in grades seven through 12;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Corry; Dye; Keaton; Manjarrez; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representative Caldier.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5215 Prime Sponsor, Transportation: Concerning debris escaping from vehicles on public highways. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.61.655 and 2005 c 431 s 1 are each amended to read as follows:

(1) No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction.

(2) No person may operate on any public highway any vehicle with any load unless:

(a) The load ((~~and such covering as required thereon by subsection (3) of this section~~)) is ((~~securely fastened~~))secured to prevent the ((~~covering or~~)) load from becoming loose, detached, or in any manner a hazard to other users of the highway; and

(b) The covering required by subsection (3) of this section is secured to prevent the covering from becoming loose, detached, damaged, or in any manner a hazard to other users of the highway.

(3)(a) Until January 1, 2028, any vehicle operating on a paved public highway with a load of dirt, sand, ((~~or~~))pebbles, cobbles, gravel, or any aggregate materials susceptible to being dropped, spilled, leaked, sifted, blown, or otherwise escaping ((~~therefrom shall be covered~~))from the vehicle must use a covering so as to prevent spillage((~~.~~))or any hazard to

other users of the highway. The covering of such loads is not required if six inches of freeboard is maintained within the bed, but if a vehicle hauling such loads is equipped with a covering, the covering must be used. The vehicle operator is allowed to deploy or retract the covering at a safe location near the job site when the load is entering or leaving an active construction work zone.

(b) Beginning January 1, 2028: Any vehicle operating on a paved public highway with a load of dirt, sand, pebbles, cobbles, gravel, or any aggregate materials susceptible to being dropped, spilled, leaked, sifted, blown, or otherwise escaping from the vehicle must use a covering so as to prevent spillage or any hazard to other users of the highway.

(c) The department of transportation, counties, cities, public utility districts, irrigation districts, diking districts, drainage districts, and any contractors working for such public entities, are exempt from the requirements in (a) and (b) of this subsection if the vehicle is:

(i) Responding to or preparing for inclement weather or any other emergency when the work must be performed immediately to ensure the safety of the public;

(ii) Performing maintenance and preservation operations;

(iii) Performing operations within work zones where roads or sections of roads are closed to the public.

(d) For purposes of this subsection (3):

(i) "Aggregate materials" means fine, medium, or coarse inert particulate materials used in construction whether natural, manufactured, or recycled. Aggregate materials do not include logs.

(ii) "Covering" means a tarp, other protective layer or device, or a manufactured cap to fit a vehicle, which is secured to contain the load that the vehicle is hauling.

(iii) "Susceptible to being dropped, spilled, leaked, sifted, blown, or otherwise escaping" means that the load, or particles, portions, or pieces of the load, is of such a density that the load, or particles, portions, or pieces of the load, can be influenced by wind, other atmospheric and weather conditions, vehicle speed, or road conditions.

(4)(a) Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.

(b) Any person operating a vehicle with deposits of mud, rocks, dirt, sand, gravel, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires shall ((~~be cleaned of such material~~))clean and remove deposits or debris from the vehicle before the operation of the vehicle on a paved public highway.

(5) The state patrol, or local law enforcement when appropriate, shall enforce the requirements under subsections (3) and (4) of this section.

(6) The state patrol may make necessary rules to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods, and practices to effectuate such provisions.

((~~(6) Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand on a highway to enhance traction, or sprinkling water or other substances to clean or maintain a highway.~~))

(7)(a)(i) A person is guilty of failure to secure a load in the first degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section and causes substantial bodily harm to another.

(ii) Failure to secure a load in the first degree is a gross misdemeanor.

(b)(i) A person is guilty of failure to secure a load in the second degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1) or (2) of this section and causes damage to property of another.

(ii) Failure to secure a load in the second degree is a misdemeanor.

(c) A person who fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section is guilty of an infraction if such failure does not amount to a violation of (a) or (b) of this subsection.

(d) The penalties in this subsection are not applicable when a violation of this section occurs and the materials spilled are forage feed crops.

Sec. 2. RCW 70A.200.120 and 1993 c 399 s 1 are each amended to read as follows:

(1) By January 1, 1994, each county or city with a staffed transfer station or landfill in its jurisdiction shall adopt an ordinance to reduce litter from vehicles. The ordinance shall require the operator of a vehicle transporting solid waste to a staffed transfer station or landfill to secure or cover the vehicle's waste in a manner that will prevent spillage. The ordinance may provide exemptions for vehicle operators transporting waste that is unlikely to spill from a vehicle.

The ordinance shall, in the absence of an exemption, require a fee, in addition to other landfill charges, for a person arriving at a staffed landfill or transfer station without a cover on the vehicle's waste or without the waste secured.

(2) The fee collected under subsection (1) of this section shall be deposited, no less often than quarterly, with the city or county in which the landfill or transfer station is located.

((~~(3) A vehicle transporting sand, dirt, or gravel in compliance with the provisions of RCW 46.61.655 shall not be required to secure or cover a load pursuant to ordinances adopted under this section.~~))

NEW SECTION. **Sec. 3.** This act takes effect October 1, 2025."

Correct the title.

Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Bronoske; Duerr; Entenman; Hunt; Nance; Ramel; Richards; Taylor; Timmons; Wylie and Zahn.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt; and Volz.

MINORITY recommendation: Without recommendation. Signed by Representatives Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Mendoza, Assistant Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Dent; Griffey; Klicker; Ley; and Stuebe.

Referred to Committee on Rules for second reading

April 8, 2025

E2SSB 5217 Prime Sponsor, Ways & Means: Expanding pregnancy-related accommodations. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Labor & Workplace Standards. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Caldier; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Manjarrez; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representatives Connors, Assistant Ranking Minority Member; Corry; Dye; Keaton; and Marshall.

Referred to Committee on Rules for second reading

April 4, 2025

SSB 5253 Prime Sponsor, Early Learning & K-12 Education: Extending special education services to students with disabilities until the end of the school year in which the student turns 22. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that, with some exceptions, a state receiving federal funding under the federal individuals with disabilities education act is obligated to provide a free appropriate public education to children with disabilities "between the ages of 3 and 21, inclusive." However, the state is not obligated to serve youth with disabilities aged 18-21 if it would be inconsistent with state law or practice, or the order of any court, regarding the provision of public education to youth in that age range.

(b) The legislature observes that, under Washington law in effect in 2024, children with disabilities must be provided a free appropriate public education "between the ages of 3 and 21." When the 21st birthday of an individual with disabilities occurs during the school year, state administrative rule requires that special education services continue until the end of the school year.

(2)(a) The legislature acknowledges that, on November 22, 2024, the United States district court for the western district of Washington issued an order in the case of *N.D. v. Reykdal*. This class action lawsuit alleged that Washington's law violates the federal individuals with disabilities education act.

(b) The plaintiff students successfully argued that, because Washington offers adult education programs to 21 year olds and waives the $25 tuition fee for those who cannot pay, the state provides "free public education" to nondisabled students through age 21, which makes the federal individuals with disabilities education act's exception inapplicable.

(c) The court issued a declaratory judgment that Washington's policy of aging students out of special education at the end of the school year in which they turn 21 years old presently violates the federal individuals with disabilities education act and will continue to violate the federal individuals with disabilities education act absent a substantial change in the state's policies for charging and waiving tuition for its adult secondary education programs.

(3) The legislature finds that providing services through the school year in which the student turns 22 years old is vital to maximize educational gains, provide transitional supports, and for planning purposes.

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(4) For these reasons, when the 22nd birthday of an individual with disabilities occurs during the school year, the legislature intends to continue the provision of special education services until the end of the school year.

NEW SECTION. **Sec. 2.** (1) By October 30, 2026, the office of the superintendent of public instruction, the department of social and health services, the department of services for the blind, and any other state agency working with individuals with disabilities must collaborate to update the implementation plan for improving transition planning activities for students likely to become eligible for services from the developmental disabilities administration as outlined in section 501(3)(c), chapter 357, Laws of 2020. The updated implementation plan should include:

(a) The provision of coordinated transition services;

(b) Examples of how coordinated transition services can be provided to students between the ages of 16 and 22 to ensure a seamless transition from school to postschool life; and

(c) How transition services are provided in a way that supplements and not supplants state special education funding.

(2) In updating the implementation plan, the state agencies referenced in subsection (1) of this section must consult with nonprofit providers of high school transition services and advocates for students with individualized education programs.

(3) This section expires August 1, 2027.

Sec. 3. RCW 28A.155.020 and 2015 c 206 s 2 are each amended to read as follows:

There is established in the office of the superintendent of public instruction an administrative section or unit for the education of children with disabilities who require special education.

Students with disabilities are those children whether enrolled in school or not who through an evaluation process are determined eligible for special education due to a disability.

In accordance with part B of the federal individuals with disabilities education improvement act and any other federal or state laws relating to the provision of special education services, the superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all ((~~children with disabilities between the ages of three and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year~~))students with disabilities beginning at three years of age and concluding at the end of the school year in which the student turns 22 years of age. The superintendent of public instruction, by rule, shall establish for the purpose of excess cost funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160, functional definitions of special education, the various types of disabling conditions, and eligibility criteria for special education programs for children with disabilities, including referral procedures, use of positive behavior interventions, the education curriculum and statewide or district-wide assessments, parent and district requests for special education due process hearings, and procedural safeguards. For the purposes of RCW 28A.155.010 through 28A.155.160, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the children with disabilities who are enrolled either full time or part time in a school district. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for children with disabilities, or prohibit the continuation of needed related services to school districts by the department of social and health services.

The provision of special education services until the end of the school year in which a student with disabilities turns 22 years of age is not intended to reduce or supplant any other service that a student may be eligible for.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.155.070.

Sec. 4. RCW 28A.150.220 and 2024 c 66 s 10 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through 12, at least a district-wide annual average of 1,000 hours, which shall be increased beginning in the 2015-16 school year to at least 1,080 instructional hours for students enrolled in grades nine through 12 and at least 1,000 instructional hours for students in grades one through eight, all of which may be calculated by a school district using a district-wide annual average of instructional hours over grades one through 12; and

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(b) For students enrolled in kindergarten, at least 450 instructional hours, which shall be increased to at least 1,000 instructional hours according to the implementation schedule under RCW 28A.150.315.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the state learning standards under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete 24 credits for high school graduation. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the state learning standards include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

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

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

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

(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

(4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5)(a) Each school district's kindergarten through 12th grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than 21 years of age ((~~and~~)), and shall remain accessible to students with disabilities as defined in RCW 28A.155.020 from age 21 until the end of the school year in which those students turn 22 years of age. The program of basic education shall consist of a minimum of 180 school days per school year in such grades as are conducted by a school district, and 180 half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of 180 school days per school year according to the implementation schedule under RCW 28A.150.315.

(b) Schools administering the Washington kindergarten inventory of developing skills may use up to three school days at the beginning of the school year to meet with parents and families as required in the parent involvement component of the inventory.

(c) In the case of students who are graduating from high school, a school district may schedule the last five school days of the 180-day school year for noninstructional purposes including, but not limited to, the observance of graduation and early release from school upon the request of a student. All such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260. Any hours scheduled by a school district for noninstructional purposes during the last five school days for such students shall count toward the instructional hours requirement in subsection (2)(a) of this section.

(6) Subject to RCW 28A.150.276, nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

(7) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

Sec. 5. RCW 28A.155.170 and 2019 c 252 s 106 are each amended to read as follows:

(1) ((~~Beginning July 1, 2007, each~~))Each school district that operates a high school shall establish a policy and procedures that permit any student who is receiving special education or related services under an individualized education program pursuant to state and federal law ((~~and who will continue to receive such services between the ages of eighteen and twenty-one~~)) to participate in the graduation ceremony and activities after four years of high school attendance with his or her age-appropriate peers and receive a certificate of attendance.

(2) Participation in a graduation ceremony and receipt of a certificate of attendance under this section does not preclude a student from continuing to receive special education and related services under an individualized education program beyond the graduation ceremony.

(3) A student's participation in a graduation ceremony and receipt of a certificate of attendance under this section shall not be construed as the student's receipt of a high school diploma pursuant to RCW 28A.230.120.

Sec. 6. RCW 28A.155.220 and 2022 c 167 s 7 are each amended to read as follows:

(1) The office of the superintendent of public instruction must establish interagency agreements with the department of social and health services, the department of services for the blind, and any other state agency that provides high school transition services for special education students. Such interagency agreements shall not interfere with existing individualized education programs, nor override any individualized education program team's decision-making power. The purpose of the interagency agreements is to foster effective collaboration among the multiple agencies providing transition services for individualized

education program-eligible special education students from the beginning of transition planning, as soon as educationally and developmentally appropriate, through ((~~age twenty-one~~))the end of the school year in which the student turns 22 years of age, or through high school graduation, whichever occurs first. Interagency agreements are also intended to streamline services and programs, promote efficiencies, and establish a uniform focus on improved outcomes related to self-sufficiency.

(2)(a) When educationally and developmentally appropriate, the interagency responsibilities and linkages with transition services under subsection (1) of this section must be addressed in a transition plan to a postsecondary setting in the individualized education program of a student with disabilities.

(b) Transition planning shall be based upon educationally and developmentally appropriate transition assessments that outline the student's individual needs, strengths, preferences, and interests. Transition assessments may include observations, interviews, inventories, situational assessments, formal and informal assessments, as well as academic assessments.

(c) The transition services that the transition plan must address include activities needed to assist the student in reaching postsecondary goals and courses of study to support postsecondary goals.

(d) Transition activities that the transition plan may address include instruction, related services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.

(e) When educationally and developmentally appropriate, a discussion must take place with the student and parents, and others as needed, to determine the postsecondary goals or postschool vision for the student. This discussion may be included as part of an annual individualized education program review, high school and beyond plan meeting, or any other meeting that includes parents, students, and educators. The postsecondary goals included in the transition plan shall be goals that are measurable and must be based on appropriate transition assessments related to training, education, employment, and independent living skills, when necessary. The goals must also be based on the student's needs, while considering the strengths, preferences, and interests of the student.

(f) As the student gets older, changes in the transition plan may be noted in the annual update of the student's individualized education program.

(g) A transition plan required under this subsection (2) must be aligned with a student's high school and beyond plan.

(3) To the extent that data is available through data-sharing agreements established by the education data center under RCW 43.41.400, the education data center must monitor the following outcomes for individualized education program-eligible special education students after high school graduation:

(a) The number of students who, within one year of high school graduation:

(i) Enter integrated employment paid at the greater of minimum wage or competitive wage for the type of employment, with access to related employment and health benefits; or

(ii) Enter a postsecondary education or training program focused on leading to integrated employment;

(b) The wages and number of hours worked per pay period;

(c) The impact of employment on any state and federal benefits for individuals with disabilities;

(d) Indicators of the types of settings in which students who previously received transition services primarily reside;

(e) Indicators of improved economic status and self-sufficiency;

(f) Data on those students for whom a postsecondary or integrated employment outcome does not occur within one year of high school graduation, including:

(i) Information on the reasons that the desired outcome has not occurred;

(ii) The number of months the student has not achieved the desired outcome; and

(iii) The efforts made to ensure the student achieves the desired outcome.

(4) To the extent that the data elements in subsection (3) of this section are available to the education data center through data-sharing agreements, the office of the superintendent of public instruction must prepare an annual report using existing resources and submit the report to the legislature.

(5) To minimize gaps in services through the transition process, no later than three years before students receiving special education services leave the school system, the office of the superintendent of public instruction shall transmit a list of potentially eligible students to the department of social and health services, the counties, the department of services for the blind, and any other state agency working with individuals with intellectual and developmental disabilities. The office of the superintendent of public instruction shall ensure that consent be obtained prior to the release of this information as required in accordance with state and federal requirements.

Sec. 7. RCW 28A.190.030 and 1995 c 77 s 19 are each amended to read as follows:

Each school district within which there is located a residential school shall, singly or in concert with another school district pursuant to RCW 28A.335.160 and 28A.225.250 or pursuant to chapter 39.34 RCW, conduct a program of education, including related student activities, for residents of the residential school. Except as otherwise provided for by contract pursuant to RCW 28A.190.050, the duties and authority of a school district and its employees to conduct such a program shall be limited to the following:

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(1) The employment, supervision and control of administrators, teachers, specialized personnel and other persons, deemed necessary by the school district for the conduct of the program of education;

(2) The purchase, lease or rental and provision of textbooks, maps, audiovisual equipment, paper, writing instruments, physical education equipment and other instructional equipment, materials and supplies, deemed necessary by the school district for the conduct of the program of education;

(3) The development and implementation, in consultation with the superintendent or chief administrator of the residential school or his or her designee, of the curriculum;

(4) The conduct of a program of education, including related student activities, for residents who are three years of age and less than twenty-one years of age((~~,~~)) and who have not met high school graduation requirements as now or hereafter established by the state board of education and the school district and for students with disabilities as defined in RCW 28A.155.020, which includes:

(a) Not less than one hundred and eighty school days each school year;

(b) Special education pursuant to RCW 28A.155.010 through 28A.155.100, and vocational education, as necessary to address the unique needs and limitations of residents; and

(c) Such courses of instruction and school related student activities as are provided by the school district for nonresidential school students to the extent it is practical and judged appropriate for the residents by the school district after consultation with the superintendent or chief administrator of the residential school: PROVIDED, That a preschool special education program may be provided for residential school students with disabilities;

(5) The control of students while participating in a program of education conducted pursuant to this section and the discipline, suspension or expulsion of students for violation of reasonable rules of conduct adopted by the school district; and

(6) The expenditure of funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating residential school programs of education, and funds from federal and private grants, bequests and gifts made for the purpose of maintaining and operating the program of education.

Sec. 8. RCW 28A.225.160 and 2023 c 420 s 2 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section and otherwise provided by law, it is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than 21 years residing in that school district, and remain open for admission to students with disabilities as defined in RCW 28A.155.020 from age 21 until the end of the school year in which those students turn 22 years of age. Except as otherwise provided by law or rules adopted by the superintendent of public instruction, districts may establish uniform entry qualifications, including but not limited to birthdate requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for individualized exceptions based upon the ability, or the need, or both, of an individual student. Nothing in this section authorizes school districts, public schools, or the superintendent of public instruction to create state-funded programs based on entry qualification exceptions except as otherwise expressly provided by law.

(2) For the purpose of complying with any rule adopted by the superintendent of public instruction that authorizes a preadmission screening process as a prerequisite to granting individualized exceptions to the uniform entry qualifications, a school district may collect fees to cover expenses incurred in the administration of any preadmission screening process: PROVIDED, That in so establishing such fee or fees, the district shall adopt rules for waiving and reducing such fees in the cases of those persons whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees.

(3) A student who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010 shall be permitted to continue enrollment at the grade level in the common schools commensurate with the grade level of the student when attending school in the sending state as defined in Article II of RCW 28A.705.010, regardless of age or birthdate requirements.

Sec. 9. RCW 28A.225.230 and 1990 1st ex.s. c 9 s 204 are each amended to read as follows:

(1) The decision of a school district within which a student under the age of twenty-one years resides or of a school district within which such a student under the age of twenty-one years was last enrolled and is considered to be a resident for attendance purposes by operation of law, to deny such student's request for release to a nonresident school district pursuant to RCW 28A.225.220 may be appealed to the superintendent of public instruction or his or her designee: PROVIDED, That the school district of proposed transfer is willing to accept the student.

(2) The superintendent of public instruction or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the resident district to release such a student who is under the age of twenty-one years if the requirements of RCW 28A.225.220 have been met. The decision of the superintendent of public instruction may be appealed to superior court pursuant to chapter 34.05 RCW, the administrative procedure act, as now or hereafter amended.

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(3) The decision of a school district to deny the request for accepting the transfer of a nonresident student under RCW 28A.225.225 may be appealed to the superintendent of public instruction or his or her designee. The superintendent or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the district to accept the nonresident student if the district did not comply with the standards and procedures adopted under RCW 28A.225.225. The decision of the superintendent of public instruction may be appealed to the superior court under chapter 34.05 RCW.

(4) The provisions of this section that are applicable to students under the age of 21 must remain applicable to students with disabilities as defined in RCW 28A.155.020 from age 21 through the end of the school year in which those students turn 22 years of age.

Sec. 10. RCW 28A.225.240 and 1975 1st ex.s. c 66 s 2 are each amended to read as follows:

(1) If a student under the age of twenty-one years is allowed to enroll in any common school outside the school district within which the student resides or a school district of which the student is considered to be a resident for attendance purposes by operation of law, the student's attendance shall be credited to the nonresident school district of enrollment for state apportionment and all other purposes.

(2) The provisions of this section that are applicable to students under the age of 21 must remain applicable to students with disabilities as defined in RCW 28A.155.020 from age 21 through the end of the school year in which those students turn 22 years of age.

Sec. 11. RCW 72.40.040 and 2000 c 125 s 8 are each amended to read as follows:

(1) The schools shall be free to residents of the state ((~~between the ages of three and twenty-one years,~~)) who are blind/visually impaired or deaf/hearing impaired, or with other disabilities where a vision or hearing disability is the major need for services from age three through the end of the school year in which those students turn 22 years of age.

(2) The schools may provide nonresidential services to children ages birth through three who meet the eligibility criteria in this section, subject to available funding.

(3) Each school shall admit and retain students on a space available basis according to criteria developed and published by each school superintendent in consultation with each board of trustees and school faculty: PROVIDED, That students ((~~over the age of twenty-one years,~~))who do not meet the admission requirements under subsection (1) of this section and who are otherwise qualified may be retained at the school, if in the discretion of the superintendent in consultation with the faculty they are proper persons to receive further training given at the school and the facilities are adequate for proper care, education, and training.

(4) The admission and retention criteria developed and published by each school superintendent shall contain a provision allowing the schools to refuse to admit or retain a student who is an adjudicated sex offender except that the schools shall not admit or retain a student who is an adjudicated level III sex offender as provided in RCW 13.40.217(3).

Sec. 12. RCW 72.40.060 and 1985 c 378 s 21 are each amended to read as follows:

It shall be the duty of all school districts in the state, to report to their respective educational service districts the names of all visually or hearing impaired youth residing within their respective school districts who are between the ages of three and ((~~twenty-one~~))22 years."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5262 Prime Sponsor, Business, Financial Services & Trade: Correcting obsolete or erroneous references in statutes administered by the insurance commissioner. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 42.56.400 and 2023 c 149 s 12 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a

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technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, information that could reasonably be expected to reveal the identity of a whistleblower under RCW 21.40.090, and information received under RCW 43.320.190, all of which are confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Documents, materials, or information obtained or provided by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and 48.31B.036, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275;

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017;

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5);

(24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.05A RCW;

(25) Documents, materials, or information obtained by the insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6), 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents, materials, or information independently qualify for exemption from disclosure as documents, materials, or information in possession of the commissioner pursuant to a financial conduct examination and exempt from disclosure under RCW 48.02.065;

(26) Nonpublic personal health information obtained by, disclosed to, or in the custody of the insurance commissioner, as provided in RCW 48.02.068;

(27) ((~~Data, information, and documents obtained by the insurance commissioner under RCW 48.02.230;~~

~~(28)~~)) Documents, materials, or other information, including the corporate annual disclosure obtained by the insurance commissioner under RCW 48.195.020;

((~~(29)~~))(28) Findings and orders disapproving acquisition of a trust institution under RCW 30B.53.100(3);

((~~(30)~~))(29) All claims data, including health care and financial related data received under RCW 41.05.890, received and held by the health care authority; ((~~and~~

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~~(31)~~))(30) Documents, materials, or information obtained by the insurance commissioner under RCW 48.150.100; and

(31) Contracts not subject to public disclosure under RCW 48.200.040 and 48.43.731.

Sec. 2. RCW 48.14.070 and 2009 c 549 s 7056 are each amended to read as follows:

In event any person has paid to the commissioner any tax, license fee or other charge in error or in excess of that which he or she is lawfully obligated to pay, the commissioner shall upon written request ((~~made to him or her~~)) make a refund thereof. A person may only request a refund of taxes within six years ((~~from the date the taxes were paid~~))of the end of the calendar year for which the taxes are owed. A person may only request a refund of fees or charges other than taxes within ((~~thirteen~~))13 months of the date the fees or charges were paid. Refunds may be made either by crediting the amount toward payment of charges due or to become due from such person, or by making a cash refund. ((~~To facilitate such cash refunds the commissioner may establish a revolving fund out of funds appropriated by the legislature for his use.~~))

Sec. 3. RCW 48.19.460 and 2007 c 258 s 1 are each amended to read as follows:

Any schedule of rates or rating plan for personal automobile liability and physical damage insurance submitted to or filed with the commissioner shall provide for an appropriate reduction in premium charges except for underinsured motorist coverage for those insureds who are ((~~fifty-five~~))55 years of age and older, for a two-year period after successfully completing a motor vehicle accident prevention course meeting the criteria of the department of licensing with a minimum of eight hours, or additional hours as determined by rule of the department of licensing. The classroom course may be conducted by a public or private agency approved by the department. An eight-hour course meeting the criteria of the department of licensing may be offered via an alternative delivery method of instruction, which may include internet, video, or other technology-based delivery methods. An agency seeking approval from the department to offer an alternative delivery method course of instruction is not required to conduct classroom courses under this section. The department of licensing may adopt rules to ensure that insureds who seek certification for taking a course offered via an alternative delivery method have completed the course.

Sec. 4. RCW 48.19.540 and 2019 c 455 s 4 are each amended to read as follows:

(1) In making rates for the insurance coverage for dwelling units, insurers shall consider the benefits of fire alarms and smoke detection devices in their rate making. If the insurer determines a separate rate factor is valid, then an exhibit supporting these changes and any credits or discounts resulting from any such changes must be included in the initial filing supporting such change. An insurer need not file any exhibits or offer any related discounts if:

(a) No changes are made to the credits or discounts already in effect prior to July 28, 2019;

(b) It determines that there is no material anticipated change in losses due to the use of such equipment; or

(c) Any potential credit or discount is not actuarially supported.

(2) ((~~The commissioner shall report to the appropriate committees of the legislature on any credits or discounts provided on insurance premiums for fire alarms and smoke detection devices installed in dwelling units. By December 31, 2020, and in compliance with RCW 43.01.036, the commissioner must submit a report to the appropriate committees of the legislature that details the use of discounts prior to and after July 28, 2019, and the type of fire alarm or smoke detection device qualifying for a credit or discount.~~

~~(3)~~)) For the purposes of this section:

(a) "Dwelling unit" means a residential dwelling of any type, including a single-family residence, apartment, condominium, or cooperative unit.

(b) "Smoke detection device" or "smoke detection devices" means an assembly incorporating in one unit a device which detects visible or invisible particles of combustion, the control equipment, and the alarm-sounding device, operated from a power supply either in the unit or obtained at the point of installation.

(c) "Fire alarm" or "fire alarms" means any mechanical, electrical((~~,~~))₍ or radio-controlled device that is designed to emit a sound or transmit a signal or message when activated or any such device that emits a sound and transmits a signal or message when activated because of smoke, heat((~~,~~))₍ or fire.

((~~(4)~~))(3) This section applies to rate filings for coverage for dwelling units filed on or after January 1, 2020.

Sec. 5. RCW 48.37.050 and 2007 c 82 s 7 are each amended to read as follows:

(1) Market conduct actions shall be taken as a result of market analysis and shall focus on the general business practices and compliance activities of insurers, rather than identifying obviously infrequent or unintentional random errors that do not cause significant consumer harm.

(2)(a) The commissioner is authorized to determine the frequency and timing of such market conduct actions. The timing shall depend upon the specific market conduct action to be initiated, unless extraordinary circumstances indicating a risk to consumers require immediate action.

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(b) If the commissioner has information that more than one insurer is engaged in common practices that may violate statutes or rules, the commissioner may schedule and coordinate multiple examinations simultaneously.

(3) The insurer shall be given reasonable opportunity to resolve matters that arise as a result of a market analysis to the satisfaction of the commissioner before any additional market conduct actions are taken against the insurer.

(4) The commissioner shall adopt by rule, under chapter 34.05 RCW, procedures and documents that are substantially similar to the NAIC work products defined or referenced in this chapter. Market analysis, market conduct actions, and market conduct examinations shall be performed in accordance with the rule.

((~~(5) At the beginning of the next legislative session after the adoption of the rules adopted under the authority of this section, the commissioner shall report to the appropriate policy committees of the legislature what rules were adopted; what statutory policies these rules were intended to implement; and such other matters as are indicated for the legislature's understanding of the role played by the NAIC in regulation of the insurance industry of Washington.~~))

Sec. 6. RCW 48.38.010 and 2012 c 211 s 5 are each amended to read as follows:

The commissioner may grant a certificate of exemption to any insurer or educational, religious, charitable, or scientific institution conducting a charitable gift annuity business that:

(1) ((~~Which is~~))Is organized and operated exclusively as, or for the purpose of aiding, an educational, religious, charitable, or scientific institution which is organized as a nonprofit organization without profit to any person, firm, partnership, association, corporation, or other entity;

(2) ((~~Which possesses~~))Possesses a current tax exempt status under the laws of the United States;

(3) ((~~Which serves~~))Serves such purpose by issuing charitable gift annuity contracts only for the benefit of such educational, religious, charitable, or scientific institution;

(4) ((~~Which appoints~~))Appoints the insurance commissioner as its true and lawful attorney upon whom may be served lawful process in any action, suit, or proceeding in any court, which appointment is irrevocable, binds the insurer or institution or any successor in interest, remains in effect as long as there is in force in this state any contract made or issued by the insurer or institution, or any obligation arising therefrom, and must be processed in accordance with RCW 48.05.200;

(5) ((~~Which is~~))Is fully and legally organized and qualified to do business and has been actively doing business under the laws of the state of its domicile for a period of at least three years prior to its application for a certificate of exemption;

(6) ((~~Which has~~))Has and maintains minimum ((~~unrestricted~~)) net assets without donor restrictions of ((~~five hundred thousand dollars~~))$500,000. "((~~Unrestricted net~~))Net assets without donor restrictions" means the excess of total assets over total liabilities that are neither permanently restricted nor temporarily restricted by donor-imposed stipulations;

(7) ((~~Which files~~))Files with the insurance commissioner its application for a certificate of exemption showing:

(a) Its name, location, and organization date;

(b) The kinds of charitable annuities it proposes to offer;

(c) A statement of the financial condition, management, and affairs of the organization and any affiliate thereof, as that term is defined in RCW 48.31B.005, on a form satisfactory to, or furnished by the insurance commissioner;

(d) Other documents, stipulations, or information as the insurance commissioner may reasonably require to evidence compliance with the provisions of this chapter;

(8) ((~~Which subjects~~))Subjects itself and any affiliate thereof, as that term is defined in RCW 48.31B.005, to periodic examinations conducted under chapter 48.03 RCW as may be deemed necessary by the insurance commissioner;

(9) ((~~Which files~~))Files with the insurance commissioner for the commissioner's advance approval a copy of any policy or contract form to be offered or issued to residents of this state. The grounds for disapproval of the policy or contract form are set forth in RCW 48.18.110; and

(10) ((~~Which:~~))(a) Files with the insurance commissioner annually, within ((~~sixty~~))60 days of the end of its fiscal year a report of its current financial condition, management, and affairs, on a form and in a manner prescribed by the commissioner, as well as such other financial material as may be requested, including the annual statement or other such financial materials as may be requested relating to any affiliate, as that term is defined in RCW 48.31B.005;

(b) Attaches to the report of its current financial condition the statement of a qualified actuary setting forth the actuary's opinion relating to annuity reserves and other actuarial items for the fiscal year covered by the report. "Qualified actuary" as used in this subsection means a member in good standing of the American academy of actuaries or a person who has otherwise demonstrated actuarial competence to the satisfaction of the insurance regulatory official of the domiciliary state; and

(c) ((~~On or before March 1st of each year~~))Within 60 days of the end of the fiscal year, pays an annual filing fee of ((~~twenty-five dollars~~))$25 plus ((~~five dollars~~))$5 for each charitable gift annuity contract written for residents of this state during ((~~its~~))the preceding fiscal year ((~~ending on or before December 31st of the previous calendar year~~)).

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Sec. 7. RCW 48.38.012 and 1998 c 284 s 7 are each amended to read as follows:

After June 30, 1998, an insurer or institution which does not have the minimum ((~~unrestricted~~)) net assets without donor restrictions required by RCW 48.38.010(6) may not issue any new charitable gift annuities until the insurer or institution has and maintains the minimum ((~~unrestricted~~)) net assets without donor restrictions required by RCW 48.38.010(6).

Sec. 8. RCW 48.43.0128 and 2021 c 280 s 3 are each amended to read as follows:

(1) A health carrier offering a nongrandfathered health plan or a plan 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 student at an accredited higher education institution may not:

(a) In its benefit design or implementation of its benefit design, discriminate against individuals because of their age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions; and

(b) With respect to the health plan or plan 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 student at an accredited higher education institution, discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, or sexual orientation.

(2) Nothing in this section may be construed to prevent a carrier from appropriately utilizing reasonable medical management techniques.

(3) For health plans issued or renewed on or after January 1, 2022:

(a) A health carrier may not deny or limit coverage for gender-affirming treatment when that treatment is prescribed to an individual because of, related to, or consistent with a person's gender expression or identity, as defined in RCW 49.60.040, is medically necessary, and is prescribed in accordance with accepted standards of care.

(b) A health carrier may not apply categorical cosmetic or blanket exclusions to gender-affirming treatment. When prescribed as medically necessary gender-affirming treatment, a health carrier may not exclude as cosmetic services facial feminization surgeries and other facial gender-affirming treatment, such as tracheal shaves, hair electrolysis, and other care such as mastectomies, breast reductions, breast implants, or any combination of gender-affirming procedures, including revisions to prior treatment.

(c) A health carrier may not issue an adverse benefit determination denying or limiting access to gender-affirming services, unless a health care provider with experience prescribing or delivering gender-affirming treatment has reviewed and confirmed the appropriateness of the adverse benefit determination.

(d) Health carriers must comply with all network access rules and requirements established by the commissioner.

(4) For the purposes of this section, "gender-affirming treatment" means a service or product that a health care provider, as defined in RCW 70.02.010, prescribes to an individual to treat any condition related to the individual's gender identity and is prescribed in accordance with generally accepted standards of care. Gender-affirming treatment must be covered in a manner compliant with the federal mental health parity and addiction equity act of 2008 and the federal affordable care act. Gender-affirming treatment can be prescribed to two spirit, transgender, nonbinary, intersex, and other gender diverse individuals.

(5) Nothing in this section may be construed to mandate coverage of a service that is not medically necessary.

(6) By December 1, 2022, the commissioner, in consultation with the health care authority and the department of health, must issue a report on geographic access to gender-affirming treatment across the state. The report must include the number of gender-affirming providers offering care in each county, the carriers and medicaid managed care organizations those providers have active contracts with, and the types of services provided by each provider in each region. The commissioner must update the report ((~~biannually~~))biennially and post the report on its website.

(7) The commissioner shall adopt any rules necessary to implement subsections (3), (4), and (5) of this section.

(8) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement subsections (1) and (2) of this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act.

Sec. 9. RCW 48.43.743 and 2015 c 9 s 2 are each amended to read as follows:

(1) Each health carrier offering a dental only plan in Washington shall submit to the commissioner on or before April 1st of each year as part of the additional data statement, or as a supplemental data statement ((~~the following information~~)), Washington specific data for the preceding year that is derived from the carrier's annual statement, including the exhibit of premiums, enrollments, and utilization for the company at an aggregate level and the additional data to the annual statement:

(a) The total number of dental members;

(b) The total amount of dental revenue;

(c) The total amount of dental payments;

(d) The dental loss ratio that is computed by dividing the total amount of dental payments by the total amount of dental revenues;

(e) The average amount of premiums per member per month; and

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(f) The percentage change in the average premium per member per month, measured from the previous year.

(2) A carrier shall electronically submit the information described in subsection (1) of this section in a format and according to instructions prescribed by the commissioner.

(3) The commissioner shall make the information reported under this section available to the public ((~~in a format that allows comparison among carriers through a searchable~~))on the commissioner's public website on the internet.

(4) For the purposes of licensed disability insurers and health care service contractors, the commissioner shall work collaboratively with insurers to develop an additional or supplemental data statement that utilizes to the maximum extent possible information from the annual statement forms that are currently filed by these entities.

(5) For purposes of this section, "health carrier," in addition to the definition in RCW 48.43.005, also includes health care service contractors, limited health care service contractors, and disability insurers offering dental only coverage.

(6) Nothing in this section is intended to establish a minimum dental loss ratio.

Sec. 10. RCW 48.135.030 and 2006 c 284 s 4 are each amended to read as follows:

The annual cost of operating the fraud program is funded from the insurance commissioner's ((~~regulatory~~))fraud account under RCW 48.02.190 subject to appropriation by the legislature.

Sec. 11. RCW 48.140.040 and 2006 c 8 s 204 are each amended to read as follows:

((~~The commissioner must prepare aggregate statistical summaries of closed claims based on data submitted under RCW 48.140.020.~~

~~(1) At a minimum, the commissioner must summarize data by calendar year and calendar/incident year. The commissioner may also decide to display data in other ways if the commissioner:~~

~~(a) Protects information as required under RCW 48.140.060(2); and~~

~~(b) Exempts from disclosure data described in RCW 42.56.400(11).~~

~~(2) The summaries must be available by April 30th of each year, unless the commissioner notifies legislative committees by March 15th that data are not available and informs the committees when the summaries will be completed.~~

~~(3)~~)) Information included in an individual closed claim report submitted by an insuring entity, self-insurer, provider, or facility under this chapter is confidential and exempt from public disclosure, and the commissioner must not make these data available to the public.

Sec. 12. RCW 48.140.050 and 2006 c 8 s 205 are each amended to read as follows:

((~~Beginning in 2010, the~~))The commissioner must prepare an annual report that summarizes and analyzes the medical malpractice closed claim ((~~reports for medical malpractice~~))data filed under RCW 48.140.020 and 7.70.140 and the annual financial ((~~reports~~))data filed ((~~by authorized insurers~~))with the national association of insurance commissioners by insuring entities writing medical malpractice insurance in this state. The commissioner must complete the report by ((~~June 30th, unless the commissioner notifies legislative committees by June 1st that data are not available and informs the committees when the summaries will be completed~~))September 1st.

(1) The report must include:

(a) An analysis of reported closed claims from prior years for which data are collected. The analysis must show:

(i) Trends in the frequency and severity of claim payments;

(ii) A comparison of economic and noneconomic damages;

(iii) A distribution of allocated loss adjustment expenses and other legal expenses;

(iv) The types of medical malpractice for which claims have been paid; and

(v) Any other information the commissioner finds relevant to trends in medical malpractice closed claims if the commissioner:

(A) Protects information as required under RCW 48.140.060(2); and

(B) Exempts from disclosure data described in RCW 42.56.400((~~(11)~~))(10);

(b) An analysis of the medical malpractice insurance market in Washington state, including:

(i) An analysis of the financial ((~~reports~~))data of the authorized insurers with a combined market share of at least ((~~ninety~~))90 percent of direct written medical malpractice premium in Washington state for the prior calendar year;

(ii) A loss ratio analysis of medical malpractice insurance written in Washington state; and

(iii) A profitability analysis of the authorized insurers with a combined market share of at least ((~~ninety~~))90 percent of direct written medical malpractice premium in Washington state for the prior calendar year;

(c) A comparison of loss ratios and the profitability of medical malpractice insurance in Washington state to other states based on financial ((~~reports~~))data filed with the national association of insurance commissioners and any other source of information the commissioner deems relevant; and

(d) A summary of the rate filings for medical malpractice that have been approved by the commissioner for the prior calendar year, including an analysis of the trend of direct incurred losses as compared to prior years.

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(2) The commissioner must post reports required by this section on the internet no later than ((~~thirty~~))30 days after they are due.

(3) The commissioner may adopt rules that require insuring entities and self-insurers required to report under RCW 48.140.020 and subsection (1)(a) of this section to report data related to:

(a) The frequency and severity of closed claims for the reporting period; and

(b) Any other closed claim information that helps the commissioner monitor losses and claim development patterns in the Washington state medical malpractice insurance market.

Sec. 13. RCW 48.150.100 and 2007 c 267 s 12 are each amended to read as follows:

(1) Direct practices must submit annual statements, beginning on October 1, 2007, to the office of ((~~[the]~~))the insurance commissioner specifying the number of providers in each practice, total number of patients being served, the average direct fee being charged, providers' names, and the business address for each direct practice. The form and content for the annual statement must be developed in a manner prescribed by the commissioner. The annual statements and the data reported in them are confidential and exempt from public disclosure, and from the requirements of chapter 42.56 RCW.

(2) A health care provider may not act as, or hold himself or herself out to be, a direct practice in this state, nor may a direct agreement be entered into with a direct patient in this state, unless the provider submits the annual statement in subsection (1) of this section to the commissioner.

(3) The commissioner shall report annually to the legislature on direct practices including, but not limited to, participation trends, complaints received, voluntary data reported by the direct practices, and any necessary modifications to this chapter. The commissioner's report and the data in it shall be in aggregate form that does not permit the identification of individual direct practices. The initial report shall be due December 1, 2009.

Sec. 14. RCW 48.160.020 and 2009 c 334 s 3 are each amended to read as follows:

(1) This chapter applies only to guaranteed asset protection waivers for financing of motor vehicles as defined in this chapter. Any person or entity must register with the commissioner before marketing, offering for sale or selling a guaranteed asset protection waiver, and before acting as an obligor for a guaranteed asset protection waiver, in this state. However, a retail seller of motor vehicles that assigns more than ((~~eighty-five~~))85 percent of guaranteed asset protection waiver agreements within ((~~thirty~~))30 days of such agreements' effective date, or an insurer authorized to transact such insurance business in this state, are not required to register pursuant to this section. Failure of any retail seller of motor vehicles to assign ((~~one hundred~~))100 percent of guaranteed asset protection waiver agreements within ((~~forty-five~~))45 days of such agreements' effective date will result in that retail seller being required to comply with the registration requirements of this chapter.

(2) No person may market, offer for sale, or sell a guaranteed asset protection waiver, or act as an obligor on a guaranteed asset protection waiver in this state without a registration as provided in this chapter, except as set forth in subsection (1) of this section.

(3) The application for registration must include the following:

(a) The applicant's name, address, and telephone number;

(b) The identities of the applicant's executive officers or other officers directly responsible for the waiver business;

(c) An application fee of ((~~two hundred fifty dollars~~))$250, which shall be deposited into the ((~~guaranteed asset protection waiver account~~))general fund;

(d) A copy filed by the applicant with the commissioner of the waivers the applicant intends to offer in this state;

(e) A list of all unregistered marketers of guaranteed asset protection waivers on which the applicant will be the obligor;

(f) Such additional information as the commissioner may reasonably require.

(4) Once registered, the applicant shall keep the information required for registration current by reporting changes within ((~~thirty~~))30 days after the end of the month in which the change occurs.

NEW SECTION. **Sec. 15.** The following acts or parts of acts are each repealed:

(1) RCW 48.02.230 (Health insurance market stability program—Confidentiality—Definitions—Reports—Commissioner's responsibilities) and 2017 3rd sp.s. c 30 s 1;

(2) RCW 48.02.240 (Natural disaster and resiliency work group) and 2019 c 388 s 2;

(3) RCW 48.43.049 (Health carrier data—Information from annual statement—Format prescribed by commissioner—Public availability) and 2006 c 104 s 2;

(4) RCW 48.43.650 (Fixed payment insurance products—Commissioner's annual report) and 2007 c 296 s 6;

(5) RCW 48.140.070 (Model statistical reporting standards—Report to legislature) and 2006 c 8 s 207;

(6) RCW 48.160.005 (Guaranteed asset protection waiver account) and 2009 c 334 s 10;

(7) RCW 41.05.831 (Coverage for hearing instruments) and 2023 c 245 s 3.

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NEW SECTION. **Sec. 16.** Section 6 of this act takes effect January 1, 2026."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Lekanoff; Peterson; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; Pollet; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representative Leavitt.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5292 Prime Sponsor, Labor & Commerce: Concerning paid family and medical leave rates. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Labor & Workplace Standards. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 4, 2025

SSB 5314 Prime Sponsor, Ways & Means: Modifying the capital gains tax. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.04.4497 and 2021 c 196 s 16 are each amended to read as follows:
(1) To avoid taxing the same sale or exchange under both the business and occupation tax and capital gains tax, a credit is allowed against taxes due under this chapter on a sale or exchange that is also subject to the tax imposed under RCW 82.87.040. The credit is equal to the amount of tax imposed under this chapter on such sale or exchange.
(2) The credit may be used against any tax due under this chapter.
(3) The credit under this section is earned in regards to a sale or exchange, and may be claimed against taxes due under this chapter, for the tax reporting period in which the sale or exchange occurred. The credit claimed for a tax reporting period may not exceed the tax otherwise due under this chapter for that tax reporting period. Unused credit may not be carried forward or backward to another tax reporting period. No refunds may be granted for unused credit under this section.
(4) ((~~The department must apply the credit first to taxes deposited into the general fund.~~)) If ((~~any remaining~~))the credit reduces the amount of taxes deposited into the workforce education investment account established in RCW 43.79.195, the department must ((~~notify the state treasurer of such amounts monthly, and the state treasurer must~~)) transfer ((~~those~~))an equal amount((~~s~~)) from the general fund to the workforce education investment account.
(5) This section expires January 1, 2026.

NEW SECTION. **Sec. 2.** (1) The expiration of RCW 82.04.4497 provided in RCW 82.04.4497(5) does not affect:
(a) Any existing right acquired or liability or obligation including, but not limited to:
(i) A taxpayer's liability for tax, penalty, or interest;
(ii) A taxpayer's ability to claim a credit under RCW 82.04.4497 earned from sales or exchanges that occurred before the expiration of RCW 82.04.4497; or
(iii) A taxpayer's ability to claim relief from tax, penalty, or interest;
(b) Any rule or order adopted under RCW 82.04.4497; or
(c) Any proceeding instituted under RCW 82.04.4497.
(2) For purposes of this section, "liability for tax" means that the obligation for payment of a tax has been incurred by a taxpayer, regardless of when the tax is payable or whether the amount of tax due has been established.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.87 RCW to read as follows:
(1) Beginning in tax year 2025 with taxes due in 2026, to avoid taxing the same sale or exchange under both the business and occupation tax and capital gains tax, a nonrefundable

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credit is allowed against taxes due under this chapter on a sale or exchange that is also subject to the tax imposed under chapter 82.04 RCW. The credit is equal to the amount of tax imposed under chapter 82.04 RCW on such sale or exchange.

(2) The credit under this section is earned in regards to a sale or exchange, and may be claimed against taxes due under this chapter, for the tax reporting period in which the sale or exchange occurred. The credit claimed for a tax reporting period may not exceed the tax otherwise due under this chapter for that tax reporting period. Unused credit may not be carried forward or backward to another tax reporting period. No refunds may be granted for unused credit under this section.

(3)(a) By the last working day in March, June, September, and December of each fiscal year, the state treasurer must transfer from the general fund to the education legacy trust account created in RCW 83.100.230 and the common school construction fund, as applicable, an amount equal to the reduction in capital gains taxes due to this section, as determined by the department under (b) of this subsection (3). Moneys transferred from the general fund pursuant to this subsection (3)(a) must be distributed as provided in RCW 82.87.030 as if they were taxes collected under this chapter.

(b)(i) The department must notify the state treasurer of the amounts required to be transferred as provided in (a) of this subsection (3) no later than two weeks before the deadline for such transfers or such other date as may be mutually agreed to by the department and the state treasurer.

(ii) If the department determines, at any time, that a previous transfer amount determined under this subsection (3)(b) was overstated or understated for any reason, including an error in calculation by the department or a reporting error by the taxpayer, the department must adjust its calculation of the current amount to be transferred by an amount necessary to offset the previous overstatement or understatement.

(iii) No person may contest the department's determination under this subsection (3)(b) in any court more than 15 days after the department furnishes notice of such determination to the state treasurer. Any action contesting the department's determination must be made through a petition for judicial review pursuant to the administrative procedure act, chapter 34.05 RCW, and may only be filed in Thurston county. The person seeking judicial review is not required to exhaust any available administrative remedies.

(c) For purposes of this subsection (3), "reduction in capital gains taxes due to this section" means the reduction in taxes collected under this chapter due to the nonrefundable credit in this section, where such amounts have not already been offset by the transfer required by (a) of this subsection (3).

Sec. 4. RCW 82.87.020 and 2021 c 196 s 4 are each amended to read as follows:

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

(1) "Adjusted capital gain" means federal net long-term capital gain:

(a) Plus any amount of long-term capital loss from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such loss was included in calculating federal net long-term capital gain;

(b) Plus any amount of long-term capital loss from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such loss was included in calculating federal net long-term capital gain;

(c) Plus any amount of long-term capital loss ((~~carryforward~~))carryover that is carried forward from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such loss was included in calculating federal net long-term capital gain;

(d) Plus any amount of long-term capital loss carryover that is carried forward from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such loss was included in calculating federal net long-term capital gain;

(e) Plus any amount of long-term capital loss carryover that is carried forward from a sale or exchange that occurred before January 1, 2022, to the extent such loss was included in calculating federal net long-term capital gain;

(f) Plus any amount of long-term capital gain or loss from the sale or exchange of a section 1256 contract held for more than one year not included in the calculation of federal net long-term capital gain that would otherwise be included if Title 26 U.S.C. Sec. 1256 of the internal revenue code did not exist;

(g) Less any amount of long-term capital gain from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such gain was included in calculating federal net long-term capital gain; and

((~~(e)~~))(h) Less any amount of long-term capital gain from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such gain was included in calculating federal net long-term capital gain.

(2) "Capital asset" has the same meaning as provided by Title 26 U.S.C. Sec. 1221 of the internal revenue code and also includes any other property if the sale or exchange of the property results in a gain that is treated as a long-term capital gain under Title 26 U.S.C. Sec. 1231 or any other provision of the internal revenue code.

(3) "Federal net long-term capital gain" means the net long-term capital gain reportable for federal income tax purposes determined as if Title 26 U.S.C. Secs. 55 through 59, 1256, 1400Z-1, and 1400Z-2 of the internal revenue code did not exist.

(4) "Individual" means a natural person.

(5) "Intangible personal property" means personal property that is not tangible personal property.

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(6) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of July 25, 2021, or such subsequent date as the department may provide by rule consistent with the purpose of this chapter.

((~~(6)~~))(7) "Long-term capital asset" means a capital asset that is held for more than one year.

((~~(7)~~))(8) "Long-term capital gain" means gain from the sale or exchange of a long-term capital asset.

((~~(8)~~))(9) "Long-term capital loss" means a loss from the sale or exchange of a long-term capital asset.

((~~(9)~~))(10) "Real estate" means land and fixtures affixed to land. "Real estate" also includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land.

((~~(10)~~))(11)(a) "Resident" means an individual:

(i) Who is domiciled in this state during the taxable year, unless the individual (A) maintained no permanent place of abode in this state during the entire taxable year, (B) maintained a permanent place of abode outside of this state during the entire taxable year, and (C) spent in the aggregate not more than 30 days of the taxable year in this state; or

(ii) Who is not domiciled in this state during the taxable year, but maintained a place of abode and was physically present in this state for more than 183 days during the taxable year.

(b) For purposes of this subsection, "day" means a calendar day or any portion of a calendar day.

(c) An individual who is a resident under (a) of this subsection is a resident for that portion of a taxable year in which the individual was domiciled in this state or maintained a place of abode in this state.

((~~(11)~~))(12) "Section 1256 contract" has the same meaning as provided by Title 26 U.S.C. Sec. 1256 of the internal revenue code.

(13) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched. "Tangible personal property" does not include steam, electricity, or electrical energy.

(14) "Taxable year" means the taxpayer's taxable year as determined under the internal revenue code.

((~~(12)~~))(15) "Taxpayer" means an individual subject to tax under this chapter.

((~~(13)~~))(16) "Washington capital gains" means an individual's adjusted capital gain, as modified in RCW 82.87.060, for each return filed under this chapter.

Sec. 5. RCW 82.87.050 and 2021 c 196 s 6 are each amended to read as follows:

This chapter does not apply to the sale or exchange of:

(1) All real estate transferred by deed, real estate contract, judgment, or other lawful instruments that transfer title to real property and are filed as a public record with the counties where real property is located;

(2)(a) An interest in a privately held entity only to the extent that any long-term capital gain or loss from such sale or exchange is directly attributable to the real estate owned directly by such entity.

(b)(i) Except as provided in (b)(ii) and (iii) of this subsection, the value of the exemption under this subsection is equal to the fair market value of the real estate owned directly by the entity less its basis, at the time that the sale or exchange of the individual's interest occurs, multiplied by the percentage of the ownership interest in the entity which is sold or exchanged by the individual.

(ii) If a sale or exchange of an interest in an entity results in an amount directly attributable to real property and that is considered as an amount realized from the sale or exchange of property other than a capital asset under Title 26 U.S.C. Sec. 751 of the internal revenue code, such amount must not be considered in the calculation of an individual's exemption amount under (b)(i) of this subsection (2).

(iii) Real estate not owned directly by the entity in which an individual is selling or exchanging the individual's interest must not be considered in the calculation of an individual's exemption amount under (b)(i) of this subsection (2).

(c) Fair market value of real estate may be established by a fair market appraisal of the real estate or an allocation of assets by the seller and the buyer made under Title 26 U.S.C. Sec. 1060 of the internal revenue code, as amended. However, the department is not bound by the parties' agreement as to the allocation of assets, allocation of consideration, or fair market value, if such allocations or fair market value do not reflect the fair market value of the real estate. The assessed value of the real estate for property tax purposes may be used to determine the fair market value of the real estate, if the assessed value is current as of the date of the sale or exchange of the ownership interest in the entity owning the real estate and the department determines that this method is reasonable under the circumstances.

(d) The value of the exemption under this subsection (2) may not exceed the individual's long-term capital gain or loss from the sale or exchange of an interest in an entity for which the individual is claiming this exemption;

(3) Assets held under a retirement savings account under Title 26 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered annuity or custodial account described in Title 26 U.S.C. Sec. 403(b) of the internal revenue code, a deferred compensation plan under Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an individual retirement account or individual retirement annuity described in Title 26 U.S.C. Sec. 408 of the internal revenue

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code, a Roth individual retirement account described in Title 26 U.S.C. Sec. 408A of the internal revenue code, an employee defined contribution program, an employee defined benefit plan, or a similar retirement savings vehicle, whether foreign or domestic, that penalizes withdrawals until the legal or beneficial owner reaches a certain age;

(4) Assets pursuant to, or under imminent threat of, condemnation proceedings by the United States, the state or any of its political subdivisions, or a municipal corporation;

(5) Cattle, horses, or breeding livestock if for the taxable year of the sale or exchange, more than 50 percent of the taxpayer's gross income for the taxable year, including from the sale or exchange of capital assets, is from farming or ranching;

(6) Property depreciable under Title 26 U.S.C. Sec. 167(a)(1) of the internal revenue code, or that qualifies for expensing under Title 26 U.S.C. Sec. 179 of the internal revenue code;

(7) Timber, timberland, or the receipt of Washington capital gains as dividends and distributions from real estate investment trusts derived from gains from the sale or exchange of timber and timberland. "Timber" means forest trees, standing or down, on privately or publicly owned land, and includes Christmas trees and short-rotation hardwoods. The sale or exchange of timber includes the cutting or disposal of timber qualifying for capital gains treatment under Title 26 U.S.C. Sec. 631(a) or (b) of the internal revenue code;

(8)(a) Commercial fishing privileges.

(b) For the purposes of this subsection (8), "commercial fishing privilege" means a right, held by a seafood harvester or processor, to participate in a limited access fishery. "Commercial fishing privilege" includes and is limited to:

(i) In the case of federally managed fisheries, quota and access to fisheries assigned pursuant to individual fishing quota programs, limited entry and catch share programs, cooperative fishing management agreements, or similar arrangements; and

(ii) In the case of state-managed fisheries, quota and access to fisheries assigned under fishery permits, limited entry and catch share programs, or similar arrangements; and

(9) Goodwill received from the sale of an auto dealership licensed under chapter 46.70 RCW whose activities are subject to chapter 46.96 RCW.

Sec. 6. RCW 82.87.070 and 2021 c 196 s 8 are each amended to read as follows:

(1) In computing tax under this chapter for a taxable year, a taxpayer may deduct from his or her Washington capital gains the amount of adjusted capital gain derived in the taxable year from the sale of substantially all of the fair market value of the assets of, or the transfer of substantially all of the taxpayer's interest in, a qualified family-owned small business, to the extent that such adjusted capital gain would otherwise be included in the taxpayer's Washington capital gains.

(2) For purposes of this section, the following definitions apply:

(a) "Assets" means real property and personal property, including tangible personal property and intangible property.

(b) "Family" means the same as "member of the family" in RCW 83.100.046.

(c)(i) "Materially participated" means an individual was involved in the operation of a business on a basis that is regular, continuous, and substantial.

(ii) The term "materially participated" must be interpreted consistently with the applicable treasury regulations for Title 26 U.S.C. Sec. 469 of the internal revenue code, to the extent that such interpretation does not conflict with any provision of this section.

(d) "Qualified family-owned small business" means a business:

(i) In which the taxpayer held a qualifying interest for at least five years immediately preceding the sale or transfer described in subsection (1) of this section. For the purposes of this subsection (2)(d)(i), the calculation of an individual's holding period for a qualifying interest is not reset in the event that a business either changes only its entity type or makes a nonmaterial change, or both;

(ii) In which either the taxpayer or members of the taxpayer's family, or both, materially participated in operating the business for at least five of the 10 years immediately preceding the sale or transfer described in subsection (1) of this section, unless such sale or transfer was to a qualified heir; and

(iii) That had worldwide gross revenue of $10,000,000 or less in the 12-month period immediately preceding the sale or transfer described in subsection (1) of this section. The worldwide gross revenue amount under this subsection (2)(d)(iii) shall be adjusted annually as provided in RCW 82.87.150.

(e) "Qualified heir" means a member of the taxpayer's family.

(f) "Qualifying interest" means:

(i) An interest as a proprietor in a business carried on as a sole proprietorship; or

(ii) An interest in a business if at least:

(A) Fifty percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both;

(B) Thirty percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both, and at least:

(I) Seventy percent of the business is owned, directly or indirectly, by members of two families; or

(II) Ninety percent of the business is owned, directly or indirectly, by members of three families.

(g) "Substantially all" means at least 90 percent.

Sec. 7. RCW 82.87.080 and 2021 c 196 s 9 are each amended to read as follows:

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(1) In computing tax under this chapter for a taxable year, a taxpayer may deduct from ((~~his or her~~))the person's Washington capital gains the amount donated by the taxpayer to one or more qualified organizations during the same taxable year in excess of the minimum qualifying charitable donation amount. For the purposes of this section, the minimum qualifying charitable donation amount equals $250,000. The minimum qualifying charitable donation amount under this subsection (1) shall be adjusted pursuant to RCW 82.87.150.

(2) The deduction authorized under subsection (1) of this section may not exceed $100,000 for the taxable year. The maximum amount of the available deduction under this subsection (2) shall be adjusted pursuant to RCW 82.87.150.

(3) The deduction authorized under subsection (1) of this section may not be carried forward or backward to another tax reporting period.

(4) For the purposes of this section, the following definitions apply:

(a) "Nonprofit organization" means an organization exempt from tax under Title 26 U.S.C. Sec. 501(c)(3) of the internal revenue code.

(b) "Principally directed and managed" means the place where a qualified organization's activities are primarily directed, controlled, and coordinated.

(c) "Qualified organization" means a nonprofit organization, or any other organization, that is:

(i) Eligible to receive a charitable ((~~deduction~~))contribution as defined in Title 26 U.S.C. Sec. 170(c) of the internal revenue code; and

(ii) Principally directed ((~~or~~))and managed within the state of Washington.

Sec. 8. RCW 82.87.100 and 2021 c 196 s 11 are each amended to read as follows:

(1) For purposes of the tax imposed under this chapter, long-term capital gains and losses are allocated to Washington as follows:

(a) Long-term capital gains or losses from the sale or exchange of tangible personal property are allocated to this state if the property was located in this state at the time of the sale or exchange. Long-term capital gains or losses from the sale or exchange of tangible personal property are also allocated to this state even though the property was not located in this state at the time of the sale or exchange if:

(i) The property was located in the state at any time during the taxable year in which the sale or exchange occurred or the immediately preceding taxable year;

(ii) The taxpayer was a resident at the time the sale or exchange occurred; and

(iii) The taxpayer is not subject to the payment of an income or excise tax legally imposed on the long-term capital gains or losses by another taxing jurisdiction.

(b) Long-term capital gains or losses derived from intangible personal property are allocated to this state if the taxpayer was domiciled in this state at the time the sale or exchange occurred.

(2)(a) A credit is allowed against the tax imposed in RCW 82.87.040 ((~~equal to the amount of any~~))for legally imposed income or excise tax paid by the taxpayer to another taxing jurisdiction on capital gains derived from capital assets within the other taxing jurisdiction to the extent such capital gains are included in the taxpayer's Washington capital gains. The amount of credit under this subsection ((~~may not exceed the~~))is the lesser of: (i) The total amount of tax due under this chapter derived from such capital assets; or (ii) the total amount of tax paid to the other taxing jurisdiction on the capital gains derived from such capital assets. The credit under this subsection (2) is nonrefundable, and there is no carryback or carryforward of any unused credits.

(b) As used in this section, "taxing jurisdiction" means a state of the United States other than the state of Washington, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country.

Sec. 9. RCW 82.87.110 and 2021 c 196 s 12 are each amended to read as follows:

(1)(a) Except as otherwise provided in this section or RCW 82.32.080, taxpayers owing tax under this chapter must file, on forms prescribed by the department, a return with the department on or before the date the taxpayer's federal income tax return for the taxable year is required to be filed.

(b)(i) Except as provided in (b)(ii) of this subsection (1), returns and all supporting documents must be filed electronically using the department's online tax filing service or other method of electronic reporting as the department may authorize.

(ii) The department may waive the electronic filing requirement in this subsection for good cause as provided in RCW 82.32.080.

(2) ((~~In addition to the Washington return required to be filed under subsection (1) of this section,~~))(a) Every taxpayer((~~s~~)) owing tax under this chapter must ((~~file with the department on or before the date the federal return is required to be filed~~))include with the Washington return described in subsection (1) of this section a copy of the taxpayer's federal income tax return ((~~along with all~~))filed with the internal revenue service of the United States, including:

(i) All federal income tax forms, schedules ((~~and supporting documentation~~)), and other attachments that directly relate to the taxpayer's net long-term capital gain; and

(ii) Any information, returns, and federal tax documents received by the taxpayer that directly relate to the taxpayer's net long-term capital gain including, but not limited to, form 1099-B, schedule K-1 (form 1065), and schedule K-1 (form 1120-S).

(b) A taxpayer must provide to the department, upon request, other federal tax return information needed to verify the tax owed under this chapter.

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(c) The department may prescribe by rule additional reporting or verification requirements under this subsection (2) to substantiate an individual's federal net long-term capital gain.

(3) Each taxpayer required to file a return under this section must, without assessment, notice, or demand, pay any tax due thereon to the department on or before the date fixed for the filing of the return, regardless of any filing extension. The tax must be paid by electronic funds transfer as defined in RCW 82.32.085 or by other forms of electronic payment as may be authorized by the department. The department may waive the electronic payment requirement for good cause as provided in RCW 82.32.080. If any tax due under this chapter is not paid by the due date, interest and penalties as provided in chapter 82.32 RCW apply to the deficiency.

(4)(a) In addition to the Washington return required to be filed under subsection (1) of this section, an individual claiming an exemption under RCW 82.87.050(2) must file documentation substantiating the following:

(i) The fair market value and basis of the real estate held directly by the entity in which the interest was sold or exchanged;

(ii) The percentage of the ownership interest sold or exchanged in the entity owning real estate; and

(iii) The methodology, if any, established by the entity in which the interest was sold or exchanged, for allocating gains or losses to the owners, partners, or shareholders of the entity from the sale of real estate.

(b) The department may by rule prescribe additional filing requirements to substantiate an individual's claim for an exemption under RCW 82.87.050(2). Prior to adopting any rule under this subsection (4)(b), the department must allow for an opportunity for participation by interested parties in the rule-making process in accordance with the administrative procedure act, chapter 34.05 RCW.

(5) If a taxpayer has obtained an extension of time for filing the federal income tax return for the taxable year and the taxpayer provides the department, on or before the date fixed for the filing of the return, regardless of any filing extension, evidence satisfactory to the department confirming the federal extension, the taxpayer is entitled to the same extension of time for filing the return required under this section ((~~if the taxpayer provides the department, before the due date provided in subsection (1) of this section, the extension confirmation number or other evidence satisfactory to the department confirming the federal extension~~)). An extension under this subsection for the filing of a return under this chapter is not an extension of time to pay the tax due under this chapter.

(6)(a) If any return due under subsection (1) of this section, along with a copy of the federal income tax return, is not filed with the department by the due date or any extension granted by the department, the department must assess a penalty in the amount of five percent of the tax due for the taxable year covered by the return for each month or portion of a month that the return remains unfiled. The total penalty assessed under this subsection may not exceed 25 percent of the tax due for the taxable year covered by the delinquent return. The penalty under this subsection is in addition to any penalties assessed for the late payment of any tax due on the return.

(b) The department must waive or cancel the penalty imposed under this subsection if:

(i) The department is persuaded that the taxpayer's failure to file the return by the due date was due to circumstances beyond the taxpayer's control; or

(ii) The taxpayer has not been delinquent in filing any return due under this section during the preceding five calendar years and the taxpayer has not been contacted by the department for enforcement purposes regarding the reporting period covered by the waiver request.

(7) The department must waive or cancel the penalty imposed under RCW 82.32.090(1) on a payment required under this section when the circumstances under which the delinquency occurred do not qualify for waiver or cancellation under RCW 82.32.105(1) if all the following apply:

(a) A taxpayer requests a waiver of penalty for a payment required under this section;

(b) The taxpayer has not been contacted by the department for enforcement purposes regarding the reporting period covered by the waiver request; and

(c) The taxpayer has timely remitted payment on all tax returns due under this section during the preceding five calendar years.

(8)(a) In the event a taxpayer's federal income tax return is changed in a manner that is final after their return required under subsection (1) of this section is filed with the department and the taypayer's federal income tax return is changed in a manner that impacts either the calculation of their Washington capital gains or their tax liability under this chapter, or both, the taxpayer must amend the taypayer's return due under subsection (1) of this section for the same tax year in which their federal income tax return is changed. For the purposes of this subsection (8), a federal income tax return is changed in a manner that is final when such change is not subject to either administrative review by the United States internal revenue service or judicial review in a court of competent jurisdiction, or both. A change is also final in the case of an audit finding in the following circumstances:

(i) The taxpayer has received audit findings from the internal revenue service for the tax period and the taxpayer does not timely file an administrative appeal with the internal revenue service.

(ii) The taxpayer consented to any of the audit findings for the tax period through a form or other written agreement with the United States internal revenue service.

(b) If the return is not amended, as required under this subsection (8), with the department within 90 days of the federal income tax return change becoming final, the

department must assess on the 91st day a penalty in the amount of five percent of any additional tax due for the taxable year covered by the return for each month or portion of a month that the return is not timely amended as required by this subsection. The total penalty assessed under this subsection may not exceed 25 percent of the additional tax due for the taxable year covered by the delinquent return amendment. The penalty under this subsection (8)(b) is in addition to any penalties assessed under this section.

(9)(a) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the year in which a return is filed under subsection (1) of this section except:

(i) When the taxpayer's federal income tax return is changed in a manner that requires an amended return under subsection (8) of this section; or

(ii) As provided in RCW 82.32.050(4).

(b) In the event the statute of limitations is extended under (a)(i) of this subsection, no assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the year in which an amended return is filed with the department as required under subsection (8) of this section. Any assessment or correction of an assessment for additional taxes, penalties, or interest due under this subsection (9)(b) but made by the department more than four years after the year in which a return is filed under subsection (1) of this section must be directly related to the federal income tax return change described in subsection (8) of this section.

Sec. 10. RCW 82.87.120 and 2021 c 196 s 13 are each amended to read as follows:

(1) If the federal income tax liabilities of both spouses are determined on a joint federal return for the taxable year, they must file a joint return under this chapter.

(2) Except as otherwise provided in this subsection, if the federal income tax liability of any individual, including either spouse of a marital community, is determined on a separate federal return for the taxable year, they must file separate returns under this chapter. State registered domestic partners may file a joint return under this chapter even if they filed separate federal returns for the taxable year.

(3) The liability for tax due under this chapter of each spouse or state registered domestic partner is joint and several, unless:

(a) The spouse is relieved of liability for federal tax purposes as provided under Title 26 U.S.C. Sec. 6015 of the internal revenue code; or

(b) The department determines that the domestic partner qualifies for relief as provided by rule of the department. Such rule, to the extent possible without being inconsistent with this chapter, must follow Title 26 U.S.C. Sec. 6015.

(4)(a) Unless the context clearly indicates otherwise, individuals who are spouses or state registered domestic partners are not considered separate taxpayers for the purposes of this chapter regardless of whether they file a joint or separate return for the tax imposed under this chapter. The activities and assets of each spouse or state registered domestic partner are combined as if they were one individual for the purposes of determining the applicability of any threshold amounts, caps, deductions, credits, or any other amounts related to the activities or assets of an individual throughout this chapter.

(b)(i) Except as provided in (b)(ii) of this subsection (4), when an individual does not file a joint return for the tax imposed under this chapter, both spouses or state registered domestic partners must allocate between themselves their respective share of the marital community's or domestic partnership's assets and activity. The allocation must be reported to the department on any returns required to be filed pursuant to this chapter in a manner prescribed by the department.

(ii) If both spouses or state registered domestic partners cannot agree on an allocation of assets and activity as authorized under (b)(i) of this subsection (4), each spouse is limited to one-half of the total assets and activities of their marital community or domestic partnership.

Sec. 11. RCW 82.87.150 and 2021 c 196 s 17 are each amended to read as follows:

(1) Beginning ((~~December 2023~~))October 2025 and each ((~~December~~))October thereafter, the department must adjust the applicable amounts by multiplying the current applicable amounts by one plus the percentage by which the most current consumer price index available on ((~~December~~))October 1st of the current year exceeds the consumer price index for the prior 12-month period, and rounding the result to the nearest $1,000. If an adjustment under this subsection (1) would reduce the applicable amounts, the department must not adjust the applicable amounts for use in the following year. The department must publish the adjusted applicable amounts on its public website by ((~~December~~))October 31st. ((~~The~~))

(a) Except as provided in (b) of this subsection, the adjusted applicable amounts calculated under this subsection (1) take effect for taxes due and distributions made, as the case may be, in the following calendar year.

(b) The adjusted applicable amounts calculated under this subsection (1) for the distribution amount described in subsection (2)(a)(i) of this section apply to distributions made in the following fiscal year.

(2) For purposes of this section, the following definitions apply:

(a) "Applicable amounts" means:

(i) The distribution amount to the education legacy trust account as provided in RCW 82.87.030(1)(a);

(ii) The standard deduction amount in RCW 82.87.020((~~(13)~~))(16) and 82.87.060(1);

(iii) The worldwide gross revenue amount under RCW 82.87.070; and

(iv) The minimum qualifying charitable donation amount and maximum charitable donation amount under RCW 82.87.080.

(b) "Consumer price index" means the consumer price index for all urban consumers, all items, for the Seattle area as calculated by the United States bureau of labor statistics or its successor agency.

(c) "Seattle area" means the geographic area sample that includes Seattle and surrounding areas.

Sec. 12. RCW 82.32.050 and 2022 c 282 s 2 and 2022 c 41 s 2 are each reenacted and amended to read as follows:

(1) If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest on the tax only. The department shall notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the additional amount shall become due and shall be paid within ((~~thirty~~))30 days from the date of the notice, or within such further time as the department may provide.

(a) For tax liabilities arising before January 1, 1992, interest shall be computed at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the earlier of December 31, 1998, or the date of payment. After December 31, 1998, the rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For tax liabilities arising after December 31, 1991, the rate of interest shall be variable and computed as provided in subsection (2) of this section from the last day of the year in which the deficiency is incurred until the date of payment. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(c)(i) Except as otherwise provided in this subsection (1)(c), interest imposed after December 31, 1998, shall be computed from the last day of the month following each calendar year included in a notice, and the last day of the month following the final month included in a notice if not the end of a calendar year, until the due date of the notice.

(ii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3) and 82.87.110, interest must be computed from the last day of April immediately following each such annual reporting period included in the notice, until the due date of the notice.

(iii) For purposes of computing interest under (c)(i) and (ii) of this subsection (1):

(A) The same computation of interest applies regardless of whether the department grants additional time for filing any return under RCW 82.32.080(4)(a)(i).

(B) If the department extends a due date under subsection (3) of this section or RCW 82.32.080(4)(b), and payment is not made in full by the extended due date, interest is computed from the last day of the month in which the extended due date occurs until the date of payment.

(iv) If payment in full is not made by the due date of the notice, additional interest shall be computed under this subsection (1)(c) until the date of payment. The rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(2) For the purposes of this section, the rate of interest to be charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average shall be calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year.

(3) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the due date of any assessment or correction of an assessment for additional taxes, penalties, or interest as the department deems proper.

(4) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the close of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2).

(5) For the purposes of this section, the following definitions apply:

(a) "Due date of the notice" means the date indicated in the notice by which the amount due in the notice must be paid, or such later date as provided by RCW 1.12.070(3).

(b) "Return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department and that has a statutorily defined due date. "Return" also means an application for refund under RCW 82.08.0206.

Sec. 13. RCW 82.32.060 and 2020 c 139 s 61 are each amended to read as follows:

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(1) If, upon receipt of an application by a taxpayer for a refund or for an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050 any amount of tax, penalty, or interest has been paid in excess of that properly due, the excess amount paid within, or attributable to, such period must be credited to the taxpayer's account or must be refunded to the taxpayer, at the taxpayer's option. Except as provided in subsection (2) of this section, no refund or credit may be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(2)(a) The execution of a written waiver under RCW 82.32.050 or 82.32.100 will extend the time for making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the department discovers a refund or credit is due.

(b) A refund or credit must be allowed for an excess payment resulting from the failure to claim a bad debt deduction, credit, or refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, less than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(3) Any such refunds must be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide. However, taxpayers who are required to pay taxes by electronic funds transfer under RCW 82.32.080 must have any refunds paid by electronic funds transfer if the department has the necessary account information to facilitate a refund by electronic funds transfer.

(4) Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer must be paid in the same manner, as provided in subsection (3) of this section, upon the filing with the department of a certified copy of the order or judgment of the court.

(a) Interest at the rate of three percent per annum must be allowed by the department and by any court on the amount of any refund, credit, or other recovery allowed to a taxpayer for taxes, penalties, or interest paid by the taxpayer before January 1, 1992. This rate of interest applies for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, must be computed at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For refunds or credits of amounts paid or other recovery allowed to a taxpayer after December 31, 1991, the rate of interest must be the rate as computed for assessments under RCW 82.32.050(2) less one percent. This rate of interest applies for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, must be computed at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(5) Interest allowed on a credit notice or refund issued after December 31, 2003, must be computed as follows:

(a) If all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund were made on or before the due date of the final return for each calendar year or the final reporting period included in the notice or refund:

(i) Interest must be computed from January 31st following each calendar year included in a notice or refund;

(ii) Interest must be computed from the last day of the month following the final month included in a notice or refund; or

(iii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3) and 82.87.110, interest must be computed from the last day of April following each such annual reporting period included in a notice or refund.

(b) If the taxpayer has not made all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund on or before the dates specified by RCW 82.32.045 for the final return for each calendar year or the final month included in the notice or refund, interest must be computed from the last day of the month following the date on which payment in full of the liabilities was made for each calendar year included in a notice or refund, and the last day of the month following the date on which payment in full of the liabilities was made if the final month included in a notice or refund is not the end of a calendar year.

(c) Interest included in a credit notice must accrue up to the date the taxpayer could reasonably be expected to use the credit notice, as defined by the department's rules. If a credit notice is converted to a refund, interest must be recomputed to the date the refund is issued, but not to exceed the amount of interest that would have been allowed with the credit notice.

Sec. 14. RCW 82.32.090 and 2015 3rd sp.s. c 5 s 401 are each amended to read as follows:

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there is assessed a penalty of nine percent of the amount of the tax; and if the tax is not received on or before the last day of the month

following the due date, there is assessed a total penalty of ((~~nineteen~~))19 percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there is assessed a total penalty of ((~~twenty-nine~~))29 percent of the amount of the tax under this subsection. No penalty so added may be less than ((~~five dollars~~))$5.

(2) If the department of revenue determines that any tax has been substantially underpaid, there is assessed a penalty of five percent of the amount of the tax determined by the department to be due. If payment of any tax determined by the department to be due is not received by the department by the due date specified in the notice, or any extension thereof, there is assessed a total penalty of ((~~fifteen~~))15 percent of the amount of the tax under this subsection; and if payment of any tax determined by the department to be due is not received on or before the ((~~thirtieth~~))30th day following the due date specified in the notice of tax due, or any extension thereof, there is assessed a total penalty of ((~~twenty-five~~))25 percent of the amount of the tax under this subsection. No penalty so added may be less than ((~~five dollars~~))$5. As used in this section, "substantially underpaid" means that the taxpayer has paid less than ((~~eighty~~))80 percent of the amount of tax determined by the department to be due for all of the types of taxes included in, and for the entire period of time covered by, the department's examination, and the amount of underpayment is at least ((~~one thousand dollars~~))$1,000.

(3) If a warrant is issued by the department of revenue for the collection of taxes, increases, and penalties, there is added thereto a penalty of ((~~ten~~))10 percent of the amount of the tax, but not less than ((~~ten dollars~~))$10.

(4) If the department finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the department a registration certificate as required by RCW 82.32.030, the department must impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required by RCW 82.32.030. The department may not impose the penalty under this subsection (4) if a person who has engaged in business taxable under this title without first having registered as required by RCW 82.32.030, prior to any notification by the department of the need to register, obtains a registration certificate from the department.

(5) If the department finds that a taxpayer has disregarded specific written instructions as to reporting or tax liabilities, or willfully disregarded the requirement to file returns or remit payment electronically, as provided by RCW 82.32.080, the department must add a penalty of ((~~ten~~))10 percent of the amount of the tax that should have been reported and/or paid electronically or the additional tax found due if there is a deficiency because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless, in the case of a deficiency, the department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department may not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. A taxpayer will be considered to have made a good faith effort to comply with specific written instructions to file returns and/or remit taxes electronically only if the taxpayer can show good cause, as defined in RCW 82.32.080, for the failure to comply with such instructions. A taxpayer will be considered to have willfully disregarded the requirement to file returns or remit payment electronically if the department has mailed or otherwise delivered the specific written instructions to the taxpayer on at least two occasions. Specific written instructions may be given as a part of a tax assessment, audit, determination, closing agreement, or other written communication, provided that such specific written instructions apply only to the taxpayer addressed or referenced on such communication. Any specific written instructions by the department must be clearly identified as such and must inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection. If the department determines that it is necessary to provide specific written instructions to a taxpayer that does not comply with the requirement to file returns or remit payment electronically as provided in RCW 82.32.080, the specific written instructions must provide the taxpayer with a minimum of ((~~forty-five~~))45 days to come into compliance with its electronic filing and/or payment obligations before the department may impose the penalty authorized in this subsection.

(6) If the department finds that all or any part of a deficiency resulted from engaging in a disregarded transaction, as described in RCW 82.32.655(3), the department must assess a penalty of ((~~thirty-five~~))35 percent of the additional tax found to be due as a result of engaging in a transaction disregarded by the department under RCW 82.32.655(2). The penalty provided in this subsection may be assessed together with any other applicable penalties provided in this section on the same tax found to be due, except for the evasion penalty provided in subsection (7) of this section. The department may not assess the penalty under this subsection if, before the department discovers the taxpayer's use of a transaction described under RCW 82.32.655(3), the taxpayer discloses its participation in the transaction to the department.

(7) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of ((~~fifty~~))50 percent of the additional tax found to be due must be added.

(8) The penalties imposed under subsections (1) through (4) of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

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(9) The department may not impose the evasion penalty in combination with the penalty for disregarding specific written instructions or the penalty provided in subsection (6) of this section on the same tax found to be due.

(10) If a taxpayer substantially underpays an estimated payment of tax imposed under RCW 82.87.040 pursuant to RCW 82.87.110(3), there is assessed a penalty of five percent of the amount of the actual tax due for tax imposed under RCW 82.87.040. As used in this section, "substantially underpaid" means that an individual's estimated payment for taxes imposed under RCW 82.87.040 was less than 80 percent of the actual tax due, and at least $1,000.

(11) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department, and that has a statutorily defined due date. "Return" also includes the submission of any estimated payment of tax as provided in RCW 82.87.110(3) and the confirmation of an extension of the filing due date required under RCW 82.87.110(5).

NEW SECTION. **Sec. 15.** A new section is added to chapter 82.87 RCW to read as follows:

(1) Except as otherwise provided in this section, brokers and barter exchanges must provide all copies of United States internal revenue service form 1099-B, or any successor form if so renamed, electronically to the department for sales or exchanges of long-term capital assets for which:

(a) The long-term capital gain from such sales or exchanges is allocated to this state under RCW 82.87.100(1); and

(b) The broker or barter exchange is the payor.

(2) Copies of the form under subsection (1) of this section must be provided to the department no later than 90 days of filing the form with the internal revenue service and in a manner prescribed by the department.

(3) Brokers and barter exchanges that fail to comply with the requirement under subsection (1) of this section, or willfully file a false or fraudulent copy of United States internal revenue service form 1099-B, are subject to a penalty of $50 for each such failure or each such filing.

(4) A rebuttable presumption exists that the long-term capital gains from a sale or exchange is allocated to this state under any one of the following circumstances:

(a) The payee's last known place of domicile to the payor is located in this state;

(b) The payee's address on file with the broker or barter exchange is located in this state;

(c) The payee's address on their United States internal revenue service form 1099-B, or any successor form if so renamed, is located in this state;

(d) The payee's account with the broker or barter exchange was opened in this state; or

(e) The payee makes use of a broker or barter exchanges' physical place of business in this state.

(5) For the purposes of this section, the following definitions apply unless the context clearly indicates otherwise.

(a) "Broker" and "barter exchange" have the same meaning as provided by Title 26 U.S.C. Sec. 6045 of the internal revenue code.

(b) "Long-term capital asset" has the same meaning as provided under RCW 82.87.020.

(c) "Payee" means the person for which a broker or barter exchange files a United States internal revenue service form 1099-B.

(d) "Payor" means a broker or barter exchange that files a United States internal revenue service form 1099-B for a payee.

(e) "Resident" has the same meaning as provided under RCW 82.87.020.

NEW SECTION. **Sec. 16.** Sections 3, 4, 8, 10, and 15 of this act take effect January 1, 2026.

NEW SECTION. **Sec. 17.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Berg; Bergquist; Burnett; Callan; Cortes; Doglio; Fitzgibbon; Lekanoff; Manjarrez; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Corry; Dye; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representatives Connors, Assistant Ranking Minority Member; Caldier; Keaton; and Leavitt.

Referred to Committee on Rules for second reading

April 8, 2025

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SB 5319 Prime Sponsor, Senator Shewmake: Establishing surface mine reclamation permit fees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Agriculture & Natural Resources. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Callan; Cortes; Doglio; Dye; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Burnett; Caldier; Keaton; Manjarrez; and Marshall.

Referred to Committee on Rules for second reading

April 8, 2025

E2SSB 5337 Prime Sponsor, Ways & Means: Creating a certification for memory care services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 5, 2025

SB 5343 Prime Sponsor, Senator Short: Concerning the northeast Washington wolf-livestock management account. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 16.76.030 and 2023 c 475 s 920 are each amended to read as follows:

(1) The northeast Washington wolf-livestock management account is created as a nonappropriated account in the custody of the state treasurer. All receipts, any legislative appropriations, private donations, or any other private or public source directed to the northeast Washington wolf-livestock management grant must be deposited into the account. Expenditures from the account may be used only for ((~~the~~)): (a) The deployment of nonlethal wolf deterrence resources as described in RCW 16.76.020; (b) wolf-livestock management; and (c) grants to the sheriffs' offices of Stevens and Ferry counties for providing a local wildlife specialist to aid the department of fish and wildlife in the management of wolves. Only the director may authorize expenditures from the account in consultation with the advisory board created in RCW 16.76.020. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Interest earned by deposits in the account must be retained in the account.

(2) The advisory board created in RCW 16.76.020 may solicit and receive gifts and grants from public and private sources for the purposes of RCW 16.76.020.

((~~(3) During the 2021-2023 and 2023-2025 fiscal biennia, expenditures from the account may be used for wolf-livestock management as well as for grants to the sheriffs' offices of Stevens and Ferry counties for providing a local wildlife specialist to aid the department of fish and wildlife in the management of wolves.~~))

NEW SECTION. **Sec. 2.** This act expires July 1, 2031."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

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

Referred to Committee on Rules for second reading

April 8, 2025

SB 5361 Prime Sponsor, Senator Dhingra: Delaying the use of the ASAM 4 criteria, treatment criteria for addictive, substance related, and co-occurring conditions. Reported by Committee on Appropriations

Draft

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5374 Prime Sponsor, Transportation: Including tribal representation in certain transportation activities. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended by Committee on Local Government. Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Bronoske; Duerr; Entenman; Hunt; Nance; Ramel; Richards; Taylor; Timmons; Wylie and Zahn.

MINORITY recommendation: Do not pass. Signed by Representatives Griffey; Klicker; and Volz.

MINORITY recommendation: Without recommendation. Signed by Representatives Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Mendoza, Assistant Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Dent; Ley; Orcutt; and Stuebe.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5394 Prime Sponsor, Ways & Means: Reducing the developmental disabilities administration's no-paid services caseload services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Callan; Cortes; Doglio; Fitzgibbon; Keaton; Lekanoff; Manjarrez; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Schmick, Assistant Ranking Minority Member; Caldier; Corry; Dye; Leavitt; and Marshall.

Referred to Committee on Rules for second reading

April 8, 2025

ESSB 5445 Prime Sponsor, Environment, Energy & Technology: Encouraging utility investment in local energy resilience. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that, as Washington works towards meeting its goals under the clean energy transformation act, we see many larger-scale renewable energy projects proposed. These projects can come with significant challenges. This act aims to incentivize the development of local distributed energy resources. This may include expediting installation of small-scale wind energy developments, solar energy developments on landfills, structures, and other developed lands, and the placement of solar panels on agricultural lands that ensure the continued viability of agriculture alongside energy production. The legislature also finds that local economies benefit from distributed energy projects, which can create high quality jobs, provide opportunities for training apprentice workers, and improve grid resilience. The legislature intends to support utilities in investing in local distributed energy resilience by providing greater incentives in the energy independence act for utilities who invest in distributed energy priority projects.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21F RCW to read as follows:

(1) The following categories of clean energy facilities and nonproject activities that reduce environmental impacts are determined to constitute distributed energy priorities:

(a) Solar energy generation and accompanying energy storage and electricity transmission and distribution, including vehicle charging equipment, when such facilities are located:

(i) Within the easement, right-of-way, or existing footprint of electrical transmission facilities or electric utility infrastructure sites;

(ii) Within the easement, right-of-way, or existing footprint of a state highway or city or county road;

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(iii) On structures over or enclosing irrigation canals, drainage ditches, and irrigation, agricultural, livestock supply, stormwater, or wastewater reservoirs or similar impoundments of state waters that do not host salmon or steelhead trout runs;

(iv) On elevated structures over parking lots;

(v) On lands within a transportation facility, including but not limited to airports and railroad facilities, or restricted from other developments by transportation facility operations;

(vi) On closed or capped portions of landfills;

(vii) On reclaimed or former surface mine lands or contaminated sites that have been remediated under chapter 70A.305 RCW or the federal comprehensive environmental response, compensation, and liability act (42 U.S.C. Sec. 9601 et seq.) in a manner that includes an asphalt or soil cap;

(viii) As an agrivoltaic facility; and

(ix) On existing structures;

(b) Wind energy generation that is not a utility-scale wind energy facility as defined in RCW 70A.550.010, and accompanying energy storage and transmission and distribution equipment, including vehicle charging equipment;

(c) Energy storage, when such facilities are located:

(i) Within the easement, right-of-way, or existing footprint of electrical transmission facilities or electric utility infrastructure sites;

(ii) Within the easement, right-of-way, or existing footprint of a state highway or city or county road;

(iii) On lands within a transportation facility, including but not limited to airports and railroad facilities, or restricted from other developments by transportation facility operations;

(iv) On closed or capped portions of landfills;

(v) On reclaimed or former surface mine lands;

(vi) On contaminated sites that have been remediated under chapter 70A.305 RCW or the federal comprehensive environmental response, compensation, and liability act (42 U.S.C. Sec. 9601 et seq.) in a manner that includes an asphalt or soil cap; and

(vii) On or in existing structures;

(d) Microgrids. For purposes of this section, "microgrids" are a group of interconnected loads, energy generation, and other distributed energy resources that act as a single controllable entity with respect to the electric grid. A microgrid can operate both autonomously from and synchronous with the central electric grid;

(e) Programs that reduce electric demand, manage the level or timing of electricity consumption, or provide electricity storage, renewable or nonemitting electric energy, capacity, or ancillary services to an electric utility and that are located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency; and

(f) Programs that reduce energy demand, manage the level or timing of energy consumption, or provide thermal energy storage.

(2)(a) The department must review and, when appropriate, periodically recommend to the legislature additional types of distributed energy priorities for inclusion on the list under subsection (1) of this section.

(b) The identification of distributed energy priorities in subsection (1) of this section applies to the maximum extent practical under state and federal law, but does not include any development sites or activities prohibited under other state or federal laws.

(3)(a) For purposes of this section, "agrivoltaic facility" means a ground-mounted photovoltaic solar energy system that is designed to be operated coincident with continued productive agricultural use of the land.

(b) Eligible agricultural products and uses include any combination of:

(i) Crop production;

(ii) Grazing;

(iii) Animal husbandry; and

(iv) Apiaries with pollinator habitat that have been designed and installed to enable the agricultural producer the flexibility to change what products are produced, raised, or grown at any point throughout the life of the facility.

(c) An agrivoltaic facility must not permanently or significantly degrade the agricultural or ecological productivity of the land after the cessation of the operation of the facility or involve the sale of a water right associated with the land.

(d) An agrivoltaic facility must be constructed, installed, and operated to achieve integrated and simultaneous production of both solar energy and marketable agricultural products by an agricultural producer:

(i) On land beneath or between rows of solar panels, or both; and

(ii) As soon as agronomically feasible and optimal for the agricultural producer after the commercial solar operation date, and continuing until facility decommissioning.

(e) Solar panel arrays must be designed and installed in a manner that supports the continuation of a viable farm operation for the life of the array, and must consider, as appropriate, the availability of light, water infrastructure for crops or animals, and panel height and spacing relative to farm machinery needs.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21C RCW to read as follows:

The following actions are categorically exempt from the requirements of this chapter, except when undertaken wholly or partly on lands covered by water:

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(1)(a) Except as provided in (b) of this subsection, the placement of an array of solar energy generation panels or associated equipment with a footprint of less than 1,000 square feet, or the construction of structures with a footprint of less than 1,000 square feet that support solar energy generation panels or associated equipment, when such arrays or structures are located on previously disturbed or developed lands including, but not limited to, driveways, lawns, patios, and walkways, and are not located on the portions of lands that are eligible for current use valuation under chapter 84.34 RCW as open space land, farm and agricultural land, or timberland;

(b) Multiple arrays or structures with a footprint of less than 1,000 square feet undertaken by the same owner or operator on the same parcel, as defined in RCW 17.10.010, that exceed 1,000 square feet in aggregate are deemed connected actions and are not eligible for the categorical exemption established in this subsection;

(2) The construction of structures that support solar energy generation panels or associated equipment on elevated structures located wholly over parking lots; and

(3) Solar energy generation and accompanying energy storage and electricity transmission and distribution when such facilities do not involve penetration of an asphalt or soil cap, are served by and accessible to emergency fire response services, as determined by the entity that would be lead agency for purposes of the chapter, and are located wholly on:

(a) Closed or capped portions of landfills; or

(b) Reclaimed or former surface mine lands.

Sec. 4. RCW 84.34.020 and 2014 c 125 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) "Open space land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly((~~,~~))_;_ or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification((~~,~~))_;_ or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means:

(a) Any parcel of land that is ((~~twenty~~))_20_ or more acres or multiple parcels of land that are contiguous and total ((~~twenty~~))_20_ or more acres:

(i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or

(iii) Other similar commercial activities as may be established by rule;

(b)(i) Any parcel of land that is five acres or more but less than ((~~twenty~~))_20_ acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:

(A) ((~~One hundred dollars~~))_$100_ or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(B) On or after January 1, 1993, ((~~two hundred dollars~~))_$200_ or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(ii) For the purposes of (b)(i) of this subsection, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs;

(c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:

(i) ((~~One thousand dollars~~))_$1,000_ or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, ((~~fifteen hundred dollars~~))_$1,500_ or more per year for three of the five calendar years preceding the date of application for classification under this chapter. Parcels of land described in (b)(i)(A) and (c)(i) of this subsection will, upon any transfer of the property excluding a transfer to a surviving spouse or surviving state registered domestic partner, be subject to the limits of (b)(i)(B) and (c)(ii) of this subsection;

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(d) Any parcel of land that is five acres or more but less than ((~~twenty~~))20 acres devoted primarily to agricultural uses, which meet one of the following criteria:

(i) Has produced a gross income from agricultural uses equivalent to two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(ii) Has standing crops with an expectation of harvest within seven years, except as provided in (d)(iii) of this subsection, and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year. For the purposes of this subsection (2)(d)(ii), "standing crop" means Christmas trees, vineyards, fruit trees, or other perennial crops that: (A) Are planted using agricultural methods normally used in the commercial production of that particular crop; and (B) typically do not produce harvestable quantities in the initial years after planting; or

(iii) Has a standing crop of short rotation hardwoods with an expectation of harvest within ((~~fifteen~~))15 years and a demonstrable investment in the production of those crops equivalent to ((~~one hundred dollars~~))$100 or more per acre in the current or previous calendar year;

(e) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed ((~~twenty~~))20 percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands";

(f) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes;

(g) Any land that is used primarily for equestrian related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed and that otherwise meet the requirements of (a), (b), or (c) of this subsection; ((~~or~~))

(h) Any land primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not, subject to the following:

(i) The land is not primarily used for the storage, care, or selling of plants purchased from other growers for retail sale;

(ii) If the land is less than five acres and used primarily to grow plants in containers, such land does not qualify as "farm and agricultural land" if more than ((~~twenty-five~~))25 percent of the land used primarily to grow plants in containers is open to the general public for on-site retail sales;

(iii) If more than ((~~twenty~~))20 percent of the land used for growing plants in containers qualifying under this subsection (2)(h) is covered by pavement, none of the paved area is eligible for classification as "farm and agricultural land" under this subsection (2)(h). The eligibility limitations described in this subsection (2)(h)(iii) do not affect the land's eligibility to qualify under (e) of this subsection; and

(iv) If the land classified under this subsection (2)(h), in addition to any contiguous land classified under this subsection, is less than ((~~twenty~~))20 acres, it must meet the applicable income or investment requirements in (b), (c), or (d) of this subsection; or

(i) Lands identified in (a) through (h) of this subsection on which an agrivoltaic facility is located.

(3) "Timberland" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timberland means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ((~~ten~~))10 percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

(4) "Current" or "currently" means as of the date on which property is to be listed and valued by the assessor.

(5) "Owner" means the party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" means the contract vendee.

(6)(a) "Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, is considered contiguous.

(b) For purposes of this subsection (6):

(i) "Same ownership" means owned by the same person or persons, except that parcels owned by different persons are deemed held by the same ownership if the parcels are:

(A) Managed as part of a single operation; and

(B) Owned by:

(I) Members of the same family;

(II) Legal entities that are wholly owned by members of the same family; or

(III) An individual who owns at least one of the parcels and a legal entity or entities that own the other parcel or parcels if the entity or entities are wholly owned by that

individual, members of his or her family, or that individual and members of his or her family.

(ii) "Family" includes only:

(A) An individual and his or her spouse or domestic partner, child, stepchild, adopted child, grandchild, parent, stepparent, grandparent, cousin, or sibling;

(B) The spouse or domestic partner of an individual's child, stepchild, adopted child, grandchild, parent, stepparent, grandparent, cousin, or sibling;

(C) A child, stepchild, adopted child, grandchild, parent, stepparent, grandparent, cousin, or sibling of the individual's spouse or the individual's domestic partner; and

(D) The spouse or domestic partner of any individual described in (b)(ii)(C) of this subsection (6).

(7) "Granting authority" means the appropriate agency or official who acts on an application for classification of land pursuant to this chapter.

(8) "Farm and agricultural conservation land" means either:

(a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

(9) "Agrivoltaic facility" has the same meaning as described in section 2 of this act.

Sec. 5. RCW 84.34.070 and 2017 c 251 s 1 are each amended to read as follows:

(1)(a) When land has once been classified under this chapter, it must remain under such classification and must not be applied to other use except as provided by subsection (2) of this section for at least ten years from the date of classification. It must continue under such classification until and unless withdrawn from classification after notice of request for withdrawal is made by the owner. After the initial ((~~ten~~))10-year classification period has elapsed, notice of request for withdrawal of all or a portion of the land may be given by the owner to the assessor or assessors of the county or counties in which the land is situated. If a portion of a parcel is removed from classification, the remaining portion must meet the same requirements as did the entire parcel when the land was originally granted classification under this chapter unless the remaining parcel has different income criteria. Within seven days the assessor must transmit one copy of the notice to the legislative body that originally approved the application. The assessor or assessors, as the case may be, must withdraw the land from the classification and the land is subject to the additional tax and applicable interest due under RCW 84.34.108. Agreement to tax according to use is not considered to be a contract and can be abrogated at any time by the legislature in which event no additional tax or penalty may be imposed.

(b) If the assessor gives written notice of removal as provided in RCW 84.34.108(1)(d)(i) of all or a portion of land classified under this chapter before the owner gives a notice of request for withdrawal in (a) of this subsection, the provisions of RCW 84.34.108 apply.

(2)(a) The following reclassifications are not considered withdrawals or removals and are not subject to additional tax under RCW 84.34.108:

(i) Reclassification between lands under RCW 84.34.020 (2) and (3);

(ii) Reclassification of land classified under RCW 84.34.020 (2) or (3) or designated under chapter 84.33 RCW to open space land under RCW 84.34.020(1);

(iii) Reclassification of land classified under RCW 84.34.020 (2) or (3) to forestland designated under chapter 84.33 RCW; and

(iv) Reclassification of land classified as open space land under RCW 84.34.020(1)(c) and reclassified to farm and agricultural land under RCW 84.34.020(2) if the land had been previously classified as farm and agricultural land under RCW 84.34.020(2).

(b) Designation as forestland under RCW 84.33.130(1) as a result of a merger adopted under RCW 84.34.400 is not considered a withdrawal or removal and is not subject to additional tax under RCW 84.34.108.

(3) Applications for reclassification are subject to applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and chapter 84.33 RCW.

(4) The income criteria for land classified under RCW 84.34.020(2) (b) and (c) may be deferred for land being reclassified from land classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into RCW 84.34.020(2) (b) or (c) for a period of up to five years from the date of reclassification.

(5) The addition of an agrivoltaic facility to farm and agricultural lands does not constitute a reclassification for purposes of this chapter and is not considered a withdrawal or removal subject to additional tax under RCW 84.34.108.

NEW SECTION. **Sec. 6.** RCW 82.32.805 and 82.32.808 do not apply to sections 4 and 5 of this act.

Sec. 7. RCW 19.285.040 and 2024 c 278 s 2 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in the most recently published regional power plan as it existed on June 12, 2014, or a subsequent date as may be provided

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by the department or the commission by rule, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. Nothing in the rule adopted under this subsection precludes a qualifying utility from using its utility specific conservation measures, values, and assumptions in identifying its achievable cost-effective conservation potential. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection, beginning on January 1, 2014, cost-effective conservation achieved by a qualifying utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than 20 percent of any biennial target may be met with excess conservation savings.

(ii) Beginning January 1, 2014, a qualifying utility may use single large facility conservation savings in excess of its biennial target to meet up to an additional five percent of the immediately subsequent two biennial acquisition targets, such that no more than 25 percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined. For the purposes of this subsection (1)(c)(ii), "single large facility conservation savings" means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a qualifying utility whose annual electricity consumption prior to the conservation savings exceeded five average megawatts.

(iii) Beginning January 1, 2012, and until December 31, 2017, a qualifying utility with an industrial facility located in a county with a population between 95,000 and 115,000 that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage may use cost-effective conservation from that industrial facility in excess of its biennial acquisition target to help meet the immediately subsequent two biennial acquisition targets, such that no more than 25 percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined.

(d) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than 33 percent of the total energy output. The reduction in load due to high-efficiency cogeneration shall be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii) counted towards meeting the biennial conservation target in the same manner as other conservation savings.

(e) A qualifying utility is considered in compliance with its biennial acquisition target for cost-effective conservation in (b) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the conservation target. Events that a qualifying utility may demonstrate were beyond its reasonable control, that could not have reasonably been anticipated or ameliorated, and that prevented it from meeting the conservation target include: (i) Natural disasters resulting in the issuance of extended emergency declarations; (ii) the cancellation of significant conservation projects; and (iii) actions of a governmental authority that adversely affects the acquisition of cost-effective conservation by the qualifying utility.

(f) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(g) In addition to the requirements of RCW 19.280.030(3), in assessing the cost-effective conservation required under this section, a qualifying utility is encouraged to promote the adoption of air conditioning, as defined in RCW 70A.60.010, with refrigerants not exceeding a global warming potential of 750 and the replacement of stationary refrigeration systems that contain ozone-depleting substances or hydrofluorocarbon refrigerants with a high global warming potential.

(h) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Except as provided in (j) of this subsection, each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or any combination of them, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least 15 percent of its load by January 1, 2020, and each year thereafter.

(b) ((~~A~~))(i) Except as provided in (b)(ii) of this subsection, a qualifying utility may count distributed generation at double the facility's electrical output if the utility: ((~~(i)~~))(A) Owns or has contracted for the distributed generation and the associated renewable

energy credits; or ((~~(ii)~~))(B) has contracted to purchase the associated renewable energy credits.

(ii) For new distributed generation that is a distributed energy priority described in section 2 of this act that commences operation after the effective date of this section located within the geographical area in which the utility provides service, through December 31, 2029, the qualifying utility may count the distributed generation at four times the facility's electrical output if the utility: (A) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (B) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

(e) A qualifying utility may use renewable energy credits to meet the requirements of this section, subject to the limitations of this subsection.

(i) A renewable energy credit from electricity generated by a resource other than freshwater may be used to meet a requirement applicable to the year in which the credit was created, the year before the year in which the credit was created, or the year after the year in which the credit was created.

(ii) A renewable energy credit from electricity generated by freshwater:

(A) May only be used to meet a requirement applicable to the year in which the credit was created; and

(B) Must be acquired by the qualifying utility through ownership of the generation facility or through a transaction that conveyed both the electricity and the nonpower attributes of the electricity.

(iii) A renewable energy credit transferred to an investor-owned utility pursuant to the Bonneville power administration's residential exchange program may not be used by any utility other than the utility receiving the credit from the Bonneville power administration.

(iv) Each renewable energy credit may only be used once to meet the requirements of this section and must be retired using procedures of the renewable energy credit tracking system.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(j)(i) Beginning January 1, 2016, only a qualifying utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its compliance obligation under this subsection.

(ii) A qualifying utility may no longer use electricity and associated renewable energy credits from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.

(k) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with qualified biomass energy generated at its facility to the qualifying utility with which it is directly interconnected with facilities owned by such a qualifying utility and that are capable of carrying electricity at transmission voltage. The qualifying utility may only use an amount of renewable energy credits associated with qualified biomass energy that are equivalent to the proportionate amount of its annual targets under (a)(ii) and (iii) of this subsection that was created by the load of the industrial facility. A qualifying utility that owns a qualified biomass

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energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or qualifying utility.

(l) A qualifying utility shall be considered in compliance if the utility uses any combination of eligible renewable resources as defined in RCW 19.285.030, accelerated conservation, and demand response as defined in subsection (4) of this section to meet its compliance obligations under this subsection (2).

(m) Beginning January 1, 2020, a qualifying utility may use eligible renewable resources as identified under RCW 19.285.030(12) (g) and (h) to meet its compliance obligation under this subsection (2). A qualifying utility may not transfer or sell these eligible renewable resources to another utility for compliance purposes under this chapter.

((~~(m)~~)) (n) Beginning January 1, 2030, a qualifying utility is considered to be in compliance with an annual target in (a) of this subsection if the utility uses electricity from: (i) Renewable resources and renewable energy credits as defined in RCW 19.285.030; and (ii) nonemitting electric generation as defined in RCW 19.405.020, in an amount equal to 100 percent of the utility's average annual retail electric load. Nothing in this subsection relieves the requirements of a qualifying utility to comply with subsection (1) of this section.

((~~(n)~~)) (o) A qualifying utility shall exclude from its annual targets under this subsection (2) its voluntary renewable energy purchases.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

(4) For the purposes of this section, the following definitions apply:

(a)(i) "Accelerated conservation" means conservation included in the qualifying utility's most recent cost-effective conservation potential established in compliance with subsection (1)(a) of this section and in excess of the biennial acquisition target established in compliance with subsection (1)(b) of this section.

(ii) Accelerated conservation acquired in the target year must be in an amount no less than the annual target amount under subsection (2)(a) of this section, as measured in megawatt-hours.

(iii) The amount of accelerated conservation must be measured as the annual energy savings measured in megawatt-hours multiplied by the number of years the conservation measure acquired will be in operation between the effective date of this section until January 1, 2030.

(iv) Any conservation savings used under this alternative compliance method may not be included as excess conservation savings under subsection (1)(c) of this section.

(b) "Demand response" has the same meaning as in RCW 19.405.020, except that "demand response" also includes energy storage that is a distributed energy priority identified in section 2 of this act when the energy storage enables the utility to reduce system peak demand. For the purpose of quantifying the amount of demand response eligible to be claimed under subsection (2)(l) of this section, the following requirements apply:

(i) The amount of demand response must be converted to a megawatt-hour amount by determining the reduction in peak load in megawatts the demand response measure could deliver, dividing this value by the system peak demand in megawatts of the qualifying utility, and multiplying this value by the average annual system load of the utility in megawatt-hours.

(ii) A utility claiming demand response resources under this subsection must maintain and apply measurement and verification protocols to determine the amount of capacity resulting from demand response resources and to verify the acquisition or installation of the demand response resources being recorded or claimed. A utility may provide a measurement or verification protocol that is not a direct measurement, but must document its methodologies, assumptions, and factual inputs.

NEW SECTION. **Sec. 8.** 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.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 5, 2025

SB 5463 Prime Sponsor, Senator Alvarado: Concerning the duties of industrial insurance self-insured employers and third-party administrators. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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"Sec. 1. RCW 51.14.080 and 2023 c 293 s 4 are each amended to read as follows:

(1) Certification of a self-insurer shall be withdrawn by the director upon one or more of the following grounds:

(a) The employer no longer meets the requirements of a self-insurer; or

(b) The self-insurer's deposit is insufficient; or

(c) The self-insurer intentionally or repeatedly induces employees to fail to report injuries, induces claimants to treat injuries in the course of employment as off-the-job injuries, persuades claimants to accept less than the compensation due, or unreasonably makes it necessary for claimants to resort to proceedings against the employer to obtain compensation; or

(d) The self-insurer habitually fails to comply with rules and regulations of the director regarding reports or other requirements necessary to carry out the purposes of this title; or

(e) The self-insurer habitually engages in a practice of arbitrarily or unreasonably refusing employment to applicants for employment or discharging employees because of nondisabling bodily conditions; or

(f) The self-insurer fails to pay an insolvency assessment under the procedures established pursuant to RCW 51.14.077; or

(g)((~~(i) For a self-insured municipal employer, the self-insurer has been found to have violated the self-insurer's duty of good faith and fair dealing three times within a three-year period.~~

~~(ii) For purposes of determining whether there have been three violations within a three-year period, the director must use the date of the department's order. Any subsequent order of the department, board of industrial insurance appeals, or courts affirming a violation occurred relates back to the date of the department's order.~~

~~(iii) Errors or delays that are inadvertent or minor are not considered violations of good faith and fair dealing for purposes of this subsection (1)(g)~~))The self-insurer has failed to comply with a corrective action under RCW 51.14.180(6) or decertification is otherwise required or directed under RCW 51.14.180(6).

(2) The director may delay withdrawing the certification of the self-insured ((~~municipal~~)) employer while the employer has an enforceable contract with a licensed third-party administrator that may not be legally terminated. However, the self-insured ((~~municipal~~)) employer may not renew or extend the contract.

((~~(3) For the purposes of this section, "municipal" has the same meaning as defined in RCW 51.14.180.~~))

Sec. 2. RCW 51.14.180 and 2023 c 293 s 3 are each amended to read as follows:

(1) All self-insured ((~~municipal employers and self-insured private sector firefighter~~)) employers and ((~~their~~)) third-party administrators have a duty of good faith and fair dealing to workers relating to all aspects of this title. The duty of good faith requires fair dealing and equal consideration for the worker's interests.

(2) ((~~A self-insured municipal employer or self-insured private sector firefighter~~))An employer or ((~~their~~)) third-party administrator violates its duty to the worker if it coerces a worker to accept less than the compensation due under this title, or otherwise fails to act in good faith and fair dealing regarding its obligations under this title.

(3) The department shall adopt by rule additional applications of the duty of good faith and fair dealing as well as criteria for determining appropriate penalties for violations. In adopting a rule under this subsection, the department shall consider, among other factors, recognized and approved claim processing practices within the insurance industry, the department's own experience, and the industrial insurance and insurance laws and rules of this state.

(4) The department shall investigate each alleged violation of this section upon the filing of a written complaint or upon its own motion. After receiving notice and a request for a response from the department, the ((~~municipal employer or private sector firefighter~~)) employer or ((~~their~~)) third-party administrator may file a written response within 10 working days. If the ((~~municipal employer or private sector firefighter~~)) employer or ((~~their~~)) third-party administrator fails to file a timely response, the department shall issue an order based on available information.

(5) The department shall issue an order determining whether a violation of this section has occurred, in conformance with RCW 51.52.050, within 30 calendar days of receipt of a complete complaint or its own motion. An order finding that a violation has occurred must also order the ((~~municipal employer or private sector firefighter~~)) employer to pay a penalty of one to 52 times the average weekly wage at the time of the order, depending upon the severity of the violation, which accrues for the benefit of the worker.

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

~~(a) "Municipal" means any counties, cities, towns, port districts, water-sewer districts, school districts, metropolitan park districts, fire districts, public hospital districts, regional fire protection service authorities, education service districts, or such other units of local government.~~

~~(b) "Private sector firefighter employer" means any private sector employer who employs over 50 firefighters, including supervisors, on a full-time, fully compensated basis as a firefighter of the employer's fire department, only with respect to their firefighters.~~))(a) If the department determines that a self-insurer has violated the duty of good faith and fair dealing in this section two or more times within a three-year period, the director must

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impose corrective action against the self-insurer in accordance with the requirements in this subsection and RCW 51.14.095, which must include a period in probationary status. The department must impose appropriate restrictions and changes that are necessary for preventing future violations, for which the department must audit compliance for the term of the applicable corrective action. If the self-insurer is found to have committed a subsequent violation while subject to a corrective action, the department must withdraw the self-insurer's certification under RCW 51.14.080. Following the corrective action, the department may withdraw the self-insurer's certification under RCW 51.14.080 based on an assessment of whether the self-insurer has complied with the terms of the corrective action or is likely to commit future violations of the duty of good faith and fair dealing.

(b) If a self-insurer who has previously been subject to a corrective action under (a) of this subsection subsequently commits two or more violations within a two-year period, requiring a corrective action under (a) of this subsection, and such action would occur within 10 years of completing a prior corrective action and probationary period under this subsection, the department must withdraw the self-insurer's certification under RCW 51.14.080.

(c) For purposes of determining whether there have been three violations within a three-year period, the director must use the date of the department's order. Any subsequent order of the department, board of industrial insurance appeals, or courts affirming a violation occurred relates back to the date of the department's order.

(7) Errors or delays that are inadvertent or minor are not considered violations of good faith and fair dealing.

NEW SECTION. **Sec. 3.** This act applies to all claims regardless of the date of injury.

NEW SECTION. **Sec. 4.** This act takes effect January 1, 2026."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Penner, Assistant Ranking Minority Member; Burnett; Corry; Dye; Keaton; Manjarrez; and Marshall.

MINORITY recommendation: Without recommendation. Signed by Representatives Connors, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; and Caldier.

Referred to Committee on Rules for second reading

April 7, 2025

ESSB 5466 Prime Sponsor, Environment, Energy & Technology: Improving reliability and capacity of the electric transmission system in Washington state. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington has committed to decarbonizing its electricity system so that it is carbon neutral by 2030 and carbon free by 2045. Achieving those goals includes retiring coal and gas resources, adding new generation from renewable and nonemitting resources, and leveraging energy storage technologies. At the same time, demand for electricity is increasing significantly due to the electrification of vehicles, home heating and cooling, and manufacturing, and the expansion of the information services sector in Washington. There are significant federal, state, and private investments in clean energy development, including wind, solar, and battery storage, that support decarbonization goals and supply new electrical load. However, Washington's existing transmission system lacks the capacity to accommodate the growing demand for clean electricity.

(2) The legislature also finds that extreme weather events and changes to seasonal highs and lows puts new strain on the existing transmission system and threatens reliability. Extreme weather events such as high-speed winds, floods, freezing, and heat domes can damage grid infrastructure and cause disruptions to the power supply. Warmer summers and colder winters increase the need for heating and cooling and thereby intensify and extend periods of peak demand.

(3) The legislature further finds that to maintain reliability and build resilience, Washington's transmission system needs to be expanded and upgraded to access diverse portfolios of clean and reliable energy across the region, including solar resources in the southwest and wind resources across the mountain west. A more robust and updated transmission system will support affordability and reliability goals by enabling the efficient dispatch of least-cost resources across the region.

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(4) Therefore, it is the intent of the legislature to create the Washington electric transmission authority to improve transmission reliability, resilience, and affordability. The Washington electric transmission authority will serve as a centralized body to achieve these goals by engaging in long-term planning; providing development transmission services; coordinating siting and permitting; leveraging research; and engaging with utilities, transmission developers, local jurisdictions, state agencies, regional entities, the federal government, federally recognized Indian tribes, and affected communities. The legislature intends for the authority to achieve the following goals:

(a) Improve reliability and resilience, including during extreme weather events;

(b) Increase access to low-cost renewable energy;

(c) Achieve clean electricity requirements and greenhouse gas emissions limits;

(d) Support economic growth; and

(e) Maintain affordable energy rates.

PART I - WASHINGTON ELECTRIC TRANSMISSION AUTHORITY

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

(1) "Authority" means the Washington electric transmission authority.

(2) "Board of directors" means the authority's board of directors.

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

(4) "Nonwire alternative" means any electrical grid investment that is intended to defer or remove the need to construct or upgrade components of a transmission system.

NEW SECTION. **Sec. 3.** (1) The Washington electric transmission authority is hereby created as a public body. The authority is an instrumentality of the state exercising essential government functions related to electric transmission.

(2) The purpose of the authority is to:

(a) Support the expeditious and efficient expansion of new electric transmission capacity within the state that are prudent and needed to serve Washington customers;

(b) Prioritize partnerships for new electric transmission projects that increase access to renewable resources and nonemitting electric generation as defined in RCW 19.405.020 connecting to the grid, provide access to regional wholesale markets, or are located in more than one electric utility service territory;

(c) Encourage the development of community microgrids, distributed energy resources, and energy conservation;

(d) Pursue cost-effective nonwire alternatives to increase the capacity of existing electrical infrastructure;

(e) Be a statewide resource for developing and coordinating upgrades to existing transmission lines;

(f) Collaborate with electric utilities, independent transmission developers, local jurisdictions, federally recognized Indian tribes, labor unions, neighboring states, regional entities, and the federal government to develop interstate and regional transmission resources;

(g) Evaluate opportunities for regional wholesale markets; and

(h) Support community and economic development.

(3) To the greatest extent practicable, when carrying out its duties, the authority must seek to:

(a) Protect cultural and natural resources;

(b) Avoid impacts to overburdened communities and vulnerable populations;

(c) Support good jobs;

(d) Maximize the use of existing rights-of-way for transmission development;

(e) Mitigate wildfire risk;

(f) Consult in advance with all electric utilities that serve retail customers in areas where a project of the authority may be located; and

(g) Coordinate with utilities that operate electric transmission facilities that would be affected by a project of the authority.

(4) The authority must employ an executive director, who must be appointed by the board of directors created under section 4 of this act, no earlier than July 1, 2026. Approval by an affirmative vote of at least five members of the board is required for any decisions regarding employment of the executive director. The board may fix the compensation of the executive director. The executive director must employ staff sufficient to accomplish the purposes of this act.

(5) The authority must update the transmission needs assessment developed by the department under section 5 of this act no later than October 30, 2031, and no less than every five years thereafter.

(6) The authority must submit a report of its activities to the governor and to the appropriate committees of the legislature by December 1, 2025, and annually every July 1st thereafter. The report must include operating and financial statements covering the operations of the authority for the previous fiscal year.

(7) The authority and any eligible facilities acquired by the authority are not subject to the supervision, regulation, control, or jurisdiction of the Washington utilities and transportation commission, provided that nothing in this act shall be interpreted to allow an

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electrical company regulated under Title 80 RCW to include the cost of eligible facilities in its rate base without the approval of the Washington utilities and transportation commission.

NEW SECTION. **Sec. 4.** (1) A board of directors is created to hire the executive director and advise the authority on policies that are consistent with the purposes of this chapter.

(2) The 10 members of the board are as follows:

(a) The director of the department, or the director's designee;

(b) One member appointed by the governor with experience working at a consumer-owned utility;

(c) One member appointed by the governor with experience working at an investor-owned utility;

(d) One member appointed by the governor with knowledge of land use planning and law and local permitting processes;

(e) One member appointed by the governor with expertise in clean energy development;

(f) One member appointed by the governor with expertise in ratepayer protection;

(g) One member appointed by the governor representing electrical workers with expertise in building electric transmission;

(h) One member appointed by the governor with experience financing large infrastructure projects;

(i) One member appointed by the governor with knowledge of wildlife conservation and land use policies; and

(j) One member appointed by the governor from a federally recognized Indian tribe, including federally recognized Indian tribes whose reservation or ceded lands lie in Washington state.

(3) No member may represent a person that owns or operates electric generating or transmission facilities.

(4) Members of the board appointed by the governor must serve four-year terms. However, the governor must stagger the terms of six of the initial appointees for terms of one, two, and three years. At the end of the term, these members may be reappointed by the governor, or the governor may choose to appoint a new member.

(5) Decisions of the board require a simple majority vote of all the members on the board.

(6) Members of the board must elect a chair from among its membership to serve for a two-year period.

(7) The board must meet at least quarterly.

(8) The department must provide staff support to the board.

(9) Members of the board must serve without additional compensation but must be reimbursed for travel expenses as provided by RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department must:

(a) Develop and adopt a 20-year transmission needs assessment.

(i) The needs assessment must:

(A) Identify high priority corridors that are needed to meet current and forecasted transmission demand, including whether new transmission lines could be built on existing rights-of-way. High priority corridor identification must include:

(I) The forecasted transmission and interconnection demands of clean energy projects sited in Washington necessary to meet clean energy transformation act targets under RCW 19.405.010; and

(II) Lower conflict siting approaches to identify areas with forecasted transmission demands for in-state clean energy generation, such as areas identified in the Washington state university least-conflict solar siting process, the United States department of energy renewable energy siting through technical engagement and planning program, or clean energy zones identified by the state;

(B) Identify investments in existing transmission lines, such as grid-enhancing technologies and reconductoring with advanced conductors, that can unlock additional capacity and improve network performance to alleviate the need for new transmission lines;

(C) Identify and evaluate non-wires alternatives, such as demand response, energy storage, microgrids, and energy efficiency;

(D) Identify for the authority regional and interregional transmission forums, and opportunities to coordinate, investigate, plan, prioritize, and negotiate with entities within and outside the state for the establishment of interstate transmission corridors;

(E) Coordinate with and provide transmission-related expertise to relevant state agencies;

(F) Consider opportunities to colocate transmission corridors along existing rights-of-way for other infrastructure; and

(G) Align with the state energy strategy as defined in RCW 43.21F.025.

(ii) When developing the needs assessment, the department may consider existing planning already completed by electric utilities in Washington state and consult the board of directors about using existing transmission plans developed by regional or federal entities and must avoid, to the greatest extent practicable, duplicating plans or related analysis already produced by and made available by such entities.

(iii) The department must begin working on the first needs assessment no earlier than July 1, 2026, and must complete the first needs assessment by October 30, 2027;

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(b) Provide assistance to local governments and tribal governments that are permitting the construction and operation of electric transmission projects which includes, but is not limited to, easily accessible information on advanced transmission technologies in Washington and identifying applicable codes and ordinances that support transmission facilities for the purpose of providing frameworks that local and tribal governments may consider and adopt to suit local circumstances;

(c) Identify the appropriate debt financing instruments needed to improve capacity to develop electric transmission in Washington. The department may consult with the office of the state treasurer and the office of the attorney general. By November 1, 2025, the department must submit a report that analyzes financing options for the authority and provides recommendations to the governor and the appropriate committees of the legislature.

(2) The definitions in section 2 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. **Sec. 6.** The authority may:

(1) Adopt rules and operating procedures as necessary to implement the authority's responsibilities in this chapter, except that the authority may not adopt rules to direct cost allocation of transmission resources;

(2) Utilize the services of executive departments of the state upon mutually agreeable terms and conditions;

(3) Exercise the power of eminent domain as outlined under the provisions of chapter 8.04 RCW only for land acquisition necessary to secure property or rights-of-way for new transmission corridors for public use consistent with the purposes of this act;

(4) Enter into contracts and agreements;

(5) Solicit, receive, and expend gifts, grants, and donations;

(6) Apply for and accept federal loans and related assistance;

(7)(a) Enter into partnerships with public or private entities, which may include a fee schedule for services provided under a partnership; and

(b) When entering into partnerships on transmission projects:

(i) Serve as the state environmental policy act lead for the project proponent; and

(ii) Serve as tribal consultation lead pursuing reasonable efforts to facilitate government-to-government consultation regarding the entities' partnership with federally recognized Indian tribes affected by the partnership;

(8) Engage in transmission planning activities with entities within and outside the state of Washington, along with regional and interregional cost allocation process discussions;

(9) Lease, purchase, accept donations of, or otherwise own, hold, improve, or use any property;

(10) Sell, lease, exchange, or otherwise dispose of any property;

(11)(a) Own electric transmission equipment and systems;

(b) Ownership of transmission facilities by the authority may not exceed the extent and duration necessary or useful to promote the public interest. Before becoming an owner or partial owner of any electric transmission facilities, the authority must develop and publish a plan identifying:

(i) The public purposes of the authority's ownership;

(ii) The conditions that would make the authority's ownership no longer necessary for accomplishing those public purposes; and

(iii) A plan to divest the authority of ownership of the facility as soon as economically prudent once those conditions occur;

(12)(a) Select a qualified transmission builder or operator, as defined by the authority in rule, to build, finance, plan, acquire, maintain, or operate an electric transmission project;

(b) Before developing a project, the authority must adopt criteria in rule for when the authority may proceed to construction in the absence of selecting a qualified transmission builder only as a last resort in instances where the authority identifies a pressing need for a project and there is no ready and willing qualified transmission builder;

(13) Sell a state-owned electric transmission project at any stage of development.

(a) The authority may sell a project to an electric utility serving customers in the state of Washington, a joint operating agency formed under RCW 43.52.360, the Bonneville power administration, an independent transmission developer, or an independent system operator.

(b) Before selling a project that is not part of a partnership agreement, the authority must adopt criteria in rule for developing a transparent process including issuing a competitive request for proposals, evaluating proposals, and selecting a project buyer.

(c) The authority is not required to sell to the highest bidder. The authority must adopt criteria in rule to determine when the authority would continue developing or owning a project after receiving bids on a request for proposal if it determines, after a thorough internal examination, that it is in the best interest of the public to continue owning the project; and

(14) Adopt criteria in rule for an initial local investment commitment fee and annual local investment commitment fee for high voltage projects that the authority develops, owns, or sells under this chapter. Rule making will provide that the fees are distributed among counties, cities, towns, and federally recognized Indian tribes, including federally recognized Indian tribes whose reservation or ceded lands lie in Washington state, in proportion to the project's impact, and that the fees are appurtenant to the project such that the assessed fees are transferred with the title if the project is sold.

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NEW SECTION. **Sec. 7.** The electric transmission operating account is created in the state treasury. All receipts from appropriations made by the legislature, federal funds, or gifts or grants from the private sector or foundations and other sources must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for operating cost purposes consistent with this chapter.

NEW SECTION. **Sec. 8.** The electric transmission capital account is created in the state treasury. All moneys received for the acquisition, sale, management, and administration of the authority's duties under this chapter for electric transmission projects including, but not limited to, proceeds from the sale of land and/or improvements, fees collected for services provided to transmission developers, local investment commitment fees, interest earned on investments in the account, and all other revenue related to electric transmission projects created or acquired pursuant to this chapter must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, as well as gifts, grants, and endowments from public or private sources as may be made from time to time. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the executive director of the authority, or the executive director's designee, to reimburse management costs incurred by the authority on electric transmission projects, for the acquisition of interests in land or other real property to be managed as electric transmission projects, and for all other nonoperating cost purposes consistent with this chapter.

NEW SECTION. **Sec. 9.** (1) Information obtained by the authority that is critical energy infrastructure information or proprietary technical or business information shall be confidential and not subject to inspection or disclosure pursuant to chapter 42.56 RCW.

(2) For the purposes of this section, the following definitions apply:

(a) "Critical energy infrastructure" means systems and assets, whether physical or virtual, the incapacity or destruction of which threatens to disrupt or diminish the supply of energy to the extent that the public health, safety, and general welfare may be jeopardized.

(b) "Critical energy infrastructure information" means information regarding critical energy infrastructure where the information:

(i) Contains records of actual, potential, or threatened interference with, attacks on, compromise of, or incapacitation of critical energy infrastructure or protected systems by either physical or computer-based attacks, or other similar conduct that violates federal, state, or local law, harms interstate commerce of Washington state or the United States, or threatens to disrupt or diminish the supply of energy to the extent that the public health, safety, and general welfare may be jeopardized; or

(ii) Does not simply give the general location of or relay publicly available information about the critical energy infrastructure.

PART II - APPLICATION OF THE STATE ENVIRONMENTAL POLICY ACT TO TRANSMISSION IMPROVEMENTS

NEW SECTION. **Sec. 10.** A new section is added to chapter 43.21C RCW to read as follows:

(1) The following utility-related activities for existing electric transmission lines of 115,000 volts and above, except activities undertaken wholly or partly on lands covered by water, are categorically exempt from compliance with this chapter:

(a) Upgrading and rebuilding within an existing right-of-way;

(b) Relocating segments of transmission lines within an existing right-of-way or within adjacent previously disturbed or developed lands; and

(c) Widening an existing transmission line right-of-way only as needed to meet current applicable electrical standards. Any such widening must be within previously disturbed or developed lands.

(2) Exceptions or limitations to categorical exemptions adopted by the department pursuant to RCW 43.21C.110(1)(a) shall apply to the categorical exemption created in this section.

(3) For the purposes of this section, the following definitions shall apply:

(a) "Previously disturbed or developed" refers to land that has been changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to nonnative species or a managed state including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available.

(b) "Upgrading or rebuilding" includes any repair, maintenance, replacement, modification or upgrade (including, but not limited to, increases in voltage, reconductoring, installation of grid-enhancing or optimizing technologies, or the relocation or addition of utility poles) to any existing electric transmission powerlines and any associated infrastructure.

NEW SECTION. **Sec. 11.** A new section is added to chapter 43.21C RCW to read as follows:

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(1) For a project that is categorically exempt under section 10 of this act, the following steps must be taken to ensure that the proposed activity avoids, minimizes, or mitigates harm to tribal, archaeological, historic, sacred, or cultural resources:

(a) The permitting jurisdiction must notify the department of archaeology and historic preservation created in chapter 43.334 RCW that the project is categorically exempt under section 10 of this act.

(b) Within seven business days of being notified that the project is categorically exempt under section 10 of this act, the department of archaeology and historic preservation must notify each federally recognized Indian tribe with tribal lands and/or lands with rights reserved or protected by federal treaty, statute, or executive order in the area where the right-of-way exists.

(c) Each federally recognized Indian tribe notified under (b) of this subsection that wishes to request a survey to identify potential tribal, archaeological, historic, sacred, or cultural resources within the impacted right-of-way must indicate that to the department of archaeology and historic preservation within 30 days of the notification provided in (b) of this subsection.

(d) If a resources survey is requested under (c) of this subsection, the department of archaeology and historic preservation must coordinate with the impacted tribes that requested the resources survey pursuant to (c) of this subsection and the project applicant to conduct the resources survey.

(e)(i) If any such resources are identified, the permitting jurisdiction and the department of archaeology and historic preservation must work with the project applicant and the impacted tribes to develop a plan to avoid, mitigate, or minimize harm to the affected resources.

(ii) Such a plan must be developed and approved or not approved by the impacted tribe within 180 days of identifying any such resources.

(A) If the impacted tribe and the project proponent approve the plan, the plan must be a condition of the permit.

(B) If the impacted tribe and the project proponent do not approve the plan, the project must be reviewed under this chapter. A review under this section is limited to a determination of whether the project is likely to have a probable significant adverse impact on historical and cultural preservation, and the review must be informed by the results of the survey conducted in (d) of this subsection.

(2) Information provided by federally recognized Indian tribes must be kept confidential and exempt from public disclosure under chapter 42.56 RCW.

(3) Costs accrued to the permitting jurisdiction pursuant to this section are recoverable from the project applicant.

PART III - COUNTY PERMITS FOR ELECTRIC TRANSMISSION PROJECTS

NEW SECTION. **Sec. 12.** A new section is added to chapter 36.01 RCW to read as follows:

(1) Each county must adopt a permitting process for electrical transmission line activities, including any building, upgrading, or rebuilding activities, on lines 115,000 volts and above that are located solely in the county.

(2) If an electrical transmission line activity is categorically exempt from the state environmental policy act in accordance with section 10 of this act, the county must notify the department of archaeology and historic preservation so that the department of archaeology and historic preservation may fulfill its obligations under section 11 of this act.

(3) Each county that is not yet in compliance with this section must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of this section by:

(a) Six months after the county's next comprehensive plan update, if the county is required in RCW 36.70A.130(5) (c) and (d) to conduct a comprehensive plan in 2026 or 2027; and

(b) December 31, 2027, for all other counties.

(4) Each county included in subsection (3)(b) of this section that takes action in compliance with this section because it does not yet have or is developing a permitting process for electrical transmission line activities is eligible for a grant from the department of commerce in an amount up to $12,000 to cover the costs of complying with this section.

NEW SECTION. **Sec. 13.** A new section is added to chapter 36.70A RCW to read as follows:

Each county required to conduct a comprehensive plan update in RCW 36.70A.130(5) (c) and (d) must adopt a permitting process for electrical transmission line activities and otherwise comply with the requirements in section 12 of this act within six months after the county's next periodic comprehensive plan update.

PART IV - MISCELLANEOUS

Sec. 14. RCW 43.84.092 and 2024 c 210 s 4 and 2024 c 168 s 12 are each reenacted and amended to read as follows:

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(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the clean fuels credit account, the clean fuels transportation investment account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the opioid abatement settlement account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, <u>the electric transmission capital account,</u> the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the family medicine workforce development account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the higher education retirement plan supplemental benefit fund, the Washington student loan account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 5 bridge replacement project account, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the reserve officers' relief and pension principal fund, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the second injury fund, the sexual assault

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prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state hazard mitigation revolving loan account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the JUDY transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tribal opioid prevention and treatment account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 15. RCW 43.84.092 and 2024 c 210 s 5 and 2024 c 168 s 13 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the clean fuels credit

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Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 16.** Section 14 of this act expires July 1, 2028.

NEW SECTION. **Sec. 17.** Section 15 of this act takes effect July 1, 2028.

NEW SECTION. **Sec. 18.** Sections 2 through 4 and 6 through 9 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 19.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Bergquist; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett; Caldier; Corry; Dye; Keaton; Manjarrez; Marshall; and Rude.

Referred to Committee on Rules for second reading

April 4, 2025

SSB 5568 Prime Sponsor, Health & Long-Term Care: Updating and modernizing the Washington state health plan. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) In 1987, as directed by the state health planning and resources development act, the state health coordinating council released the state health plan, which set forth objectives for the improvement of health status and development of health services in the state. The plan included recommendations on improving the health status of Washingtonians, improving access and quality of care, containing health care cost growth, and planning for long-term care needs.

(2) In 2006, the legislature created the blue ribbon commission on health care costs and access. The commission was tasked with developing a five-year plan for substantially improving access to affordable health care for all Washington residents. In 2007, the legislature enacted several recommendations from the commission including directing the office of financial management to develop a statewide health resources strategy to establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. Certificate of need determinations must be consistent with that strategy.

(3) In 2024, the legislature directed the department of health to conduct an analysis of the certificate of need program and report its findings and recommendations for statutory updates by June 30, 2025. Under this determination, the department must, at a minimum, consider other state approaches to certificates of need, impacts on access to care, cost control of health services, and equity, and approaches to identifying health care service needs at the statewide and community levels.

(4) The legislature intends to renew efforts to develop a sustainable state health plan and resource strategy by updating duties assigned to the office of financial management in chapter 43.370 RCW.

Sec. 2. RCW 43.370.010 and 2007 c 259 s 50 are each amended to read as follows:

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

(1) "Health care provider" means an individual who holds a license issued by a disciplining authority identified in RCW 18.130.040 and who practices his or her profession in a health care facility or provides a health service.

(2) "Health facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, ((~~psychiatric~~))behavioral health hospitals licensed under chapter 71.12 RCW,

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nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers under chapter 70.38 RCW, ambulatory diagnostic, treatment, or surgical facilities under chapter 70.230 RCW, drug and alcohol treatment facilities licensed under chapter ((~~70.96A~~))71.24 RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision, including a public hospital district, or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(3) "Health service" or "service" means that service, including primary care service, offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(4) "Health service area" means a geographic region appropriate for effective health planning that includes a broad range of health services.

(5) "Office" means the office of financial management.

(6) "Strategy" means the statewide health resources strategy.

Sec. 3. RCW 43.370.020 and 2010 1st sp.s. c 7 s 113 are each amended to read as follows:

(1) The office shall serve as a coordinating body for public and private efforts to improve quality in health care, promote cost-effectiveness in health care, and plan health facility and health service availability. In addition, the office shall facilitate access to health care data collected by public and private organizations as needed to conduct its planning responsibilities.

(2) The office shall:

(a) Conduct strategic health planning activities related to the preparation of the strategy, as specified in this chapter;

(b) Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning responsibilities. The office may contract with an organization to create the computerized system capable of meeting the needs of the office;

(c) Have access to the information submitted as part of the health professional licensing application and renewal process, excluding social security number and background check information, whether the license is issued by the secretary of the department of health or a board or commission. The office shall also have access to information submitted to the department of health as part of the medical or health facility licensing process. Access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines, and the office shall maintain the same degree of confidentiality as the department of health. For professional licensing information provided to the office, the department of health shall replace any social security number with an alternative identifier capable of linking all licensing records of an individual; ((~~and~~))

(d) Have access to and use of the data contained in the all-payer claims database and information submitted to the health care authority as part of the annual reporting process;

(e) Have access to and use of other relevant health care authority, department of health, office of the insurance commissioner, health benefit exchange, and department of social and health services data, where doing so would avoid duplicating collection efforts; and

(f) Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the purposes of the strategy.

(3) Access to and use of all data received from other entities shall be in accordance with state and federal confidentiality laws and ethical guidelines, and the office shall maintain the same degree of confidentiality and nondisclosure as the originating entity.

Sec. 4. RCW 43.370.030 and 2010 1st sp.s. c 7 s 114 are each amended to read as follows:

(1) The office ((~~shall develop~~)), in coordination with relevant public and private stakeholders, shall update the state health plan by developing a statewide health resources strategy. The strategy shall establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. The strategy shall identify needs according to geographic regions suitable for comprehensive health planning as designated by the office.

(2) The development of the strategy shall consider the following general goals and principles:

(a) That excess capacity of health services and facilities place considerable economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance purchasers, carriers, and taxpayers; ((~~and~~))

(b) That the development and ongoing maintenance of current and accurate health care information and statistics related to cost and quality of health care, as well as projections of need for health facilities and services, are essential to effective strategic health planning; and

(c) That a statewide health resources strategy should take into consideration the principles of health equity.

(3) The strategy, with public input by health service areas, shall include:

(a) A health system assessment and objectives component that:

(i) Describes state and regional population demographics, health status indicators, and trends in health status and health care needs; and

(ii) Identifies key policy objectives for the state health system related to access to care, health outcomes, quality, and cost-effectiveness;

(b) A health care facilities and services plan that shall assess the demand for health care facilities and services to inform state health planning efforts and direct certificate of need determinations, for those facilities and services subject to certificate of need as provided in chapter 70.38 RCW. The plan shall include:

(i) An inventory of each geographic region's existing health care facilities and services;

(ii) Projections of need for each category of health care facility and service, including those subject to certificate of need;

(iii) Policies to guide the addition of new or expanded health care facilities and services to promote the use of quality, evidence-based, cost-effective health care delivery options, including any recommendations for criteria, standards, and methods relevant to the certificate of need review process; and

(iv) An assessment of the availability of health care providers, public health resources, transportation infrastructure, and other considerations necessary to support the needed health care facilities and services in each region;

(c) A health care data resource plan that identifies data elements necessary to properly conduct planning activities and to review certificate of need applications, including data related to inpatient and outpatient utilization and outcomes information, and financial and utilization information related to charity care, quality, and cost. The plan shall inventory existing data resources, both public and private, that store and disclose information relevant to the health planning process, including information necessary to conduct certificate of need activities pursuant to chapter 70.38 RCW. The plan shall identify any deficiencies in the inventory of existing data resources and the data necessary to conduct comprehensive health planning activities. The plan may recommend that the office be authorized to access existing data sources and conduct appropriate analyses of such data or that other agencies expand their data collection activities as statutory authority permits. The plan may identify any computing infrastructure deficiencies that impede the proper storage, transmission, and analysis of health planning data. The plan shall provide recommendations for increasing the availability of data related to health planning to provide greater community involvement in the health planning process and consistency in data used for certificate of need applications and determinations;

(d) An assessment of emerging trends in health care delivery and technology as they relate to access to health care facilities and services, quality of care, and costs of care. The assessment shall recommend any changes to the scope of health care facilities and services covered by the certificate of need program that may be warranted by these emerging trends. In addition, the assessment may recommend any changes to criteria used by the department to review certificate of need applications, as necessary;

(e) A rural health resource plan to assess the availability of health resources in rural areas of the state, assess the unmet needs of these communities, and evaluate how federal and state reimbursement policies can be modified, if necessary, to more efficiently and effectively meet the health care needs of rural communities. The plan shall consider the unique health care needs of rural communities, the adequacy of the rural health workforce, and transportation needs for accessing appropriate care.

(4) The office shall submit ((~~the initial strategy~~))a preliminary report outlining its work in developing a state health resources strategy by July 1, 2026. The office shall submit the completed health resources strategy report to the governor and the appropriate committees of the senate and house of representatives by ((~~January 1, 2010. Every two~~))December 31, 2027. The report must include projections and policy recommendations through 2032. Beginning January 1, 2033, the office shall report on strategy updates and implementation every four years ((~~the office shall submit an updated strategy. The health care facilities and services plan as it pertains to a distinct geographic planning region may be updated by individual categories on a rotating, biannual schedule~~)).

(5) The office shall hold at least one virtual or hybrid public hearing and allow opportunity to submit written comments prior to the issuance of the ((~~initial~~))preliminary report outlining its work in developing the state health resources strategy ((~~or an~~))and at least one virtual or hybrid public meeting before issuance of the completed health resources strategy report and any updated strategy reports. ((~~A public hearing shall be held prior to issuing a draft of an updated health care facilities and services plan, and another public hearing shall be held before final adoption of an updated health care facilities and services plan. Any hearing related to updating a health care facilities and services plan for a specific planning region shall be held in that region with sufficient notice to the public and an opportunity to comment.~~))

Sec. 5. RCW 43.370.040 and 2007 c 259 s 53 are each amended to read as follows:

The office shall submit the strategy to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. As the health care facilities and services plan is updated for any specific geographic planning region, the office shall submit that plan to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. The office shall not issue determinations of the merits of specific project proposals submitted by applicants for certificates of need. The department of health may not adopt rules in response to the strategy issued in 2027."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Caldier; Callan; Cortes; Doglio; Dye; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Burnett; Corry; Keaton; Manjarrez; and Marshall.

Referred to Committee on Rules for second reading

April 8, 2025

SB 5581 Prime Sponsor, Senator Shewmake: Implementing safe system approach strategies for active transportation infrastructure. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Bronoske; Duerr; Entenman; Hunt; Nance; Ramel; Richards; Taylor; Timmons; Wylie and Zahn.

MINORITY recommendation: Do not pass. Signed by Representatives Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Griffey; Klicker; Ley; Orcutt; Stuebe; and Volz.

MINORITY recommendation: Without recommendation. Signed by Representatives Mendoza, Assistant Ranking Minority Member; and Dent.

Referred to Committee on Rules for second reading

April 7, 2025

E2SSB 5613 Prime Sponsor, Ways & Means: Concerning the development of clear and objective standards, conditions, and procedures for residential development. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Housing.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a city or county may adopt and apply only clear and objective development regulations and design standards of residential development.

(2) In addition to an approval process for residential development based on clear and objective development regulations and design standards as provided in subsection (1) of this section, a city or county may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (1) of this section;

(b) The approval criteria for the alternative approval process comply with this chapter; and

(c) The approval criteria for the alternative approval process does not authorize a density of less than the density authorized in the comprehensive plan and zoning regulations and that would be authorized under the approval process provided in subsection (1) of this section.

(3) Subject to subsection (1) of this section, this section does not infringe on the prerogative of a city or county to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

(4) By January 1, 2029, all development regulations and design standards in effect in a city or county must comply with the requirements of this section.

(5) The provisions of this section do not apply to regulations of residential development outside of urban growth areas designated under RCW 36.70A.110.

(6) A city or county has met the requirements of this section if:

(a) The city or county adopts or has adopted regulations in compliance with this section or that comply with the requirements under this section; or

(b)(i) The city or county adopts the model code provisions produced by the department under section 3 of this act;

(ii) The city or county submits any regulations adopted under this subsection to the department for approval; and

(iii) The department determines that the adopted development regulations or design standards meet the requirements of the model code provisions developed under section 3 of this act or are substantially similar to the requirements of the model code provisions. If

the department determines that the adopted development regulations or design standards do not meet the requirements of the model code provisions developed under section 3 of this act or are not substantially similar to the requirements of the model code provisions, the department shall notify the city or county of the deficiencies identified and proposed amendments to correct any deficiencies. Upon amendment of any provisions deemed to not meet the requirements of the model code provisions, the city or county may resubmit the amended provisions to the department for approval.

(7) Nothing in this section prevents the legislative authority from adopting changes in the future. Future changes may be submitted to the department for continued approval. Approval by the department of the adopted provisions will be considered to continue unless the legislative authority adopts changes and submits those changes to the department for approval and the department makes a written determination that the changes are not consistent with clear and objective standards.

(8) This section does not apply to development regulations for a conditional use as defined by RCW 36.70.020.

Sec. 2. RCW 36.70A.030 and 2024 c 152 s 1 are each amended to read as follows:

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

(1) "Active transportation" means forms of pedestrian mobility including walking or running, the use of a mobility assistive device such as a wheelchair, bicycling and cycling irrespective of the number of wheels, and the use of small personal devices such as foot scooters or skateboards. Active transportation includes both traditional and electric assist bicycles and other devices. Planning for active transportation must consider and address accommodation pursuant to the Americans with disabilities act and the distinct needs of each form of active transportation.

(2) "Active transportation facilities" means facilities provided for the safety and mobility of active transportation users including, but not limited to, trails, as defined in RCW 47.30.005, sidewalks, bike lanes, shared-use paths, and other facilities in the public right-of-way.

(3) "Administrative design review" means a development permit process whereby an application is reviewed, approved, or denied by the planning director or the planning director's designee based solely on clear and objective design and development standards without a public predecision hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. A city may utilize public meetings, hearings, or voluntary review boards to consider, recommend, or approve requests for variances from locally established design review standards.

(4) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(5) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

(a) For rental housing, 60 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(6) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(7) "City" means any city or town, including a code city.

(8) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(9) "Cottage housing" means residential units on a lot with a common open space that either: (a) Is owned in common; or (b) has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

(10) "Courtyard apartments" means attached dwelling units arranged on two or three sides of a yard or court.

(11) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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

(13) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together

with any amendments thereto. Development regulations for residential development adopted pursuant to section 1 of this act must be clear and objective development regulations as defined in this section. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(14) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(15) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(16) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities and the equitable distribution of resources and benefits.

(17) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(18) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(19) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(20) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(21) "Green infrastructure" means a wide array of natural assets and built structures within an urban growth area boundary, including parks and other areas with protected tree canopy, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.

(22) "Green space" means an area of land, vegetated by natural features such as grass, trees, or shrubs, within an urban context and less than one acre in size that creates public value through one or more of the following attributes:

(a) Is accessible to the public;

(b) Promotes physical and mental health of residents;

(c) Provides relief from the urban heat island effects;

(d) Promotes recreational and aesthetic values;

(e) Protects streams or water supply; or

(f) Preserves visual quality along highway, road, or street corridors.

(23) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(24) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(25) "Major transit stop" means:

(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems; or

(d) Stops on bus rapid transit routes, including those stops that are under construction.

(26) "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes

including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

(27) "Minerals" include gravel, sand, and valuable metallic substances.

(28) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(29) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

(30) "Per capita vehicle miles traveled" means the number of miles traveled using cars and light trucks in a calendar year divided by the number of residents in Washington. The calculation of this value excludes vehicle miles driven conveying freight.

(31) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(32) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(33) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(34) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(35) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(36) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(37) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems and fire and police protection services associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(38) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(39) "Single-family zones" means those zones where single-family detached housing is the predominant land use.

(40) "Stacked flat" means dwelling units in a residential building of no more than three stories on a residential zoned lot in which each floor may be separately rented or owned.

(41) "Townhouses" means buildings that contain three or more attached single-family dwelling units that extend from foundation to roof and that have a yard or public way on not less than two sides.

(42) "Transportation system" means all infrastructure and services for all forms of transportation within a geographical area, irrespective of the responsible jurisdiction or transportation provider.

(43) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically

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including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(44) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(45) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(46) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(47)(a) "Vulnerable populations" means population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

(b) "Vulnerable populations" includes, but is not limited to:

(i) Racial or ethnic minorities;

(ii) Low-income populations; and

(iii) Populations disproportionately impacted by environmental harms.

(48) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

(49) "Wildland urban interface" means the geographical area where structures and other human development meets or intermingles with wildland vegetative fuels.

(50) "Clear and objective development regulations" means locally adopted development regulations, including design standards, that involve no personal or subjective judgment by a public official, and are ascertainable by reference to measurable written or graphic criteria available and knowable to the permit applicant, the public, and public officials prior to submittal.

(51) "Clear and objective design standard" means a locally adopted design standard:

(a) With one or more ascertainable guideline, standard, or criterion by which an applicant can determine whether a given building and site design is permissible under that development regulation; and

(b) That does not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone.

Sec. 3. RCW 36.70A.190 and 2023 c 228 s 9 are each amended to read as follows:

(1) The department shall establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state.

(2) The department shall develop a priority list and establish funding levels for planning and technical assistance grants both for counties and cities that plan under RCW 36.70A.040. Priority for assistance shall be based on a county's or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, the presence of overburdened communities, and other relevant factors. The department shall establish funding levels for grants to community-based organizations for the specific purpose of advancing participation of vulnerable populations and overburdened communities in the planning process.

(3) The department shall develop and administer a grant program to provide direct financial assistance to counties and cities for the preparation of comprehensive plans under this chapter. The department may establish provisions for county and city matching funds to conduct activities under this subsection. Grants may be expended for any purpose directly related to the preparation of a county or city comprehensive plan as the county or city and the department may agree, including, without limitation, the conducting of surveys, inventories and other data gathering and management activities, the retention of planning

consultants, contracts with regional councils for planning and related services, and other related purposes.

(4) The department shall establish a program of technical assistance:

(a) Utilizing department staff, the staff of other state agencies, and the technical resources of counties and cities to help in the development of comprehensive plans required under this chapter. The technical assistance may include, but not be limited to, model land use ordinances, regional education and training programs, and information for local and regional inventories; and

(b) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter.

(5) The department shall provide mediation services to resolve disputes between counties and cities regarding, among other things, coordination of regional issues and designation of urban growth areas.

(6) The department shall provide services to facilitate the timely resolution of disputes between a federally recognized Indian tribe and a city or county.

(a) A federally recognized Indian tribe may request the department to provide facilitation services to resolve issues of concern with a proposed comprehensive plan and its development regulations, or any amendment to the comprehensive plan and its development regulations.

(b) Upon receipt of a request from a tribe, the department shall notify the city or county of the request and offer to assist in providing facilitation services to encourage resolution before adoption of the proposed comprehensive plan. Upon receipt of the notice from the department, the city or county must delay any final action to adopt any comprehensive plan or any amendment or its development regulations for at least 60 days. The tribe and the city or county may jointly agree to extend this period by notifying the department. A county or city must not be penalized for noncompliance under this chapter due to any delays associated with this process.

(c) Upon receipt of a request, the department shall provide comments to the county or city including a summary and supporting materials regarding the tribe's concerns. The county or city may either agree to amend the comprehensive plan as requested consistent with the comments from the department, or enter into a facilitated process with the tribe, which must be arranged by the department using a suitable expert to be paid by the department. This facilitated process may also extend the 60-day delay of adoption, upon agreement of the tribe and the city or county.

(d) At the end of the 60-day period, unless by agreement there is an extension of the 60-day period, the city or county may proceed with adoption of the proposed comprehensive plan and development regulations. The facilitator shall write a report of findings describing the basis for agreements or disagreements that occurred during the process that are allowed to be disclosed by the parties and the resulting agreed-upon elements of the plan to be amended.

(7) The department shall provide planning grants to enhance citizen participation under RCW 36.70A.140.

(8) The department shall develop, in collaboration with the department of ecology, the department of fish and wildlife, the department of natural resources, the department of health, the emergency management division of the military department, as well as any federally recognized tribe who chooses to voluntarily participate, and adopt by rule guidance that creates a model climate change and resiliency element that may be used by counties, cities, and multiple-county planning regions for developing and implementing climate change and resiliency plans and policies required by RCW 36.70A.070(9), subject to the following provisions:

(a) The model element must establish minimum requirements, and may include model options or voluntary cross-jurisdictional strategies, or both, for fulfilling the requirements of RCW 36.70A.070(9);

(b) The model element should provide guidance on identifying, designing, and investing in infrastructure that supports community resilience to climate impacts, including the protection, restoration, and enhancement of natural infrastructure as well as traditional infrastructure and protecting and enhancing natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(c) The model element should provide guidance on identifying and addressing natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfires, and other effects of reasonably anticipated changes to temperature and precipitation patterns; and

(d) The rule must recognize and promote as many cobenefits of climate resilience as possible such as climate change mitigation, salmon recovery, forest health, ecosystem services, and socioeconomic health and resilience.

(9) The department must develop and publish model code provisions that meet the requirements of section 1 of this act by June 30, 2027. The model code provisions developed under this subsection are not required to include critical areas regulations.

Sec. 4. RCW 36.70A.280 and 2023 c 334 s 7, 2023 c 332 s 6, and 2023 c 228 s 7 are each reenacted and amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

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(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance based on a city or county's actions taken to implement the requirements of RCW 36.70A.680 and 36.70A.681 within an urban growth area;

(b) That the 20-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction;

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous;

(f) That the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendments by a local government planning under RCW 36.70A.040 was not in compliance with the joint guidance issued by the department pursuant to RCW 70A.45.120; ((~~or~~))

(g) That the department's final decision to approve or reject actions by a city implementing RCW 36.70A.635 is clearly erroneous;

(h) That a clear and objective development regulation adopted by a city or county under section 1(6)(a) of this act is not consistent with the requirements of section 1 of this act;

(i) That clear and objective model provisions adopted by a county or city pursuant to section 1(6)(b) of this act are not consistent with or substantially similar to the department's clear and objective model code provisions under RCW 36.70A.190(9). In reaching its determination, the board shall give substantial weight to the department's expertise in its approval of a city or county's ordinance under section 1(6)(b) of this act; and

(j) That the department's written determination under section 1(7) of this act regarding the consistency of the city's or county's proposed ordinances or regulations to the clear and objective standards described in RCW 36.70A.030 is clearly erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within 60 days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Penner, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Cortes; Doglio; Fitzgibbon; Leavitt; Lekanoff; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry; Dye; Keaton; Marshall; and Rude.

MINORITY recommendation: Without recommendation. Signed by Representatives Connors, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; and Manjarrez.

Referred to Committee on Rules for second reading

April 8, 2025

SB 5653 Prime Sponsor, Senator Chapman: Concerning collective bargaining by fish and wildlife officers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.56.030 and 2024 c 124 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Adult family home provider" means a provider as defined in RCW 70.128.010 who receives payments from the medicaid and state-funded long-term care programs.

(2) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(3) "Child care subsidy" means a payment from the state through a child care subsidy program established pursuant to RCW 74.12.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor program.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures, subject to RCW 41.58.070, and collective negotiations on personnel matters, including wages, hours, and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Family child care provider" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) receives child care subsidies; and (c) under chapter 43.216 RCW, is either licensed by the state or is exempt from licensing.

(8) "Fish and wildlife officer" means a fish and wildlife officer as defined in RCW 77.08.010 who ranks below ((~~lieutenant~~))deputy chief and includes officers, detectives, ((~~and~~)) sergeants, lieutenants, and captains of the department of fish and wildlife.

(9) "Individual provider" means an individual provider as defined in RCW 74.39A.240(3) who, solely for the purposes of collective bargaining, is a public employee as provided in RCW 74.39A.270.

(10) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11)(a) "Language access provider" means any independent contractor who provides spoken language interpreter services, whether paid by a broker, language access agency, or the respective department:

(i) For department of social and health services appointments, department of children, youth, and families appointments, medicaid enrollee appointments, or who provided these services on or after January 1, 2011, and before June 10, 2012;

(ii) For department of labor and industries authorized medical and vocational providers who provided these services on or after January 1, 2019; or

(iii) For state agencies who provided these services on or after January 1, 2019.

(b) "Language access provider" does not mean a manager or employee of a broker or a language access agency.

(12) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to (i) the executive head or body of the applicable bargaining unit, or (ii) any person elected by popular vote, or (iii) any person appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (d) who is a court commissioner or a court magistrate of superior court, district court, or a department of a district court organized under chapter 3.46 RCW, or (e) who is a personal assistant to a district court judge, superior court judge, or court commissioner. For the purpose of (e) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(13) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court. For the purposes of this chapter, public employer does not include a comprehensive cancer center participating in a collaborative arrangement as defined in RCW 28B.10.930 that is operated in conformance with RCW 28B.10.930.

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(14) "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(9), by a county with a population of seventy thousand or more, in a correctional facility created under RCW 70.48.095, or in a detention facility created under chapter 13.40 RCW that is located in a county with a population over one million five hundred thousand, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) firefighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other firefighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer; (i) court marshals of any county who are employed by, trained for, and commissioned by the county sheriff and charged with the responsibility of enforcing laws, protecting and maintaining security in all county-owned or contracted property, and performing any other duties assigned to them by the county sheriff or mandated by judicial order; or (j) public safety telecommunicators, as defined in RCW 38.60.020, employed by a public employer. This subsection (14)(j) does not apply to public safety telecommunicators employed by the Washington state patrol or any other state agency.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2025

ESB 5689 Prime Sponsor, Senator Harris: Adding blood type information to drivers' licenses and identicards. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Mendoza, Assistant Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Bronoske; Dent; Duerr; Entenman; Griffey; Hunt; Klicker; Ley; Nance; Orcutt; Paul; Ramel; Richards; Stuebe; Taylor; Timmons; Volz and Zahn.

Referred to Committee on Rules for second reading

April 8, 2025

SB 5702 Prime Sponsor, Senator Ramos: Streamlining the toll rate setting process at the transportation commission. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Bronoske; Duerr; Entenman; Hunt; Nance; Ramel; Richards; Taylor; Timmons; Wylie and Zahn.

MINORITY recommendation: Do not pass. Signed by Representatives Ley; Orcutt; Stuebe; and Volz.

MINORITY recommendation: Without recommendation. Signed by Representatives Mendoza, Assistant Ranking Minority Member; Dent; Griffey; and Klicker.

Referred to Committee on Rules for second reading

April 8, 2025

SB 5716 Prime Sponsor, Senator Krishnadasan: Expanding the locations where a person can be guilty of unlawful transit conduct to include the Washington state ferries. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Mendoza, Assistant Ranking Minority

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Member; Schmidt, Assistant Ranking Minority Member; Bronoske; Dent; Duerr; Entenman; Griffey; Hunt; Klicker; Ley; Nance; Orcutt; Ramel; Richards; Stuebe; Taylor; Timmons; Volz; Wylie and Zahn.

Referred to Committee on Rules for second reading

April 5, 2025

SSB 5738 Prime Sponsor, Ways & Means: Permitting individuals retired from the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, and the public safety employees' retirement system additional opportunities to work for up to 1,040 hours per year while in receipt of pension benefits. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 8, 2025

ESSB 5752 Prime Sponsor, Ways & Means: Modifying child care and early childhood development programs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Human Services.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.216.556 and 2021 c 199 s 208 are each amended to read as follows:

(1) Funding for the program of early learning established under this chapter must be appropriated to the department. The department shall distribute funding to approved early childhood education and assistance program contractors on the basis of eligible children enrolled.

(2) The program shall be implemented in phases, so that full implementation is achieved in the ((~~2026-27~~))2030-31 school year.

(3) Funding shall continue to be phased in each year until full statewide implementation of the early learning program is achieved in the ((~~2026-27~~))2030-31 school year, at which time any eligible child is entitled to be enrolled in the program. Entitlement under this section is voluntary enrollment.

(4) School districts and approved community-based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community-based providers, and educational service districts to promote an adequate supply of approved providers.

Sec. 2. RCW 43.216.505 and 2024 c 225 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.216.500 through 43.216.559, 43.216.900, and 43.216.901.

(1) "Advisory committee" means the advisory committee under RCW 43.216.520.

(2) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and 43.216.901 and are designated as eligible for funding by the department under RCW 43.216.530 and 43.216.540.

(3) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(4) "Eligible child" means a three to five-year old child who is not age-eligible for kindergarten, is not a participant in a federal or state program providing comprehensive services, and who:

(a) Has a family with an income at or below 50 percent of the state median income adjusted for family size;

(b) Is experiencing homelessness;

(c) Has participated in early head start or a successor federal program providing comprehensive services for children from birth through two years of age, the early support for infants and toddlers program or received class C developmental services, the birth to three early childhood education and assistance program, or the early childhood intervention and prevention services program;

(d) Is eligible for special education due to disability under RCW 28A.155.020;

(e) ((~~Is a member of an assistance unit that is eligible for or is receiving basic food benefits under the federal supplemental nutrition assistance program or the state food assistance program;~~

~~(f)~~)) Is Indian as defined in rule by the department after consultation and agreement with Washington state's federally recognized tribes pursuant to RCW 43.216.5052 and is at or below 100 percent of the state median income adjusted for family size; or

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((~~(g)~~))(f) Meets criteria under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Preference for enrollment in this group shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(5) "Experiencing homelessness" means a child without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2021.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance; and

(f) Connect with culturally competent, disability positive therapists and supports where appropriate.

Sec. 3. RCW 43.216.578 and 2024 c 225 s 5 are each amended to read as follows:

(1) ((~~Within resources available under the federal preschool development grant birth to five grant award received in December 2018~~))Subject to the availability of amounts appropriated for this specific purpose, the department shall develop a plan for phased implementation of a birth to three early childhood education and assistance program pilot project for eligible children under thirty-six months old. Funds to implement the pilot project may include a combination of federal, state, or private sources.

(2) The department may adopt rules to implement the pilot project and may waive or adapt early childhood education and assistance program requirements when necessary to allow for the operation of the birth to three early childhood education and assistance program. The department shall consider early head start rules and regulations when developing the provider and family eligibility requirements and program requirements. Any deviations from early head start standards, rules, or regulations must be identified and explained by the department in its annual report under subsection (6) of this section.

(3)(a) Upon securing adequate funds to begin implementation, the pilot project programs must be delivered through child care centers and family home providers who meet minimum licensing standards and are enrolled in the early achievers program.

(b) The department must determine minimum early achievers ratings scores for programs participating in the pilot project.

(4) When selecting pilot project locations for service delivery, the department may allow each pilot project location to have up to three classrooms per location. When selecting and approving pilot project locations, the department shall attempt to select a combination of rural, urban, and suburban locations. The department shall prioritize locations with programs currently operating early head start, head start, or the early childhood education and assistance program.

(5) ((~~Until November 1, 2024, to be eligible for the birth to three early childhood education and assistance program, a child's family income must be at or below one hundred thirty percent of the federal poverty level and the child must be under thirty-six months old. Beginning November 1, 2024, to~~))(a) To be eligible for the birth to three early childhood education and assistance program, a child must be under 36 months old and either:

((~~(a)~~))(i) From a family with a household income at or below 130 percent of the federal poverty level; or

((~~(b)~~))(ii) A member of an assistance unit that is eligible for or is receiving basic food benefits under the federal supplemental nutrition assistance program or the state food assistance program.

(b) Enrollment of children in the birth to three early childhood education and assistance program is as space is available and subject to the availability of amounts appropriated for this specific purpose.

(6) Beginning November 1, 2020, and each November 1st thereafter during pilot project activity, the department shall submit an annual report to the governor and legislature that includes a status update that describes the planning work completed, the status of funds secured, and any implementation activities of the pilot project. Implementation activity reports must include a description of the participating programs and number of children and families served.

Sec. 4. RCW 43.216.578 and 2024 c 225 s 6 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department shall administer a birth to three early childhood education and assistance program for eligible children under thirty-six months old. Funds to implement the program may include a combination of federal, state, or private sources.

(2) The department may adopt rules to implement the program and may waive or adapt early childhood education and assistance program requirements when necessary to allow for the operation of the birth to three early childhood education and assistance program. The department shall consider early head start rules and regulations when developing the provider and family eligibility requirements and program requirements.

(3)(a) The birth to three early childhood education and assistance program must be delivered through child care centers and family home providers who meet minimum licensing standards and are enrolled in the early achievers program.

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(b) The department must determine minimum early achievers ratings scores for participating contractors.

(4)(a) To be eligible for the birth to three early childhood education and assistance program, a child must be under 36 months old and either:

((~~(a)~~))(i) From a family with a household income at or below 50 percent of the state median income; or

((~~(b)~~))(ii) A member of an assistance unit that is eligible for or is receiving basic food benefits under the federal supplemental nutrition assistance program or the state food assistance program.

(b) Enrollment of children in the birth to three early childhood education and assistance program is as space is available and subject to the availability of amounts appropriated for this specific purpose.

Sec. 5. RCW 43.216.802 and 2024 c 225 s 1 and 2024 c 67 s 2 are each reenacted and amended to read as follows:

(1) It is the intent of the legislature to increase working families' access to affordable, high quality child care and to support the expansion of the workforce to support businesses and the statewide economy.

(2) A family is eligible for working connections child care when the household's annual income is at or below 60 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements established in this chapter or in rule by the department as authorized by RCW 43.216.055 or 43.216.065 or any other authority granted by this chapter.

(3) Beginning July 1, ((~~2025~~))2029, a family is eligible for working connections child care when the household's annual income is above 60 percent and at or below 75 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements established in this chapter or in rule by the department as authorized by RCW 43.216.055 or 43.216.065 or any other authority granted by this chapter.

(4) Beginning July 1, ((~~2027~~))2031, and subject to the availability of amounts appropriated for this specific purpose, a family is eligible for working connections child care when the household's annual income is above 75 percent of the state median income and is at or below 85 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements established in this chapter or in rule by the department as authorized by RCW 43.216.055 or 43.216.065 or any other authority granted by this chapter.

(5) Beginning November 1, 2024, when an applicant or consumer is a member of an assistance unit that is eligible for or receiving basic food benefits under the federal supplemental nutrition assistance program or the state food assistance program the department must determine that the household income eligibility requirements in this section are met.

(6) The department must adopt rules to implement this section, including an income phase-out eligibility period.

(7) The department may not consider the citizenship status of an applicant or consumer's child when determining eligibility for working connections child care benefits.

(8) The income eligibility requirements in subsections (2) through (4) of this section do not apply to households eligible for the working connections child care program under RCW 43.216.808, 43.216.810, ((~~43.216.812,~~)) and 43.216.814.

NEW SECTION. **Sec. 6.** (1) In accordance with RCW 43.216.800, authorizations for a working connections child care subsidy are effective for 12 months and any changes related to eligibility in this act only apply to new applications and reapplications. The changes related to eligibility in this act do not apply to consumers who were authorized for a working connections child care subsidy before July 1, 2025 until the next reapplication.

(2) This section expires December 31, 2027.

Sec. 7. RCW 43.216.590 and 2021 c 199 s 304 are each amended to read as follows:

(1) ((~~Beginning July 1, 2022~~))Subject to the availability of amounts appropriated for this specific purpose, the department shall provide supports to aid eligible providers in providing trauma-informed care. Trauma-informed care supports may be used by eligible providers for the following purposes:

(a) Additional compensation for individual staff who have an infant and early childhood mental health or other child development specialty credential;

(b) Trauma-informed professional development and training;

(c) The purchase of screening tools and assessment materials;

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(d) Supportive services for children with complex needs that are offered as fee-for-service within local communities; or

(e) Other related expenses.

(2) This section does not interfere with, impede, or in any way diminish the right of family child care providers to bargain collectively with the state through the exclusive bargaining representatives as provided for under RCW 41.56.028.

(3) The department must adopt rules to implement this section.

((~~(3)~~))(4) For the purposes of this section, "eligible provider" means: (a) An employee or owner of a licensed or certified child care center or outdoor nature-based care accepting state subsidy; (b) an employee or owner of a licensed family home provider accepting state subsidy; (c) a contractor or provider of the early childhood education and assistance program or birth to three early childhood education and assistance program; (d) a license-exempt child care program; or (e) an early achievers coach.

Sec. 8. RCW 43.216.090 and 2021 c 199 s 309 are each amended to read as follows:

(1) ((~~The~~))Subject to the availability of amounts appropriated for this specific purpose, the department shall administer or contract for infant and early childhood mental health consultation services to child care providers and early learning providers participating in the early achievers program.

(2) ((~~Beginning July 1, 2021~~))Subject to the availability of amounts appropriated for this specific purpose, the department ((~~of children, youth, and families~~)) must have or contract for one infant and early childhood mental health consultation coordinator and must enter into a contractual agreement with an organization providing coaching services to early achievers program participants to hire at least 12 qualified infant and early childhood mental health consultants. The department shall determine, in collaboration with the statewide child care resource and referral network, where the additional consultants should be sited based on factors such as the total provider numbers overlaid with indicators of highest need. The infant and early childhood mental health consultants must support early achievers program coaches and child care providers by providing resources, information, and guidance regarding challenging behavior and expulsions and may travel to assist providers in serving families and children with severe behavioral needs.

(3) The department shall provide, or contract with an entity to provide, reflective supervision and professional development for infant and early childhood mental health consultants to meet national competency standards.

(4) As capacity allows, the department may provide access to infant and early childhood mental health consultation services to caregivers and licensed or certified, military, and tribal early learning providers, license-exempt family, friend, and neighbor care providers, and families with children expelled or at risk of expulsion from child care.

Sec. 9. RCW 43.216.592 and 2021 c 199 s 305 are each amended to read as follows:

(1) ((~~Beginning July 1, 2022~~))Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a dual language designation and provide subsidy rate enhancements or site-specific grants for licensed or certified child care providers who are accepting state subsidy((~~,~~))or early childhood education and assistance program contractors; or birth to three early childhood education and assistance program contractors. It is the intent of the legislature to allow uses of rate enhancements or site-specific grants to include increased wages for individual staff who provide bilingual instruction, professional development training, the purchase of dual language and culturally appropriate curricula and accompanying training programs, instructional materials, or other related expenses.

(2) The department must consult with a culturally and linguistically diverse stakeholder advisory group to develop criteria for the dual language designation.

(3) This section does not interfere with, impede, or in any way diminish the right of family child care providers to bargain collectively with the state through the exclusive bargaining representatives as provided for under RCW 41.56.028.

(4) The department must adopt rules to implement this section.

Sec. 10. RCW 43.216.512 and 2024 c 225 s 4 are each amended to read as follows:

(1) The department shall adopt rules that allow the enrollment of children in the early childhood education and assistance program, as space is available, if the number of such children equals not more than 25 percent of total statewide enrollment, when the child is not eligible under RCW 43.216.505 and((~~:~~

~~(a) Has~~))has a family income level above 36 percent of the state median income but at or below 50 percent of the state median income adjusted for family size and the child meets at least one of the risk factor criterion described in subsection (2) of this section((~~; or~~

~~(b) Is a member of an assistance unit that is eligible for or is receiving basic food benefits under the federal supplemental nutrition assistance program or the state food assistance program~~)).

(2) Children enrolled in the early childhood education and assistance program pursuant to this section must be prioritized for available funded slots according to a prioritization system adopted in rule by the department that considers risk factors that have a disproportionate effect on kindergarten readiness and school performance, including:

(a) Family income as a percent of the state median income;

(b) Child welfare system involvement;

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(c) ((~~Eligible for services under part C of the federal individuals with disabilities education act but not eligible for services under part B of the federal individuals with disabilities education act;~~

~~(d)~~)) Domestic violence;

((~~(e)~~))(d) English as a second language;

((~~(f)~~))(e) Expulsion from an early learning setting;

((~~(g)~~))(f) A parent who is incarcerated;

((~~(h)~~))(g) A parent with a behavioral health treatment need; and

((~~(i)~~))(h) Other risk factors determined by the department to be linked by research to school performance.

(3) Children enrolled in the early childhood education and assistance program under this section are not considered eligible children as defined in RCW 43.216.505 and are not considered to be part of the state-funded entitlement required in RCW 43.216.556.

(4) This section expires August 1, 2030.

NEW SECTION. **Sec. 11.** A new section is added to chapter 43.216 RCW under the subchapter heading "subsidized child care" to read as follows:

By June 1st of every even-numbered year, the department shall publish a cost of quality child care and market rate study and submit the study to the relevant committees of the legislature in compliance with RCW 43.01.036.

NEW SECTION. **Sec. 12.** The following acts or parts of acts are each repealed:

RCW 43.216.812 (Expanded eligibility—Child care employees) and 2024 c 282 s 2, 2024 c 67 s 7, & 2023 c 222 s 2.

NEW SECTION. **Sec. 13.** (1) The department of children, youth, and families must partner with a school district and a metropolitan park district to conduct a pilot to increase access to school-age-only child care programs. The pilot must explore processes and system changes to decrease the administrative, regulatory, and financial burdens on school-age-only child care providers operating in public school buildings.

(2) The pilot site must be in a city west of the Cascade mountain range with a population between 215,000 and 250,000 residents and the capacity to serve at least 27,000 students. The park district of the partner site must be willing to provide up to $300,000 in funding to support the work of the partnership, with the total determined after negotiating the workload. The parties may negotiate additional funding by mutual consent, and may also negotiate the addition of other school districts or child care providers by mutual consent.

(3) The pilot must operate in at least three school buildings that had a licensed school-age-only child care site in operation during the 2024-2025 school year.

(4) The pilot must:

(a) Explore and test the feasibility and impact of licensing all child-friendly areas in school buildings;

(b) Explore and test methods for streamlining access to the working connections child care program so that the school district, the park district, and their child care partners can expand access for families. The pilot must allow the school district, the park district, and their child care partners access to the online application portal to support application access to working connections child care for families. The department of children, youth, and families must pay providers directly using policies required under the federal child care and development fund; and

(c) Identify processes, systems, administrative rules, and statutes, that may need to be added, modified, or eliminated in order to support the objectives identified in (a) and (b) of this subsection.

(5) By July 1, 2028, and in compliance with RCW 43.01.036, the department of children, youth, and families must submit a report regarding the pilot to the legislature that includes the pilot's successes and challenges, any recommended changes to regulatory requirements, and the pilot's outcomes for child care program staff, school staff, and students.

(6) This section expires July 1, 2029.

NEW SECTION. **Sec. 14.** Except for sections 2 and 4 of this act, 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 July 1, 2025.

NEW SECTION. **Sec. 15.** Section 3 of this act expires July 1, 2026.

NEW SECTION. **Sec. 16.** (1) Section 4 of this act takes effect July 1, 2026.

(2) Section 2 of this act takes effect August 1, 2030.

Sec. 17. 2021 c 199 s 604 (uncodified) is amended to read as follows:

((~~Sections 204 through 206 and 403 of this act take~~))(1) Sections 204 through 206 of this act take effect July 1, 2025.

(2) Section 403 of this act takes effect July 1, 2026.

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Sec. 18. 2024 c 225 s 7 (uncodified) is amended to read as follows:
(1) Section 2 of this act takes effect August 1, 2030.
((~~Sections 4 and~~))(2) Section 4 of this act takes effect July 1, 2025.
(3) Section 6 of this act ((~~take~~))takes effect July 1, 2026.

Sec. 19. 2024 c 225 s 8 (uncodified) is amended to read as follows:
(1) Section 3 of this act expires July 1, 2025.
((~~Sections 3 and~~))(2) Section 5 of this act ((~~expire~~))expires July 1, 2026."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 5, 2025

SB 5761 Prime Sponsor, Senator Frame: Developing a schedule for court appointment of attorneys for children and youth in dependency and termination proceedings. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.34.212 and 2024 c 25 s 1 are each amended to read as follows:
(1)(a) The court shall appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship pursuant to RCW 13.34.180 and when there is no remaining parent with parental rights.
(b) The court may appoint one attorney to a group of siblings, unless there is a conflict of interest, or such representation is otherwise inconsistent with the rules of professional conduct.
(c) Subject to availability of amounts appropriated for this specific purpose, the state shall pay the costs of legal services provided by an attorney appointed pursuant to (a) of this subsection if the legal services are provided in accordance with the rules of professional conduct, the standards of practice, caseload limits, and training guidelines adopted by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010 until such time that new recommendations are adopted by the children's representation work group established in section 9, chapter 210, Laws of 2021.
(d) The office of civil legal aid is responsible for implementation of (c) of this subsection as provided in RCW 2.53.045.
(e) Legal services provided by an attorney pursuant to (a) of this subsection do not include representation of the child in any appellate proceedings relative to the termination of the parent and child relationship.
(2)(a) The court may appoint an attorney to represent the child's position in any dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department.
(b)(i) If the court has not already appointed an attorney for a child, or the child is not represented by a privately retained attorney:
(A) The child's caregiver, or any individual, may refer the child to an attorney for the purposes of filing a motion to request appointment of an attorney at public expense; or
(B) The child or any individual may retain an attorney for the child for the purposes of filing a motion to request appointment of an attorney at public expense.
(ii) Nothing in this subsection changes or alters the confidentiality provisions of RCW 13.50.100.
(c) The department and the child's guardian ad litem shall each notify a child of the child's right to request an attorney and shall ask the child whether the child wishes to have an attorney. The department and the child's guardian ad litem shall notify the child and make this inquiry immediately after:
(i) The date of the child's 12th birthday; or
(ii) Assignment of a case involving a child age 12 or older.
(d) The department and the child's guardian ad litem shall repeat the notification and inquiry at least annually and upon the filing of any motion or petition affecting the child's placement, services, or familial relationships.
(e) The notification and inquiry is not required if the child has already been appointed an attorney.
(f) The department shall note in the child's individual service and safety plan, and the guardian ad litem shall note in his or her report to the court, that the child was notified of the right to request an attorney and indicate the child's position regarding appointment of an attorney.
(g) At the first regularly scheduled hearing after:
(i) The date of the child's 12th birthday; or

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(ii) The date that a dependency petition is filed pursuant to this chapter on a child age 12 or older;
the court shall inquire whether the child has received notice of his or her right to request an attorney from the department and the child's guardian ad litem. The court shall make an additional inquiry at the first regularly scheduled hearing after the child's 15th birthday. No inquiry is necessary if the child has already been appointed an attorney.

(3) Subject to the availability of amounts appropriated for this specific purpose:

(a) Pursuant to the phase-in schedule set forth in (c) of this subsection (3), the court must appoint an attorney for every child in a dependency proceeding as follows:

(i) For a child under the age of eight, appointment must be made for the dependency and termination action upon the filing of a termination petition. Nothing in this subsection shall be construed to limit the ability of the court to appoint an attorney to represent the child's position in a dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department, prior to the filing of a termination petition.

(ii) For a child between the ages of eight through 17, appointment must be made upon the filing of a new dependency petition at or before the commencement of the shelter care hearing.

(iii) For any pending or open dependency case where the child is unrepresented and is entitled to the appointment of an attorney under (a)(i) or (ii) of this subsection, appointment must be made at or before the next hearing if the child is eligible for representation pursuant to the phase-in schedule. At the next hearing, the court shall inquire into the status of attorney representation for the child, and if the child is not yet represented, appointment must be made at the hearing.

(b) Appointment is not required if the court has already appointed an attorney for the child, or the child is represented by a privately retained attorney.

(c) The statewide children's legal representation program shall develop a schedule for court appointment of attorneys for every child in dependency proceedings that will be phased in on a county-by-county basis over ((~~a seven-year~~))an 11-year period. The schedule required under this subsection must not add more than 1,250 cases each fiscal year and:

(i) To the extent practicable, prioritize implementation in counties that have:

(A) No current practice of appointment of attorneys for children in dependency cases; or

(B) Significant prevalence of racial disproportionality or disparities in the number of dependent children compared to the general population, or both;

(ii) Include representation in at least:

(A) Three counties beginning July 1, 2022;

(B) Eight counties beginning January 1, 2023;

(C) Fifteen counties beginning January 1, 2024;

(D) Twenty counties beginning January 1, 2025;

(E) Thirty counties beginning January 1, ((~~2026~~))2030;

(F) Thirty-six counties beginning ((~~in~~)) January 1, ((~~2027~~))2031; and

(iii) Achieve full statewide implementation by January 1, ((~~2028~~))2032.

(d) In cases where the statewide children's legal representation program provides funding and where consistent with its administration and oversight responsibilities, the statewide children's legal representation program should prioritize continuity of counsel for children who are already represented at county expense when the statewide children's legal representation program becomes effective in a county. The statewide children's legal representation program shall coordinate with relevant county stakeholders to determine how best to prioritize this continuity of counsel.

(e) The statewide children's legal representation program is responsible for the recruitment, training, and oversight of attorneys providing standards-based representation pursuant to (a) and (c) of this subsection as provided in RCW 2.53.045 and shall ensure that attorneys representing children pursuant to this section provide legal services according to the rules of professional conduct, the standards of practice, caseload limits, and training guidelines adopted by the children's representation work group established in section 9, chapter 210, Laws of 2021.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 8, 2025

ESB 5769 Prime Sponsor, Senator Wellman: Addressing transition to kindergarten programs. Reported by Committee on Appropriations

Draft

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.300.072 and 2023 c 420 s 1 are each amended to read as follows:

(1) The intent of the legislature is to continue and rename transitional kindergarten as the transition to kindergarten program and that the program be established in statute with the goal of assisting eligible children in need of additional preparation to be successful kindergarten students in the following school year. The transition to kindergarten program is not part of the state's statutory program of basic education under RCW 28A.150.200.

(2)(a) The office of the superintendent of public instruction shall administer the transition to kindergarten program and shall adopt rules under chapter 34.05 RCW for the administration of, the allocation of state funding for, and minimum standards and requirements for the transition to kindergarten program((~~. Initial rules, which include expectations for school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools transitioning existing programs to the new requirements established in this section must be adopted in time for the 2023-24 school year, and permanent rules must be adopted by the beginning of the 2024-25 school year~~))in accordance with this section.

(b) School districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools operating a transition to kindergarten program shall adopt policies regarding eligibility, recruitment, and enrollment for this program that, at a minimum, meet the requirements of subsection (3) of this section.

(3) The rules adopted under subsection (2) of this section must include, at a minimum, the following requirements for school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools operating a transition to kindergarten program:

(a)(i) A limitation on program enrollment to eligible children. Eligible children include only those who:

(A) Have been determined to benefit from additional preparation for kindergarten; and

(B) Are at least four years old by August 31st of the school year they enroll in the transition to kindergarten program;

(ii) A requirement, as practicable, for school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools to prioritize families with the lowest incomes and children most in need for additional preparation to be successful in kindergarten when enrolling eligible children in a transition to kindergarten program;

(iii) Access to the transition to kindergarten program does not constitute an individual entitlement for any particular child.

(b) Except for children who have been excused from participation by their parents or legal guardians, a requirement that the Washington kindergarten inventory of developing skills as established by RCW 28A.655.080 be administered to all eligible children enrolled in a transition to kindergarten program at the beginning of the child's enrollment in the program and at least one more time during the school year.

(c) A requirement that all eligible children enrolled in a transition to kindergarten program be assigned a statewide student identifier and that the transition to kindergarten program be considered a separate class or course for the purposes of data reporting requirements in RCW 28A.320.175.

(d) A requirement that a local child care and early learning needs assessment is conducted before beginning or expanding a transition to kindergarten program that considers the existing availability and affordability of early learning providers, such as the early childhood education and assistance programs, head start programs, and licensed child care centers and family home providers in the region. Data available through the regionalized data dashboard maintained by the department of children, youth, and families or any other appropriate sources may be used to inform the needs assessment required by this subsection.

(e)(i) A requirement that school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools adhere to guidelines, as developed by the office of the superintendent of public instruction, related to:

(A) Best practices for site readiness of facilities that are used for the program;

(B) Developmentally appropriate curricula designed to assist in maintaining high quality programs; and

(C) Professional development opportunities.

(ii) The office of the superintendent of public instruction must develop a process for conducting site visits of any school district, charter school as allowed by subsection (7) of this section, or state-tribal education compact school operating a transition to kindergarten program and provide feedback on elements listed in this subsection (3)(e).

(f) A prohibition on charging tuition or other fees to state-funded eligible children for enrollment in a transition to kindergarten program.

(g) A prohibition on establishing a policy of excluding an eligible child due only to the presence of a disability.

(4)(a) The office of the superintendent of public instruction, in collaboration with the department of children, youth, and families, shall develop statewide coordinated eligibility, recruitment, enrollment, and selection best practices and provide technical assistance to

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those implementing a transition to kindergarten program to support connections with local early learning providers.

(b) School districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools must consider the best practices developed under this subsection (4) when adopting the policies required under subsection (2)(b) of this section.

(5) Nothing in this section prohibits school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools from blending or colocating a transition to kindergarten program with other early learning programs.

(6)(a) Funding for the transition to kindergarten program must be based on the following:

(i) The distribution formula established under RCW 28A.150.260 (4)(a), (5), (6), (8), and (10)(a) and (b), calculated using the actual number of annual average full-time equivalent eligible children enrolled in the program. A transition to kindergarten child must be counted as a kindergarten student for purposes of the funding calculations referenced in this subsection, but must be reported separately.

(ii) The distribution formula developed in RCW 28A.160.150 through 28A.160.192, calculated using reported ridership for eligible children enrolled in the program.

(b) Beginning in the 2025-26 school year, the annual average full-time equivalent eligible children enrolled in the program funded in (a) of this subsection may not exceed the state-funded annual average full-time equivalent specified in the omnibus appropriations act. During the 2025-26 and 2026-27 school years, the office of the superintendent of public instruction must prioritize funding for programs funded under (a) of this subsection that operated during the 2024-25 school year.

(c) Funding provided for the transition to kindergarten program is not part of the state's statutory program of basic education under RCW 28A.150.200 and must be expended only for the support of operating a transition to kindergarten program.

(7) Charter schools authorized under RCW 28A.710.080(2) are immediately permitted to operate a transition to kindergarten program under this section. Beginning with the 2025-26 school year, any charter school authorized under RCW 28A.710.080 (1) or (2) is permitted to operate a transition to kindergarten program under this section.

NEW SECTION. **Sec. 2.** (1) The office of the superintendent of public instruction shall collaborate with the department of children, youth, and families to develop a recommended plan for phasing in the transition to kindergarten program. The recommended plan must consider plans for expansion of other state-funded early learning programs including, but not limited to, the early childhood education and assistance program, and prioritize expansion for:

(a) Communities with the highest percentage of unmet needs;

(b) Child care supply and demand;

(c) School districts, charter schools, and state-tribal education compact schools with the highest percentages of students qualifying for free and reduced-price lunch;

(d) School districts, charter schools, and state-tribal education compact schools with high percentages of students with disabilities; and

(e) School districts, charter schools, and state-tribal education compact schools with the lowest kindergarten readiness results on the Washington kindergarten inventory of developing skills.

(2) The plan must include a phased-in approach for expansion that does not exceed five percent growth in statewide annual average full-time enrolled students each year.

(3) The office of the superintendent of public instruction shall submit a report to the legislature and the office of the governor by December 1, 2026, outlining a proposed plan and recommendations for phasing in future transition to kindergarten programs beginning with communities with the highest need.

(4) This section expires July 1, 2027."

Correct the title.

Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg; Bergquist; Burnett; Caldier; Callan; Corry; Cortes; Doglio; Dye; Fitzgibbon; Keaton; Leavitt; Lekanoff; Manjarrez; Marshall; Peterson; Pollet; Rude; Ryu; Springer; Stonier; Street; Thai and Tharinger.

Referred to Committee on Rules for second reading

April 8, 2025

SSB 5773 Prime Sponsor, Transportation: Concerning alternative procurement and delivery models for transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that a full set of project procurement, contracting, financing, and funding tools are needed to enable the delivery of transportation projects in a manner most advantageous to the public. Current public-private

partnership laws have failed to spur innovative proposals from the private sector or new project delivery approaches from the department of transportation.

(b) The legislature confirms the findings from previous studies that current laws and administrative processes are the primary obstacle impairing the state's ability to utilize public-private partnerships. The legislature finds that a new public-private partnership law is needed to:

(i) Transparently demonstrate and deliver better value for the public including, but not limited to, expedited project delivery and more effective management of project life-cycle costs;

(ii) Provide an additional option for delivering complex transportation projects, including addressing a shortage of truck parking;

(iii) Incorporate private sector expertise and innovation into transportation project delivery;

(iv) Allocate project risks to the parties best able to manage those risks;

(v) Allow new sources of private capital;

(vi) Increase access to federal funding and financing mechanisms;

(vii) Better align private sector incentives with public priorities; and

(viii) Provide consistency in the review and approval processes for the full range of project delivery tools and contracting methods.

(c) The legislature further finds that a new public-private partnership law must only be used for projects where the engineer's estimate for the project is less than $500,000,000.

(d) The legislature further finds that a new public-private partnership law may not be used for rail projects.

(2) The legislature further finds that there is a need to develop other innovative approaches to deliver transportation infrastructure in a manner that maximizes value and addresses the increasing costs of project delivery. Requiring mandatory review and approval of other alternative project delivery models available to the department of transportation stifles procurement and timely project delivery. Expanded and expedited use of alternative project delivery models, like progressive design-build and general contractor/construction manager procedures, without mandatory approval or review by the capital projects advisory review board will deliver better value for the public and provide the department of transportation with more options to deliver complex transportation projects. This will also give the department of transportation the needed flexibility to adapt to changing conditions, and result in fewer delays in project delivery. Any use of such delivery models should continue to strive and adhere to disadvantaged business enterprise and small business enterprise program contract goals.

I. PUBLIC-PRIVATE PARTNERSHIPS

NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the transportation commission.

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

(3) "Eligible transportation project" means any project that is not a rail project, whether capital or operating, where the engineer's estimate for the project is less than $500,000,000 and the state's purpose for the project is to preserve or facilitate the safe transport of people or goods via any mode of travel.

(4) "Private sector partner" and "private partner" means a person, entity, or organization that is not the federal government, a state, or a political subdivision of a state.

(5) "Public funds" means all moneys derived from taxes, fees, charges, tolls, or other levies of money from the public.

(6) "Public sector partner" and "public partner" means any federal or state unit of government, bistate transportation organization, or any other political subdivision of any state.

(7) "State finance committee" means the entity created in chapter 43.33 RCW.

(8) "Unit of government" means any department or agency of the federal government, any state or agency, office, or department of a state, any city, county, district, commission, authority, entity, port, or other public corporation organized and existing under statutory law or under a voter-approved charter or initiative, and any intergovernmental entity created under chapter 39.34 RCW or this chapter.

NEW SECTION. **Sec. 102.** WASHINGTON STATE DEPARTMENT OF TRANSPORTATION POWERS AND DUTIES. (1) The department shall develop policies and, where appropriate, adopt rules to carry out this chapter and govern the use of public-private partnerships for transportation projects. At a minimum, the department's policies and rules must address the following issues:

(a) The types of projects allowed;

(b) Consistent with section 108 of this act, a process and methodology for determining whether a public-private partnership delivery model will be in the public's interest;

(c) Consistent with section 113 of this act, a process and methodology for determining whether a negotiated partnership agreement will result in greater public value to the state than if the project is delivered using other procurement and contracting methods;

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(d) The types of contracts allowed, with consideration given to the best practices available;

(e) Minimum standards and criteria required of all proposals;

(f) Procedures for the proper identification, solicitation, acceptance, review, and evaluation of projects, consistent with existing project procurement and contracting requirements and practices;

(g) Criteria to be considered in the evaluation and selection of proposals that includes:

(i) Comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and

(ii) Factors such as, but not limited to: Priority, life-cycle cost, risk sharing, scheduling, innovation, and management conditions;

(h) The protection of confidential proprietary information while still meeting the need for transparency and public disclosure that is consistent with section 113 of this act;

(i) Protection for local contractors to participate in subcontracting opportunities that is consistent with section 103(3) of this act;

(j) Specifying that maintenance issues must be resolved in a manner consistent with chapter 41.80 RCW;

(k) Guidelines to address security and performance issues.

(2) During its rule-making activities, the department must consult with the department's office of equity and civil rights.

(3) By September 1, 2028, the department must provide a report to the house of representatives and senate transportation committees on proposed policies and guidelines it intends to develop into administrative rules. Rules adopted by the department pursuant to this chapter may not take effect before January 1, 2029.

NEW SECTION. **Sec. 103.** APPLICABILITY OF OTHER TRANSPORTATION PROJECT GOVERNING PROVISIONS.

(1) For any eligible transportation project that requires the imposition of tolls on a state facility, the legislature must approve the imposition of such tolls consistent with RCW 47.56.820.

(2) For any eligible transportation project that requires setting or adjusting toll rates on a state facility, the commission has sole responsibility consistent with RCW 47.56.850.

(3)(a) If federal funds are provided for an eligible transportation project developed under this chapter, disadvantaged business enterprise inclusion requirements, as established, monitored, and administered by the department's office of equity and civil rights, apply.

(b) If no federal funds are provided for an eligible transportation project developed under this chapter, state laws, rates, and rules must govern, including the public works small business certification program pursuant to RCW 39.19.030(7) as monitored and administered by the department's office of equity and civil rights.

(4) All other transportation project procurement and contracting governing provisions and procedures that do not conflict with this chapter apply unless otherwise specified.

NEW SECTION. **Sec. 104.** PROJECT COST THRESHOLD FOR P3 EVALUATION. Any eligible transportation project with an estimated cost to the state of less than $500,000,000 may be evaluated for delivery under a public-private partnership model as prescribed under this chapter.

NEW SECTION. **Sec. 105.** ELIGIBLE FINANCING. (1) Subject to the limitations in this section, the department may, in connection with the evaluation of eligible transportation projects, consider any financing mechanisms from any lawful source, either integrated as part of a project proposal or as a separate, stand-alone proposal to finance a project. Financing may be considered for all or part of a proposed project. A project may be financed in whole or in part with:

(a) The proceeds of grant anticipation revenue bonds authorized under 23 U.S.C. Sec. 122 and applicable state law. Legislative authorization and appropriation are required to use this source of financing;

(b) Grants, loans, loan guarantees, lines of credit, revolving lines of credit, or other financing arrangements available under the transportation infrastructure finance and innovation act under 23 U.S.C. Sec. 181 et seq., or any other applicable federal law, subject to legislative authorization and appropriation as required;

(c) Infrastructure loans or assistance from the state infrastructure bank established under RCW 82.44.195, subject to legislative authorization and appropriation as required;

(d) Federal, state, or local revenues, subject to appropriation by the applicable legislative authority;

(e) User fees, tolls, fares, lease proceeds, rents, gross or net receipts from sales, proceeds from the sale of development rights, franchise fees, or any other lawful form of consideration. However, projects financed by tolls must first be authorized by the legislature under RCW 47.56.820;

(f) Loans, pledges, or contributions of funds, including equity investments, from private entities;

(g) Revenue bonds, subject to legislative authorization and appropriation as required.

(2) Subject to subsection (4) of this section, the department may develop a plan of finance that would require either the state or a private partner, or both, to: Issue debt,

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equity, or other securities or obligations; enter into contracts, leases, concessions, and grant and loan agreements; or secure any financing with a pledge of funds to be appropriated by the legislature or with a lien or exchange of real property.

(3) As security for the payment of any financing, the revenues from the project may be pledged, but no such pledge of revenues constitutes in any manner or to any extent a general obligation of the state, unless specifically authorized by the legislature. Any financing described in this section may be structured on a senior, parity, or subordinate basis to any other financing.

(4) The department shall not execute any agreement with respect to an eligible transportation project, including any agreement that could materially impact the state's debt capacity or credit rating as determined by the state finance committee, without prior review and approval of the plan of finance and proposed financing terms by the state finance committee.

NEW SECTION. **Sec. 106.** USE OF FEDERAL FUNDS OR OTHER SOURCES. (1) The department may accept from the United States or any of its agencies such funds as are available to this state or to any other unit of government for carrying out the purposes of this chapter, whether the funds are made available by grant, loan, or other financing arrangement. The department may enter into such agreements and other arrangements with the United States or any of its agencies as may be necessary, proper, and convenient for carrying out the purposes of this chapter, subject to subsection (2) of this section.

(2)(a) The department may accept from any source any grant, donation, gift, or other form of conveyance of land, money, other real or personal property, or other valuable thing made to the state of Washington, the department, or a local government for carrying out the purposes of this chapter.

(b) Any eligible transportation project may be financed in whole or in part by contribution of any funds or property made by any private entity or public sector partner that is a party to any agreement entered into under this chapter.

NEW SECTION. **Sec. 107.** PUBLIC INTEREST FINDING. (1) The department may evaluate eligible transportation projects that are already programmed for other delivery methods to determine their appropriateness for delivery under a public-private partnership model.

(2) Before entering into a formal solicitation or procurement to develop a project as a public-private partnership, the department must make formal findings that utilizing a public-private partnership delivery method is in the public's interest. The department must adopt rules detailing the process and criteria for making such findings. At a minimum, the criteria must consider whether:

(a) Public ownership of the asset can be retained;

(b) Transparency during the consideration of a public-private partnership agreement can be provided;

(c) Public oversight of the private entity's management of the asset can be provided; and

(d) Additional criteria that reflects the legislative findings in section 1(1) of this act.

(3) Before commencing any solicitation to deliver the project as a public-private partnership, the department must provide an opportunity for public comment on the proposed project and delivery method.

(4) Upon a finding of public interest pursuant to subsection (2) of this section, the department must provide written notification of their finding of public interest and intent to deliver the project as a public-private partnership to the general public, to the chairs and ranking members of the transportation committees of the legislature, and to the governor.

(5) Upon a finding of public interest pursuant to subsection (2) of this section, the department may:

(a) Solicit concepts or proposals for the identified public-private partnership project from private entities and units of government;

(b) Evaluate the concepts or proposals received under this section. The evaluation under this subsection must include consultation with any appropriate unit of government; and

(c) Select potential projects based on the concepts or proposals.

NEW SECTION. **Sec. 108.** USE OF FUNDS FOR PROPOSAL PURPOSES. (1) Subject to the availability of amounts appropriated for this specific purpose, the department may spend such moneys as may be necessary for stipends for respondents to a solicitation, the evaluation of concepts or proposals for eligible transportation projects, and for negotiating agreements for eligible transportation projects authorized under this chapter. Expenses incurred by the department under this section before the issuance of transportation project bonds or other financing must be paid by the department and charged to the appropriate project. The department must keep records and accounts showing each charged amount.

(2) Unless otherwise provided in the omnibus transportation appropriations act, the funds spent by the department under this section in connection with the project must be repaid from the proceeds of the bonds or other financing upon the sale of transportation project bonds or upon obtaining other financing for an eligible transportation project, as allowed by law or contract.

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NEW SECTION. **Sec. 109.** EXPERT CONSULTATION. The department may consult with legal, financial, technical, and other experts in the public and private sector in the evaluation, negotiation, and development of projects under this chapter.

NEW SECTION. **Sec. 110.** CONTRACTED STUDIES. In the absence of any direct federal funding or direction, the department may contract with a private developer of a selected project proposal to conduct environmental impact studies and engineering and technical studies.

NEW SECTION. **Sec. 111.** PARTNERSHIP AGREEMENTS. (1) The following provisions must be included in any transportation project agreement entered into under the authority of this chapter and to which the state is a party:

(a) For any project that proposes terms for stand alone maintenance or asset management services for a public facility, those services must be provided in a manner consistent with any collective bargaining agreements, chapter 41.80 RCW, and civil service laws that are in effect for the public facility;

(b) A finding of public interest, as issued by the department pursuant to section 107 of this act;

(c) If there is a tolling component to the project, it must be specified that the tolling technology used in the project must be consistent with tolling technology standards adopted by the department for transportation-related projects;

(d) Provisions for bonding, financial guarantees, deposits, or the posting of other security to secure the payment of laborers, subcontractors, and suppliers who perform work or provide materials as part of the project;

(e) All projects must be financed in a manner consistent with section 106 of this act.

(2) At a minimum, agreements between the state and private sector partners entered into under this section must specifically include the following contractual elements:

(a) The point in the project at which public and private sector partners will enter the project and which partners will assume responsibility for specific project elements;

(b) How the partners will share management of the risks of the project;

(c) The compensation method and amount for the private partner, establishing a maximum rate of return, and identifying how project revenue, if any, in excess of the maximum rate of return will be distributed;

(d) How the partners will share the costs of development of the project;

(e) How the partners will allocate financial responsibility for cost overruns;

(f) The penalties for nonperformance;

(g) The incentives for performance;

(h) The accounting and auditing standards to be used to evaluate work on the project;

(i) For any project that reverts to public ownership, the responsibility for reconstruction or renovations that are required for a facility to meet all service standards and state of good repair upon reversion of the facility to the state;

(j) Provisions and remedies for default by either party, and provisions for termination of the agreement for or without cause;

(k) Provisions for public communication and participation with respect to the development of the project.

NEW SECTION. **Sec. 112.** BEST VALUE FINDING AND AGREEMENT EXECUTION. Before executing an agreement under section 111 of this act, the department must make a formal finding that the negotiated partnership agreement is expected to result in best value for the public and the agreement must be approved through duly enacted legislation. The department must develop and adopt a process and criteria for measuring, determining, and transparently reporting best value relevant to the proposed project. At minimum, the criteria must include:

(1) A comparison of the total cost to deliver the project, including any operations and maintenance costs, as a public-private partnership compared to traditional or other alternative delivery methods available to the department;

(2) A comparison with the department's current plan, resources, delivery capacity, and schedule to complete the project that documents the advantages of completing the project as a public-private partnership versus solely as a public venture; and

(3) Factors such as, but not limited to: Priority, cost, risk sharing, scheduling, asset and service quality, innovation, and management conditions.

NEW SECTION. **Sec. 113.** CONFIDENTIALITY. A proposer must identify those portions of a proposal that the proposer considers to be confidential, proprietary information, or trade secrets and provide any justification as to why these materials, upon request, should not be disclosed by the department. Patent information will be covered until the patent expires. Other information, such as originality of design or records of negotiation, is protected under this section only until an agreement under section 112 of this act is reached. Eligible transportation projects under federal jurisdiction or using federal funds must conform to federal regulations under the freedom of information act.

NEW SECTION. **Sec. 114.** PREVAILING WAGES. If public funds are used to pay any costs of construction of a public facility that is part of an eligible transportation project, chapter 39.12 RCW applies to the entire eligible transportation project.

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NEW SECTION. **Sec. 115.** GOVERNMENT AGREEMENTS. The state may, either separately or in combination with any other public sector partner, enter into working agreements, coordination agreements, or similar implementation agreements, including the formation of bistate transportation organizations, to carry out the joint implementation and operation of an eligible transportation project selected under this chapter. The state may enter into agreements with other units of government or Canadian provinces for transborder transportation projects.

NEW SECTION. **Sec. 116.** EMINENT DOMAIN. The state may exercise the power of eminent domain to acquire property, easements, or other rights or interests in property for projects that are necessary to implement an eligible transportation project developed under this chapter. Any property acquired pursuant to this section must be owned in fee simple by the state.

NEW SECTION. **Sec. 117.** FEDERAL LAWS. Applicable federal laws, rules, and regulations govern in any situation that involves federal funds if the federal laws, rules, or regulations:

(1) Conflict with any provision of this chapter;

(2) Require procedures that are additional to or inconsistent with those provided in this chapter; or

(3) Require contract provisions not authorized in this chapter.

NEW SECTION. **Sec. 118.** PUBLIC-PRIVATE PARTNERSHIPS ACCOUNT. (1) The public-private partnerships account is created in the custody of the state treasurer.

(2) The following moneys must be deposited into the account:

(a) Proceeds from bonds or other financing instruments;

(b) Revenues received from any transportation project developed under this chapter or developed under the general powers granted to the department; and

(c) Any other moneys that are by donation, grant, contract, law, or other means transferred, allocated, or appropriated to the account.

(3) Expenditures from the account may be used only for the planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, preservation, management, repair, or operation of any eligible transportation project under this chapter.

(4) The state treasurer may establish separate subaccounts within the public-private partnerships account for each transportation project that is initiated under this chapter or under the general powers granted to the department. The state may pledge moneys in the public-private partnerships account to secure revenue bonds or any other debt obligations relating to the project for which the account is established.

(5) Only the secretary or the secretary's designee may authorize distributions from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 119. RCW 47.56.030 and 2023 c 429 s 6 are each amended to read as follows:

(1) Except as permitted under chapter ((~~47.29~~))47.--- RCW (the new chapter created in section 402 of this act) or 47.46 RCW:

(a) Unless otherwise delegated, and subject to RCW 47.56.820, the department of transportation shall have full charge of the planning, analysis, and construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof.

(b) The transportation commission shall determine and establish the tolls and charges thereon.

(c) Unless otherwise delegated, and subject to RCW 47.56.820, the department shall have full charge of planning, analysis, and design of all toll facilities. The department may conduct the planning, analysis, and design of toll facilities as necessary to support the legislature's consideration of toll authorization.

(d) The department shall utilize and administer toll collection systems that are simple, unified, and interoperable. To the extent practicable, the department shall avoid the use of toll booths. The department shall set the statewide standards and protocols for all toll facilities within the state, including those authorized by local authorities.

(e) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (e)(i) and (ii) of this subsection:

(i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

(ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

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(f) Any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810, except as otherwise provided in RCW 47.60.826.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) When the secretary of the department of transportation determines in writing that the use of invitation for bid is either not practicable or not advantageous to the state and it may be necessary to make competitive evaluations, including technical or performance evaluations among acceptable proposals to complete the contract award, a contract may be entered into by use of a competitive sealed proposals method, and a formal request for proposals solicitation. Such formal request for proposals solicitation shall include a functional description of the needs and requirements of the state and the significant factors.

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking into consideration price and other evaluation factors set forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life-cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

(i) The ability, capacity, and skill of the proposer to perform the contract or provide the service required;

(ii) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;

(iii) Whether the proposer can perform the contract within the time specified;

(iv) The quality of performance of previous contracts or services;

(v) The previous and existing compliance by the proposer with laws relating to the contract or services;

(vi) Objective, measurable criteria defined in the request for proposal. These criteria may include but are not limited to items such as discounts, delivery costs, maintenance services costs, installation costs, and transportation costs; and

(vii) Such other information as may be secured having a bearing on the decision to award the contract.

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life-cycle cost analysis that includes an evaluation of fuel efficiency. When a life-cycle cost analysis is used, the life-cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made to the proposer whose proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

Sec. 120. RCW 47.56.031 and 2005 c 335 s 2 are each amended to read as follows:

No tolls may be imposed on new or existing highways or bridges without specific legislative authorization, or upon a majority vote of the people within the boundaries of the unit of government empowered to impose tolls. This section applies to chapter 47.56 RCW and to any tolls authorized under chapter ((~~47.29 RCW, the transportation innovative partnership act of 2005~~))47.--- RCW (the new chapter created in section 402 of this act).

Sec. 121. RCW 70A.15.4030 and 2020 c 20 s 1126 are each amended to read as follows:

(1) A county, city, or town may, as part of its commute trip reduction plan, designate existing activity centers listed in its comprehensive plan or new activity centers as growth and transportation efficiency centers and establish a transportation demand management program in the designated area.

(a) The transportation demand management program for the growth and transportation efficiency center shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(b) In order to be eligible for state funding provided for the purposes of this section, designated growth and transportation efficiency centers shall be certified by the applicable regional transportation organization to: (i) Meet the minimum land use and transportation criteria established in collaboration among local jurisdictions, transit agencies, the regional transportation planning organization, and other interested parties as part of the regional commute trip reduction plan; and (ii) have established a transportation demand management program that includes the elements identified in (c) of this subsection and is consistent with the rules established by the department of transportation in RCW 70A.15.4060(2). If a designated growth and transportation efficiency center is denied certification, the local jurisdiction may appeal the decision to the commute trip reduction board.

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(c) Transportation demand management programs for growth and transportation efficiency centers shall include, but are not limited to: (i) Goals for reductions in the proportion of single-occupant vehicle trips that are more aggressive than the state program goal established by the commute trip reduction board; (ii) a sustainable financial plan demonstrating how the program can be implemented to meet state and regional trip reduction goals, indicating resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommending any innovative financing techniques consistent with chapter ((~~47.29 RCW~~))47.--- RCW (the new chapter created in section 402 of this act), including public/private partnerships, to finance needed facilities, services, and programs; (iii) a proposed organizational structure for implementing the program; (iv) a proposal to measure performance toward the goal and implementation progress; and (v) an evaluation to which local land use and transportation policies apply, including parking policies and ordinances, to determine the extent that they complement and support the trip reduction investments of major employers. Each of these program elements shall be consistent with the rules established under RCW 70A.15.4060.

(d) A designated growth and transportation efficiency center shall be consistent with the land use and transportation elements of the local comprehensive plan.

(e) Transit agencies, local governments, and regional transportation planning organizations shall identify certified growth and transportation efficiency centers as priority areas for new service and facility investments in their respective investment plans.

(2) A county, city, or town that has established a growth and transportation efficiency center program shall support vehicle trip reduction activities in the designated area. The implementing jurisdiction shall adopt policies, ordinances, and funding strategies that will lead to attainment of program goals in those areas.

II. PROGRESSIVE DESIGN-BUILD AND GENERAL CONTRACTOR/CONSTRUCTION MANAGER

Sec. 201. RCW 47.20.780 and 2015 3rd sp.s. c 18 s 1 are each amended to read as follows:

(1) The department of transportation shall develop a process for awarding competitively bid highway construction contracts for projects over ((~~two million dollars~~))$2,000,000 that may be constructed using a design-build procedure, a progressive design-build procedure, or any general contractor/construction manager procedure.

(2) As used in this section and RCW 47.20.785((~~, "design-build~~)):

(a) "Design-build procedure" means a method of contracting under which the department of transportation contracts with another party for the party to both design and build the structures, facilities, and other items specified in the contract.

(b) "General contractor/construction manager procedure" means a method of contracting under which the department of transportation selects a firm to provide services during the design phase, negotiate a maximum allowable construction cost, and act as construction manager and general contractor during the construction phase.

(c) "Progressive design-build procedure" means a method of contracting under which the department of transportation selects a design-builder before the establishment of a final project design, price, and schedule, and thereafter, the department and design-builder collaborate to develop a final project scope, schedule, and price.

(3) The process developed by the department must, at a minimum, include ((~~the~~)): The scope of services required under the design-build procedure, progressive design-build procedure, or general contractor/construction manager procedures; contractor prequalification requirements((~~,~~)); criteria for evaluating technical information and project costs((~~,~~)); contractor selection criteria((~~,~~)); and issue resolution procedures.

(4) Until June 30, 2031, upon completing a delivery method selection process that identifies the progressive design-build procedure or any general contract/construction manager procedure as the preferred delivery method for a project in excess of $100,000,000, the department shall consult with the capital projects advisory review board under chapter 39.10 RCW to review the selected delivery method for the project and provide any recommendations or feedback for the department to consider. The department and the capital projects advisory review board shall collaboratively develop and implement the coordination and details of this consultation.

Sec. 202. RCW 47.20.785 and 2015 3rd sp.s. c 18 s 2 are each amended to read as follows:

The department of transportation is authorized and strongly encouraged to use the design-build procedure, the progressive design-build procedure, or any general contractor/construction manager procedure for public works projects over ((~~two million dollars~~)) $2,000,000 when:

(1) The construction activities are highly specialized and a design-build, progressive design-build, or general contractor/construction manager approach is critical in developing the construction methodology; or

(2) The projects selected provide opportunity for greater innovation and efficiencies between the designer and the builder; or

(3) Significant savings in project delivery time would be realized.

Sec. 203. RCW 39.10.270 and 2019 c 212 s 3 are each amended to read as follows:

(1) A public body may apply for certification to use the design-build or general contractor/construction manager contracting procedure, or both. Once certified, a public body may use the contracting procedure for which it is certified on individual projects without seeking committee approval for a period of three years. A public body seeking certification must submit to the committee an application in a format and manner as prescribed by the committee. The application must include a description of the public body's qualifications, its capital plan during the certification period, and its intended use of alternative contracting procedures.

(2) A public body seeking certification for the design-build procedure must demonstrate successful management of at least one design-build project within the previous five years. A public body seeking certification for the general contractor/construction manager procedure must demonstrate successful management of at least one general contractor/construction manager project within the previous five years.

(3) To certify a public body, the committee shall determine that the public body:

(a) Has the necessary experience and qualifications to determine which projects are appropriate for using alternative contracting procedures;

(b) Has the necessary experience and qualifications to carry out the alternative contracting procedure including, but not limited to: (i) Project delivery knowledge and experience; (ii) personnel with appropriate construction experience; (iii) a management plan and rationale for its alternative public works projects; (iv) demonstrated success in managing public works projects; (v) the ability to properly manage its capital facilities plan including, but not limited to, appropriate project planning and budgeting experience; and (vi) the ability to meet requirements of this chapter; and

(c) Has resolved any audit findings on previous public works projects in a manner satisfactory to the committee.

(4) The committee shall make its determination at the public meeting during which an application for certification is reviewed. Public comments must be considered before a determination is made. Within ten business days of the public meeting, the committee shall provide a written determination to the public body, and make its determination available to the public on the committee's website.

(5) The committee may revoke any public body's certification upon a finding, after a public hearing, that its use of design-build or general contractor/construction manager contracting procedures no longer serves the public interest.

(6) The committee may renew the certification of a public body for additional three-year periods. The public body must submit an application for recertification at least three months before the initial certification expires. The committee may accept late applications, if administratively feasible, to avoid expiration of certification on a case-by-case basis. The application shall include updated information on the public body's experience and current staffing with the procedure it is applying to renew, and any other information requested in advance by the committee. The committee must review the application for recertification at a meeting held before expiration of the applicant's initial certification period. A public body must reapply for certification under the process described in subsection (1) of this section once the period of recertification expires.

(7) Certified public bodies must submit project data information as required in RCW 39.10.320 and 39.10.350.

(8) The department of transportation is not subject to the certification requirements under this section to use the design-build procedure, the progressive design-build procedure, or any general contractor/construction manager contracting procedure on individual projects.

Sec. 204. RCW 39.10.280 and 2014 c 42 s 2 are each amended to read as follows:

(1) A public body not certified under RCW 39.10.270 must apply for approval from the committee to use the design-build or general contractor/construction manager contracting procedure on a project. A public body seeking approval must submit to the committee an application in a format and manner as prescribed by the committee. The application must include a description of the public body's qualifications, a description of the project, the public body's intended use of alternative contracting procedures, and, if applicable, a declaration that the public body has elected to procure the project as a heavy civil construction project.

(2) To approve a proposed project, the committee shall determine that:

(a) The alternative contracting procedure will provide a substantial fiscal benefit or the use of the traditional method of awarding contracts in lump sum to the low responsive bidder is not practical for meeting desired quality standards or delivery schedules;

(b) The proposed project meets the requirements for using the alternative contracting procedure as described in RCW 39.10.300 or 39.10.340;

(c) The public body has the necessary experience or qualified team to carry out the alternative contracting procedure including, but not limited to: (i) Project delivery knowledge and experience; (ii) sufficient personnel with construction experience to administer the contract; (iii) a written management plan that shows clear and logical lines of authority; (iv) the necessary and appropriate funding and time to properly manage the job and complete the project; (v) continuity of project management team, including personnel with experience managing projects of similar scope and size to the project being proposed; and (vi) necessary and appropriate construction budget;

(d) For design-build projects, public body personnel or consultants are knowledgeable in the design-build process and are able to oversee and administer the contract; and

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(e) The public body has resolved any audit findings related to previous public works projects in a manner satisfactory to the committee.

(3) The committee shall, if practicable, make its determination at the public meeting during which a submittal is reviewed. Public comments must be considered before a determination is made.

(4) Within ((~~ten~~))10 business days after the public meeting, the committee shall provide a written determination to the public body, and make its determination available to the public on the committee's website. If the committee fails to make a written determination within ((~~ten~~))10 business days of the public meeting, the request of the public body to use the alternative contracting procedure on the requested project shall be deemed approved.

(5) Failure of the committee to meet within ((~~sixty~~))60 calendar days of a public body's application to use an alternative contracting procedure on a project shall be deemed an approval of the application.

(6) The department of transportation is not subject to the project approval requirements under this section.

Sec. 205. RCW 43.131.408 and 2023 c 395 s 36 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2032:

(1) RCW 39.10.200 and 2023 c 395 s 4, 2010 1st sp.s. c 21 s 2, 2007 c 494 s 1, & 1994 c 132 s 1;

(2) RCW 39.10.210 and 2023 c 395 s 5, 2021 c 230 s 1, 2019 c 212 s 1, 2014 c 42 s 1, & 2013 c 222 s 1;

(3) RCW 39.10.220 and 2023 c 395 s 6, 2021 c 230 s 2, 2013 c 222 s 2, 2007 c 494 s 102, & 2005 c 377 s 1;

(4) RCW 39.10.230 and 2023 c 395 s 7, 2021 c 230 s 3, 2013 c 222 s 3, 2010 1st sp.s. c 21 s 3, 2009 c 75 s 1, 2007 c 494 s 103, & 2005 c 377 s 2;

(5) RCW 39.10.240 and 2023 c 395 s 8, 2021 c 230 s 4, 2013 c 222 s 4, & 2007 c 494 s 104;

(6) RCW 39.10.250 and 2021 c 230 s 5, 2019 c 212 s 2, 2013 c 222 s 5, 2009 c 75 s 2, & 2007 c 494 s 105;

(7) RCW 39.10.260 and 2013 c 222 s 6 & 2007 c 494 s 106;

(8) RCW 39.10.270 and 2025 c ... s 203 (section 203 of this act), 2019 c 212 s 3, 2017 c 211 s 1, 2013 c 222 s 7, 2009 c 75 s 3, & 2007 c 494 s 107;

(9) RCW 39.10.280 and 2025 c ... s 204 (section 204 of this act), 2014 c 42 s 2, 2013 c 222 s 8, & 2007 c 494 s 108;

(10) RCW 39.10.290 and 2007 c 494 s 109;

(11) RCW 39.10.300 and 2021 c 230 s 6, 2019 c 212 s 4, 2013 c 222 s 9, 2009 c 75 s 4, & 2007 c 494 s 201;

(12) RCW 39.10.320 and 2019 c 212 s 5, 2013 c 222 s 10, 2007 c 494 s 203, & 1994 c 132 s 7;

(13) RCW 39.10.330 and 2023 c 395 s 9, 2021 c 230 s 7, 2019 c 212 s 6, 2014 c 19 s 1, 2013 c 222 s 11, 2009 c 75 s 5, & 2007 c 494 s 204;

(14) RCW 39.10.340 and 2014 c 42 s 3, 2013 c 222 s 12, & 2007 c 494 s 301;

(15) RCW 39.10.350 and 2021 c 230 s 8, 2014 c 42 s 4, & 2007 c 494 s 302;

(16) RCW 39.10.360 and 2023 c 395 s 10, 2021 c 230 s 9, 2014 c 42 s 5, 2013 c 222 s 13, 2009 c 75 s 6, & 2007 c 494 s 303;

(17) RCW 39.10.370 and 2021 c 230 s 10, 2014 c 42 s 6, & 2007 c 494 s 304;

(18) RCW 39.10.380 and 2023 c 395 s 11, 2021 c 230 s 11, 2013 c 222 s 14, & 2007 c 494 s 305;

(19) RCW 39.10.385 and 2023 c 395 s 12, 2021 c 230 s 12, 2013 c 222 s 15, & 2010 c 163 s 1;

(20) RCW 39.10.390 and 2021 c 230 s 13, 2014 c 42 s 7, 2013 c 222 s 16, & 2007 c 494 s 306;

(21) RCW 39.10.400 and 2021 c 230 s 14, 2013 c 222 s 17, & 2007 c 494 s 307;

(22) RCW 39.10.410 and 2007 c 494 s 308;

(23) RCW 39.10.420 and 2019 c 212 s 7, 2017 c 136 s 1, & 2016 c 52 s 1;

(24) RCW 39.10.430 and 2021 c 230 s 15, 2019 c 212 s 8, & 2007 c 494 s 402;

(25) RCW 39.10.440 and 2021 c 230 s 16, 2019 c 212 s 9, 2015 c 173 s 1, 2013 c 222 s 19, & 2007 c 494 s 403;

(26) RCW 39.10.450 and 2019 c 212 s 10, 2012 c 102 s 2, & 2007 c 494 s 404;

(27) RCW 39.10.460 and 2021 c 230 s 17, 2012 c 102 s 3, & 2007 c 494 s 405;

(28) RCW 39.10.470 and 2019 c 212 s 11, 2014 c 19 s 2, 2005 c 274 s 275, & 1994 c 132 s 10;

(29) RCW 39.10.480 and 1994 c 132 s 9;

(30) RCW 39.10.490 and 2021 c 230 s 18, 2013 c 222 s 20, 2007 c 494 s 501, & 2001 c 328 s 5;

(31) RCW 39.10.900 and 1994 c 132 s 13;

(32) RCW 39.10.901 and 1994 c 132 s 14;

(33) RCW 39.10.903 and 2007 c 494 s 510;

(34) RCW 39.10.904 and 2007 c 494 s 512;

(35) RCW 39.10.905 and 2007 c 494 s 513; and

(36) RCW 39.10.908 and 2023 c 395 s 13 and 2021 c 230 s 19.

III. ALLIANCE CONTRACTING

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NEW SECTION. **Sec. 301.** The joint transportation committee, in collaboration with the department of transportation, must evaluate the alliance contracting procedure as a potential alternative contracting procedure for delivering transportation-related projects. By July 1, 2027, the joint transportation committee must submit an evaluation report to the transportation committees of the legislature, including any findings and recommended statutory changes. For purposes of this section, "alliance contracting procedure" means a method of contracting under which the department of transportation and one or more service providers, including the designers and constructors, collaborate on the delivery of a project using contractually established financial incentives to encourage project performance and cooperation among all participants.

IV. MISCELLANEOUS

NEW SECTION. **Sec. 401.** The following acts or parts of acts are each repealed:
(1) RCW 47.29.010 (Finding—Intent) and 2006 c 334 s 48 & 2005 c 317 s 1;
(2) RCW 47.29.020 (Definitions) and 2005 c 317 s 2;
(3) RCW 47.29.030 (Transportation commission powers and duties) and 2005 c 317 s 3;
(4) RCW 47.29.040 (Purpose) and 2005 c 317 s 4;
(5) RCW 47.29.050 (Eligible projects) and 2005 c 317 s 5;
(6) RCW 47.29.060 (Eligible financing) and 2008 c 122 s 18 & 2005 c 317 s 6;
(7) RCW 47.29.070 (Use of federal funds and similar revenues) and 2005 c 317 s 7;
(8) RCW 47.29.080 (Other sources of funds or property) and 2005 c 317 s 8;
(9) RCW 47.29.090 (Project review, evaluation, and selection) and 2005 c 317 s 9;
(10) RCW 47.29.100 (Administrative fee) and 2005 c 317 s 10;
(11) RCW 47.29.110 (Funds for proposal evaluation and negotiation) and 2005 c 317 s 11;
(12) RCW 47.29.120 (Expert consultation) and 2005 c 317 s 12;
(13) RCW 47.29.130 (Contracted studies) and 2005 c 317 s 13;
(14) RCW 47.29.140 (Partnership agreements) and 2005 c 317 s 14;
(15) RCW 47.29.150 (Public involvement and participation) and 2005 c 317 s 15;
(16) RCW 47.29.160 (Approval and execution) and 2005 c 317 s 16;
(17) RCW 47.29.170 (Unsolicited proposals) and 2017 c 313 s 711, 2015 1st sp.s. c 10 s 704, 2013 c 306 s 708, 2011 c 367 s 701, 2009 c 470 s 702, 2007 c 518 s 702, 2006 c 370 s 604, & 2005 c 317 s 17;
(18) RCW 47.29.180 (Advisory committees) and 2005 c 317 s 18;
(19) RCW 47.29.190 (Confidentiality) and 2005 c 317 s 19;
(20) RCW 47.29.200 (Prevailing wages) and 2005 c 317 s 20;
(21) RCW 47.29.210 (Government agreements) and 2005 c 317 s 21;
(22) RCW 47.29.220 (Eminent domain) and 2005 c 317 s 22;
(23) RCW 47.29.230 (Transportation innovative partnership account) and 2005 c 317 s 23;
(24) RCW 47.29.240 (Use of account) and 2005 c 317 s 24;
(25) RCW 47.29.250 (Issuing bonds and other obligations) and 2005 c 317 s 25;
(26) RCW 47.29.260 (Study and report) and 2005 c 317 s 26;
(27) RCW 47.29.270 (Federal laws) and 2005 c 317 s 27;
(28) RCW 47.29.280 (Expert review panel on proposed project agreements—Creation—Authority) and 2006 c 334 s 49; and
(29) RCW 47.29.290 (Expert review panel on proposed project agreements—Execution of agreements) and 2006 c 334 s 50.

NEW SECTION. **Sec. 402.** Sections 101 through 118 of this act constitute a new chapter in Title 47 RCW.

NEW SECTION. **Sec. 403.** Sections 101 through 118 and 401 of this act take effect July 1, 2028."

Correct the title.

Signed by Representatives Fey, Chair; Bernbaum, Vice Chair; Donaghy, Vice Chair; Reed, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Mendoza, Assistant Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Bronoske; Dent; Duerr; Entenman; Griffey; Hunt; Klicker; Ley; Nance; Orcutt; Ramel; Richards; Stuebe; Taylor; Timmons; Volz; Wylie and Zahn.

Referred to Committee on Rules for second reading

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

There being no objection, the House adjourned until 9:00 a.m., Wednesday, April 9, 2025, the 87th Day of the 2025 Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk

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