ONE HUNDREDTH DAY

MORNING SESSION

Senate Chamber, Olympia
Tuesday, April 22, 2025

The Senate was called to order at 10 o'clock a.m. by the Vice President Pro Tempore, Senator Lovick presiding. The Secretary called the roll and announced to the Vice President Pro Tempore that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Mr. Evan Hodson and Miss Bela Rowe-Parker, presented the Colors.

Page Miss Claire Oemig led the Senate in the Pledge of Allegiance.

The prayer was offered by Pastor Jeffery Spencer of Oak Harbor Lutheran Church.

MOTIONS

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

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

MESSAGES FROM THE HOUSE

April 21, 2025

MR. PRESIDENT:

The House grants the request for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 5161. The Speaker has appointed the following members as Conferees: Representatives Fey, Donaghy, Barkis
and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

April 21, 2025

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1102,
HOUSE BILL NO. 1109,
HOUSE BILL NO. 1130,
SECOND SUBSTITUTE HOUSE BILL NO. 1154,
HOUSE BILL NO. 1167,
SUBSTITUTE HOUSE BILL NO. 1186,
ENGROSSED HOUSE BILL NO. 1219,
SUBSTITUTE HOUSE BILL NO. 1264,
SUBSTITUTE HOUSE BILL NO. 1271,
SECOND SUBSTITUTE HOUSE BILL NO. 1409,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1596,
SUBSTITUTE HOUSE BILL NO. 1621,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1651,
SUBSTITUTE HOUSE BILL NO. 1811,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1813,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1837,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1878,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1946,
HOUSE BILL NO. 1970,
SECOND SUBSTITUTE HOUSE BILL NO. 1990,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

April 21, 2025

MR. PRESIDENT:

The House grants the request for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 5167. The Speaker has appointed the following members as Conferees: Representatives Ormsby, Macri, Couture
and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

April 21, 2025

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1498,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

On motion of Senator Riccelli, the Senate conferees to Engrossed Substitute Senate Bill No. 5161 which had been confirmed on April 17, 2025 were amended.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 5161 and the House amendment(s) thereto: Senators Liias, King, and Lovick.

MOTIONS

On motion of Senator Riccelli, the appointments to the conference committee were confirmed.

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

INTRODUCTION AND FIRST READING

SB 5818 by Senators Fortunato, Wilson, J., McCune, Braun, Christian, and Warnick

AN ACT Relating to facilitating the transfer of certain individuals in the custody of the department of corrections; amending RCW 43.17.420 and 10.93.160; and adding a new section to chapter 72.09 RCW.

Referred to Committee on Human Services.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1552 by Representatives Peterson, Low, Reed, Ormsby, and Hill

AN ACT Relating to extending the fee on real estate broker licenses to fund the Washington center for real estate research and adjusting the fee to account for inflation; amending RCW 18.85.451, 18.85.461, and 18.85.471; and providing expiration dates.

Referred to Committee on Ways & Means.

EHB 2044 by Representatives Ormsby, Parshley, Macri, and Gregerson

AN ACT Relating to addressing unexcused student absences by eliminating truancy petition requirements, while maintaining options for community engagement boards; amending RCW 28A.225.0261, 28A.225.015, 28A.225.020, 28A.225.025, 28A.225.030, 28A.225.035, 28A.225.090, 28A.225.151, 2.56.140, and 28A.225.900; adding a new section to chapter 28A.710 RCW; and adding a new section to chapter 28A.715 RCW.

Referred to Committee on Ways & Means.

HB 2050 by Representatives Ormsby, Parshley, Macri, and Gregerson

AN ACT Relating to K-12 savings and efficiencies; amending RCW 28A.510.250 and 28A.500.015; and providing effective dates.

Referred to Committee on Ways & Means.

MOTIONS

On motion of Senator Riccelli, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

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

Senator Saldaña moved adoption of the following resolution:

SENATE RESOLUTION
8631

By Senators Saldaña and Hasegawa

WHEREAS, Dolores Sibonga, born in 1931 on Vashon Island, Washington, has been a trailblazer for Filipino Americans and women of color, dedicating her life to public service, justice, and equity; and

WHEREAS, Dolores Sibonga defied barriers early in her life, becoming the first Filipino American to graduate from the University of Washington's journalism program in 1952 and co-owning *The Filipino Forum*, a newspaper that amplified the voices and concerns of Asian, Black, immigrant, and Indigenous communities in Seattle; and

WHEREAS, In 1973, Dolores Sibonga made history as the first Filipino American, man or woman, to pass the Washington State bar exam, paving the way for future generations of Filipino American legal professionals; and

WHEREAS, In 1978, Dolores Sibonga became the first woman of color to serve on the Seattle City Council, a position she held for over a decade; and

WHEREAS, Throughout her tenure on the Seattle City Council, Dolores Sibonga was a staunch advocate for labor rights, civil rights, and social justice, introducing key legislation, such as the reparations ordinance for employees fired during World War II due to their Japanese ancestry, and consistently fighting for the well-being of marginalized communities; and

WHEREAS, Dolores Sibonga's service extended beyond her time on the city council, including roles as a public defender, deputy director of the Washington State Human Rights Commission, and mentor to numerous community leaders; and

WHEREAS, Dolores Sibonga remains a catalyst for positive change, still contributing to her community through advisory roles and serving on multiple boards, including the King County Board of Tax Appeals and Equalization; and

WHEREAS, Dolores Sibonga's enduring legacy of courage, perseverance, and dedication to public service continues to inspire generations of activists, community leaders, and public servants;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor Dolores Sibonga for her groundbreaking contributions to the legal profession, public service, and her tireless advocacy for justice and equity; and

BE IT FURTHER RESOLVED, That the Washington State Senate encourage all residents of Washington State to reflect on the legacy of Dolores Sibonga and celebrate the many social, political, economic, and cultural contributions she and other Filipino Americans have made to Washington State and across the nation.

Senators Saldaña, Kauffman and Hasegawa spoke in favor of adoption of the resolution.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8631.

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

INTRODUCTION OF SPECIAL GUESTS

The Vice President Pro Tempore welcomed and introduced Dr. Sutapa Basu and friends & family of Delores Sibonga who were seated in the gallery.

MOTION

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

MESSAGE FROM THE HOUSE

April 11, 2025

MR. PRESIDENT:

The House passed SENATE BILL NO. 5680 with the following amendment(s): 5680 AMH SANT MULV 578

On page 6, after line 11, insert the following:

"NEW SECTION. **Sec. 6.** Before providing services or repairs for equipment, an independent repair provider shall provide the consumer seeking services or repairs with written notice, provided either electronically or in a hard copy document, indicating:

(1) That the independent repair provider is not an authorized repair provider of the original equipment manufacturer; and

(2) Whether the independent repair provider, in providing services or repairs, uses any new or used replacement parts obtained from a supplier other than the original equipment manufacturer."

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

On page 6, line 22, after "through" strike "6" and insert "7"

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Shewmake moved that the Senate concur in the House amendment(s) to Senate Bill No. 5680.

Senators Shewmake and Boehnke spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Shewmake that the Senate

concur in the House amendment(s) to Senate Bill No. 5680.

The motion by Senator Shewmake carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5680 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5680, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5680, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 0.

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

SENATE BILL NO. 5680, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2025

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5691 with the following amendment(s): 5691-S AMH HCW H2114.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.390.080 and 2016 c 183 s 8 are each amended to read as follows:

(((~~(1)~~))) The legislature finds that the ((~~violation of the title protection requirements of RCW 18.390.050, the failure of a continuing care retirement community to register with the department under RCW 18.390.020, the failure of a continuing care retirement community to comply with the disclosure statement delivery and content requirements under RCW 18.390.060, and the failure of a continuing care retirement community to comply with the resident expectations established under RCW 18.390.070 are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of the title protection requirements under RCW 18.390.050, registration requirement under RCW 18.390.020, the disclosure statement delivery and content requirements under RCW 18.390.060, and the resident expectations requirements under RCW 18.390.070 are not reasonable in relation to the development and preservation of business and are an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.~~

~~(2) The attorney general shall provide notice to the management of the continuing care retirement community of submitted complaints including the name of the complainant to allow the community to take corrective action. Except for violations of the title protection requirements of RCW 18.390.050 and the failure of a continuing care retirement community to register with the department under RCW 18.390.020, the attorney general shall limit its application of the consumer protection act in subsection (1) of this section to those cases in which a pattern of complaints, submitted by affected parties, or other activity that, when considered together, demonstrate a pattern of similar conduct that, without enforcement, likely establishes an unfair or deceptive act in trade or commerce and an unfair method of competition.~~)) practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

Sec. 2. RCW 18.390.030 and 2016 c 183 s 3 are each amended to read as follows:

(1) An applicant for a registration as a continuing care retirement community must submit the following materials to the department:

(a) A written application to the department providing all necessary information on a form provided by the department;

(b) Information about the licensed assisted living facility component of the continuing care retirement community and, if the continuing care retirement community operates a nursing home, information about that component;

(c) Copies of any residency agreements that the continuing care retirement community intends to use for the certification period;

(d) A written statement indicating whether the residency agreement includes an entrance fee in lieu of payment for future care and services and, if so, whether those services are covered completely or partially by the entrance fee;

(e) A copy of the disclosure statement that includes current information required by RCW 18.390.060;

(((~~(e)~~))) (f)(i) Except as provided in (((~~(e)~~))) (f)(ii) of this subsection, copies of audited financial statements for the two most recent fiscal years. The audited financial statement for the most current period may not have been prepared more than eighteen months prior to the date that the continuing care retirement community applied for its current registration;

(ii) If the continuing care retirement community:

(A) Has obtained financing, but has been in operation less than two years, a copy of the audited financial statement for the most current period, if available, and an independent accountant's report opinion letter that has evaluated the financial feasibility of the continuing care retirement community; or

(B) Has not obtained financing, a summary of the actuarial analysis for the new continuing care retirement community stating that the continuing care retirement community is in satisfactory actuarial balance;

(((~~(f)~~))) (g) An attestation by a management representative of the continuing care retirement community that the continuing care retirement community is in compliance with the disclosure notification requirements of RCW 18.390.060; and

(((~~(g)~~))) (h) Payment of any registration fees associated with the department's cost of registering continuing care retirement communities.

(2) The department shall base its decision to issue a registration on the completeness of the application. If an application is incomplete, the department shall inform the applicant and give the applicant an opportunity to supplement its submission. An applicant may appeal a decision of the department to deny an application for registration.

(3) The department shall issue the registration within sixty days of the receipt of a complete application, payment of fees, submission of disclosures, residency agreements, and the attestation. The department's failure to timely issue a registration

may not cause a delay in the change of ownership and ongoing operation of the continuing care retirement community.

(4) Registration is valid for two years.

(5) Registration is not transferable.

(6) Materials submitted pursuant to this section are not subject to disclosure under the public records act, chapter 42.56 RCW."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Cleveland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5691.

Senators Cleveland and Muzzall spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Cleveland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5691.

The motion by Senator Cleveland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5691 by voice vote.

MOTION

On motion of Senator Wagoner, Senator Fortunato was excused.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5691, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5691, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE SENATE BILL NO. 5691, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 15, 2025

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5628 with the following amendment(s): 5628-S.E AMH ENGR H2056.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70A.565.010 and 2024 c 340 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) ((~~"Component" includes separate or distinct parts of the cookware including, but not limited to, accessories such as lids, knobs, handles and handle assemblies, rivets, fasteners, valves, and vent pipes.~~)) (a) "Aluminum or brass cookware" means the following items when made of brass or aluminum: Pots, pans, kettles, griddles, grills, internal pots for devices such as rice cookers or pressure cookers, and similar vessels or surfaces in or on which food is cooked.

(b) "Aluminum or brass cookware" does not include:

(i) Items with only an internal layer of aluminum or brass that is completely enclosed by stainless steel; or

(ii) The body of electronic cooking devices with removable cooking containers, such as slow cookers, rice cookers, and pressure cookers.

(2) ((~~"Cookware" means any metal pots, pans, bakeware, rice cookers, pressure cookers, and other containers and devices intended for the preparation or storage of food.~~)) "Aluminum or brass cookware component" means cookware parts made of aluminum or brass such as lids, rivets, fasteners, valves, and vent pipes.

(3) "Aluminum or brass utensils" means tools made from aluminum or brass such as knives, forks, spoons, spatulas, and similar tools used for preparing, serving, or eating food, unless completely enclosed by stainless steel.

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

(((~~(4)~~))) (5) "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a product or is an importer or domestic distributor of a product sold or offered for sale in or into the state.

(((~~(5)~~))) (6) "Vulnerable populations" has the same meaning as defined in RCW 70A.02.010.

Sec. 2. RCW 70A.565.020 and 2024 c 340 s 2 are each amended to read as follows:

(1) Beginning January 1, 2026, no manufacturer may manufacture, sell, offer for sale, distribute for sale, or distribute for use in this state aluminum or brass cookware, aluminum or brass utensils, or ((~~a~~)) an aluminum or brass cookware component containing lead or lead compounds at a level of more than ((~~five~~)):

(a) 90 parts per million, beginning January 1, 2026; and

(b) 10 parts per million, beginning January 1, 2028.

(2)(a) ((~~Beginning January 1, 2026, no~~)) No retailer or wholesaler may knowingly sell or knowingly offer for sale for use in this state aluminum or brass cookware, aluminum or brass utensils, or ((~~a~~)) an aluminum or brass cookware component containing lead or lead compounds at a level of more than ((~~five~~)):

(i) 90 parts per million, beginning January 1, 2026; and

(ii) 10 parts per million, beginning January 1, 2028.

(b) Retailers or wholesalers who unknowingly sell products that are restricted from sale under this chapter are not liable under this chapter.

(c) The sale or purchase of any previously owned aluminum or brass cookware, aluminum or brass utensils, or aluminum or brass cookware components containing lead made in casual or isolated sales as defined in RCW 82.04.040, or by a nonprofit organization, is exempt from this chapter.

(3) After December ((~~2034~~)) 2030, the department, in consultation with the department of health, may lower the ((~~five~~)) 10 parts per million limit established in subsections (1) and (2) of this section by rule if it determines that the lower limit is:

(a) Feasible for cookware and cookware component manufacturers to achieve; and

(b) Necessary to protect human health, including the health of vulnerable populations.

(4) Nothing in this chapter limits the authority of the department with respect to lead in cookware, cookware components, or utensils under chapter 70A.350 RCW."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Harris moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5628.

Senators Harris and Shewmake spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Harris that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5628.

The motion by Senator Harris carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5628 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5628, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5628, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 0.

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

ENGROSSED SUBSTITUTE SENATE BILL NO. 5628, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Warnick announced a meeting of the Republican Caucus.

MOTION

At 10:31 a.m., on motion of Senator Riccelli, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:24 a.m. by Vice President Pro Tempore Lovick.

MESSAGE FROM THE HOUSE

April 16, 2025

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5263 with the following amendment(s): 5263-S2.E AMH GREG H2249.2

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~~)) 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 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 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~~)) 1.16.

(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~~)), "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 local education agencies, 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;

(ii) Providing technical assistance to school districts with disproportionate data;

(iii) Requiring districts with disproportionate data to complete and submit to the office of the superintendent of public instruction a self-assessment that includes an audit of student evaluations and individualized education programs;

(iv) Implementing follow-up actions based on the results of the self-assessment required in (a)(iii) of this subsection if determined necessary; and

(v) Developing and maintaining a statewide online system for individualized education programs as directed under section 3 of this act.

(b) The statewide activities may include:

(i) Providing professional development in inclusionary practices to local education agencies, 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; and

(ii) Providing a funding match to local education agencies that opt to allocate federal funding for coordinated, early intervening services per 34 C.F.R. Sec. 300.226.

(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). The 2025 and 2026 annual reports must include an update on the impact of removing the cap on the special education enrollment percentage, including the impact on safety net needs.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.155 RCW to read as follows:

(1) The superintendent of public instruction shall develop and maintain a statewide online system for individualized education programs. In developing and implementing the online system, the superintendent of public instruction must collaborate with educational service districts or an information processing cooperative established under chapter 28A.310 RCW by agreement pursuant to chapter 39.34 RCW. The superintendent may delegate implementation of the online system as authorized under RCW 28A.310.470.

(2) The purpose of the online system is to:

(a) Provide a uniform, centralized platform for creating and managing individualized education programs;

(b) Ensure compliance with federal and state special education requirements;

(c) Improve the efficiency and effectiveness of individualized education program development and oversight; and

(d) Improve educator collaboration and serve as an instructional tool designed to improve educational outcomes by aligning individualized supports and services with evidence-based instructional practices.

(3) The online system must:

(a) Have a statewide model that is made available at no cost to school districts, charter schools established under chapter 28A.710 RCW, and state-tribal education compact schools subject to chapter 28A.715 RCW;

(b) Incorporate safeguards to protect confidential student information, including compliance with the federal family educational rights and privacy act and any other applicable privacy laws;

(c) Allow for secure, role-based access so that only authorized users may view or modify individualized education programs;

(d) Be able to integrate emerging technologies to continually enhance its functionality and effectiveness;

(e) Ensure that individualized education programs can show evidence of access to grade-level standards, reasonable progress, improved student outcomes, and students' strengths and needs;

(f) Include integrated language support and translation services;

(g) Allow for robust family engagement, including access to information about student progress that includes both qualitative and quantitative data and that provides information about how individualized education program goals connect to grade-level standards; and

(h) Comply with applicable state and federal accessibility standards.

(4) The superintendent of public instruction shall ensure statewide professional development opportunities are available to educators, administrators, and families to support the effective use and implementation of the statewide online system for individualized education programs, including targeted technical assistance.

NEW SECTION. **Sec. 4.** 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. 5. 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.

(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. 6. 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((~~F:\Journal\2025 Journal\Journal2025\LegDay100\.doc~~)), 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)~~)) (g) 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)~~)) (h) 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)~~)) (i) 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.

(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)(((~~(a)~~))) 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 authorized entity, as defined under RCW 28A.300.690, 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) Beginning in the ((~~2019-20~~)) 2024-25 school year, a high-need student is eligible for safety net awards from state funding under subsection (2)(e) and (((~~(g)~~))) (f) 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~~)) (a) 1.8 times the average per-pupil expenditure((~~,~~)) for school districts that meet any of the following criteria:

(i) The school district((~~s with~~)) has fewer than 1,000 full-time equivalent students;

(ii) ((~~2.2~~)) The school district has a percentage of identified students as defined in RCW 28A.235.300 of at least 60 percent; or

(iii) The school district has at least 60 percent of students enrolled in the transitional bilingual instructional program under chapter 28A.180 RCW.

(b) 2 times the average per-pupil expenditure((~~,~~)) for school districts ((~~with 1,000 or more full-time equivalent students~~)) that meet none of the criteria listed in (a) of this subsection.

(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.

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.** Sections 1 and 5 of this act takes effect September 1, 2025.

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.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5263 and ask the House to recede therefrom.

Senators Pedersen and Harris spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Pedersen that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5263 and ask the House to recede therefrom.

The motion by Senator Pedersen carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5263 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 12, 2025

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5041 with the following amendment(s): 5041-S.E AMH REEV LEON 176; 5041-S.E AMH REEV LEON 190; 5041-S.E AMH BER LEON 193

On page 2, line 28, after "than" strike "12" and insert "four"

On page 2, line 31, after "the" strike "12" and insert "four"

On page 2, after line 31, insert the following:

"(4) If benefits are issued as a result of strike under this section, the department shall notify the separating employer of the mediation services available through the public employment relations commission."

On page 9, after line 29, insert the following:

"NEW SECTION. **Sec. 7.** A new section is added to chapter 49.08 RCW to read as follows:

(1) Where referral to publicly-supported dispute resolution services through the federal mediation and conciliation service or other applicable federal agency is impracticable or where those services are unavailable due to federal staffing or funding reductions, the public employment relations commission may charge private sector employers and labor organizations a fee for covering the costs of services provided under this chapter.

(2) Fees collected under this section must be deposited into the private sector labor dispute resolution account under section 8 of this act.

NEW SECTION. **Sec. 8.** A new section is added to chapter 49.08 RCW to read as follows:

The private sector labor dispute resolution account is created in the custody of the state treasurer. All fees collected under section 7 of this act must be deposited into the account. The executive director of the public employment relations commission may authorize expenditures from the account solely for the administration, staffing, and other related expenses of private sector labor dispute resolution services under this chapter. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 9.** RCW 49.08.060 (Tender on exhaustion of available funds) and 1903 c 58 s 6 are each repealed."

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

On page 9, line 30, after "**7.**" strike "This act takes" and insert "Sections 1 through 6 of this act take"

On page 8, after line 21, insert the following:

"**Sec. 4.** RCW 50.29.026 and 2024 c 52 s 1 are each amended to read as follows:

(1) A qualified employer's contribution rate or array calculation factor rate determined under RCW 50.29.025 may be modified as follows:

(a) Subject to the limitations of this subsection, an employer may make a voluntary contribution of an amount equal to part or all of the benefits charged to the employer's account during the two years most recently ended on June 30th that were used for the purpose of computing the employer's contribution rate or array calculation factor rate. On receiving timely payment of a voluntary contribution, the commissioner shall cancel the benefits equal to the amount of the voluntary contribution and compute a new benefit ratio for the employer. The employer shall then be assigned the contribution rate or array calculation factor rate applicable for rate years beginning on or after January 1, 2005, applicable to the rate class within which the recomputed benefit ratio is included. The minimum amount of a voluntary contribution must be an amount that will result in a recomputed benefit ratio that is in a rate class at least two rate classes lower than the rate class that included the employer's original benefit ratio.

(b) Payment of a voluntary contribution is considered timely if received by the department during the period beginning on the date of mailing to the employer the notice of contribution rate required under this title for the rate year for which the employer is seeking a modification of the employer's rate and ending on March 31st of that rate year.

(c) A benefit ratio may not be recomputed nor a rate be reduced under this section as a result of a voluntary contribution received after the payment period prescribed in (b) of this subsection.

(2) This section does not apply to any employer who has not had an increase of at least eight rate classes from the previous tax rate year.

(3) If a contribution paying employer is charged benefits due to a strike under section 3 of this act, the department may:

(a) Evaluate whether the employer is eligible to make a voluntary contribution under this section; and

(b) Provide notice to eligible employers of the department's determination of the employer's eligibility to make a voluntary contribution."

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

On page 9, line 31, after "through" strike "3" and insert "4"

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Saldaña moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5041.

Senators Saldaña, Riccelli, and Conway spoke in favor of the motion.

Senators King, Braun, Fortunato, and Harris spoke against the motion.

Senator Braun demanded a roll call.

The Vice President Pro Tempore declared that one-sixth of the members supported the demand and the demand was sustained.

Senators Saldaña, Riccelli, and Conway spoke in favor of the motion.

Senators King, Braun, Fortunato, and Harris spoke against the motion.

Senator Braun demanded a roll call.

The Vice President Pro Tempore declared that one-sixth of the members supported the demand and the demand was sustained.

Senators Saldaña, Riccelli, and Conway spoke in favor of the motion.

Senators King, Braun, Fortunato, and Harris spoke against the motion.

Senator Braun demanded a roll call.

The Vice President Pro Tempore declared that one-sixth of the members supported the demand and the demand was sustained.

The Vice President Pro Tempore declared the question before the Senate to be motion by Senator Saldaña that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5041.

ROLL CALL

The Secretary called the roll on the motion by Senator Saldaña that the Senate refuse to concur in House amendment(s) to Engrossed Substitute Senate Bill No. 5041, and the motion carried by the following vote: Yeas, 25; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Dhingra, Frame, Hansen, Hasegawa, Kauffman, Krishnadasan, Lovelett, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Cortes, Dozier, Fortunato, Harris, Gildon, Goehner, Harris, Holy, King, Liias, Lovick, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Wagoner, Warnick, Wellman and Wilson, J.

MOTION

Senator Saldaña moved that the Senate request of the House a conference thereon.

Senators Saldaña and Riccelli spoke in favor of the motion.

Senator King spoke against the motion.

The Vice President Pro Tempore declared the question before the Senate to be motion by Senator Saldaña that the Senate request a conference thereon.

The motion by Senator Saldaña carried and the Senate requested of the House a conference thereon by voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The Vice President Pro Tempore appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 5041 and the House amendment(s) thereto: Senators Saldaña, Riccelli, and MacEwen.

MOTION

On motion of Senator Riccelli, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

April 11, 2025

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5291 with the following amendment(s): 5291-S.E AMH APP H2189.1

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) <u>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.</u> The employment security department ((~~may~~)) <u>shall</u> cancel <u>out-of-state</u> 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 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

(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:

(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.

(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:

(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 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 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 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:

(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:

(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.

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.

(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.

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:

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:

(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.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Conway moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5291.

Senators Conway and King spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Conway that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5291.

The motion by Senator Conway carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5291 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5291, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5291, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Braun, Chapman, Cleveland, Conway, Cortes, Dhingra, Frame, Gildon, Goehner, Hansen, Hasegawa, Holy, Kauffman, King, Krishnadasan, Liias, Lovelett, Lovick, Muzzall, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Christian, Dozier, Fortunato, Harris, MacEwen, McCune, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5291, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Hasegawa announced a meeting of the Democratic Caucus at 12:30 p.m.

Senator Warnick announced there would be no meeting of the Republican Caucus.

MOTION

At 11:55 a.m., on motion of Senator Riccelli, the Senate was declared to be at ease for the purpose of caucuses.

The Senate was called to order at 1:00 p.m. by Vice President Pro Tempore Lovick.

MESSAGE FROM THE HOUSE

April 15, 2025

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5408 with the following amendment(s): 5408-S AMH FOSS H2247.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 49.58.110 and 2022 c 242 s 1 are each amended to read as follows:

(1) Required disclosures in postings.

(a) The employer must disclose in each posting for each job opening ((the)): (i) The wage scale or salary range, except where the employer is offering only a fixed wage amount for the opening, the employer must disclose the fixed wage amount rather than a scale or range; and (ii) a general description of all of the benefits and other compensation to be offered to the hired applicant. For the purposes of this section, "posting" means any solicitation intended to recruit job applicants for a specific available position, including recruitment done directly by an employer or indirectly through a third party, and includes any postings done electronically, or with a printed hard copy, that includes qualifications for desired applicants. "Posting" does not include a solicitation for recruiting job applicants that is digitally replicated and published without an employer's consent.

(b) For any postings from the effective date of this section through July 27, 2027, an employer must be afforded an opportunity to correct a violation of this subsection (1) before a job applicant may seek remedies under subsection (4) or (5) of this section. Any person may provide written notice to an employer alleging that the employer's posting does not comply with this subsection (1). If an employer receives notice from any person as to a particular posting, this constitutes adequate notice for the duration of that posting for any job applicant seeking remedies under subsection (4) or (5) of this section. If the employer corrects the posting within five business days of receiving the written notice and, where applicable, contacts any applicable third-party posting entity with a demand to correct the posting, then neither the department nor the court may assess or award penalties, damages, or other relief under this section for the violation. This subsection (1)(b) does not apply after July 27, 2027.

(2) Required disclosures for internal transfers and promotions.

Upon request of an employee offered an internal transfer to a new position or promotion, the employer must provide the wage scale or salary range for the employee's new position, except where the employer is offering only a fixed wage amount for the new position or promotion, the employer must disclose the fixed wage amount rather than a scale or range.

(3) Application.

This section only applies to employers with 15 or more employees.

(4) ((A job applicant or an employee is entitled to the remedies in RCW 49.58.060 and 49.58.070 for violations of this section. Recovery of any wages and interest must be calculated from the first date wages were owed to the employee.)) Administrative remedies.

(a) The director shall investigate if a job applicant or employee files a complaint with the department alleging a violation of this section. If the director determines that a violation occurred, the director shall attempt to resolve the violation by conference and conciliation. If no agreement is reached to resolve the violation, the director may issue a citation and notice of assessment and may order the employer to pay each affected job applicant or employee statutory damages of no less than $100 and no more than $5,000 per violation. If ordering statutory damages, the department shall consider the following when determining the amount of those damages: Whether the violation was committed willfully or the violation is a repeat violation; the size of the employer; the amount necessary to deter future noncompliance; the purposes of this chapter; and any other factor deemed appropriate by the department. In addition to statutory damages, the director may:

(i) Order payment of the department's costs of investigation and enforcement to the department;

(ii) Assess a civil penalty of up to $500 for a first violation or up to $1,000 for a repeat violation; and

(iii) Order actual damages, reinstatement, injunctive relief, or other appropriate relief for an employee injured by a violation of subsection (2) of this section.

(b) An appeal from the director's finding or determination may be made in accordance with chapter 34.05 RCW. An employee or job applicant who prevails is entitled to costs and reasonable attorneys' fees.

(c) The department shall deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(5) Private civil action.

(a) A job applicant or employee may bring a civil action against an employer for a violation of this section. A prevailing job applicant or employee is entitled to statutory damages of no less than $100 and no more than $5,000 per violation, plus reasonable attorneys' fees and costs. In determining the amount of statutory damages, the court shall consider the following: Whether the violation was committed willfully or the violation is a repeat violation; the size of the employer; the amount necessary to deter future noncompliance; the purposes of this chapter; and any other factor deemed appropriate by the court. The court may also order actual damages, reinstatement, injunctive relief, and other appropriate remedies for an employee injured by a violation of subsection (2) of this section.

(b) The job applicant or employee shall bring a civil action within three years of the date of the alleged violation of this section regardless of whether the job applicant or employee pursued an administrative complaint. Filing a civil action under this subsection terminates the director's processing of the complaint under subsection (4) of this section. A job applicant or employee may be awarded damages by the department under subsection (4) of this section or the court under subsection (5) of this section, but not both.

(6) Exclusive remedies.

The administrative remedies and private right of action under this section constitute the exclusive remedies for violations of this section. The remedies under RCW 49.58.060 and 49.58.070 are not available for violations of this section.

(7) Rules.

The department may adopt rules for purposes of implementing and enforcing this section."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator King moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5408.

Senators King and Saldaña spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator King that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5408.

The motion by Senator King carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5408 by voice vote.

MOTION

On motion of Senator Wagoner, Senators Fortunato and Muzzall were excused.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5408, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5408, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 0.

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

Voting nay: Senator Hasegawa

SUBSTITUTE SENATE BILL NO. 5408, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 14, 2025

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5419 with the following amendment(s): 5419-S AMH ENGR H2117.E

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 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) Findings and orders disapproving acquisition of a trust institution under RCW 30B.53.100(3);

(30) 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~~))

(31) Contracts not subject to public disclosure under RCW 48.200.040 and 48.43.731; and

(32) Data, information, and documents obtained from an insurer, or by or from the insurance commissioner, under RCW 48.05.320.

Sec. 2. RCW 48.05.320 and 1995 c 369 s 24 are each amended to read as follows:

(1) ((~~Each~~)) Within 90 days of closing a claim related to a fire loss or damage, or any subsequent non-de minimis adjustment or further investigation related to a fire loss or damage, an authorized insurer shall ((~~promptly~~)) report to the ((~~chief of the Washington state patrol, through the director of fire protection, upon forms as prescribed and furnished by him or her~~)) insurance commissioner, in the manner prescribed by the insurance commissioner to include reporting via a third-party vendor, each fire loss of property in this state reported to ((~~it and~~)) the insurer. At a minimum, the reported information must include:

(a) The property address;

(b) The date of loss;

(c) The amount that the insurer paid on each coverage;

(d) The known origin and cause of the loss or damage if determined, including whether the loss is due to criminal activity or to undetermined causes((~~.~~

~~(2) Each such insurer shall likewise report to the chief of the Washington state patrol, through the director of fire protection, upon claims paid by it for loss or damage by fire in this state. Copies of all reports required by this section shall be promptly transmitted to the state insurance commissioner~~)); and

(e) NAIC company number.

(2)(a) In addition to the report of information required under subsection (1) of this section, whenever an insurer knows or suspects that a fire loss or damage may be due to criminal activity, the insurer shall immediately report to the local or tribal law enforcement agency of jurisdiction, and the insurance commissioner, the details of the loss or damage and the basis for the insurer's knowledge or suspicion that it may be due to criminal activity, and upon request, provide a complete copy of any full or partial investigation of the claim or loss conducted by the insurer.

(b) Upon receipt of a report from an insurer made pursuant to (a) of this subsection, the local or tribal law enforcement agency shall timely share all information received from the insurer with the individual responsible for fire investigation under RCW 43.44.050(1), and shall coordinate with that individual consistent with RCW 43.44.050.

(c) Unless actual malice is shown, an insurer is immune from liability in any civil action or suit arising from its (i) report of information to law enforcement and the insurance commissioner pursuant to this subsection (2), or (ii) cooperation with a duly issued subpoena for a criminal investigation or prosecution.

(3) Except as provided in this subsection (3), documents, materials, reports, data, investigations, and other information described in subsections (1) and (2) of this section are confidential by law and privileged, are not subject to public disclosure under chapter 42.56 RCW, and are not subject to a civil matter subpoena directed to the insurance commissioner or any person who processes information received pursuant to this section. Neither the insurance commissioner, staff of the office of the insurance commissioner, nor anyone receiving or processing information pursuant to this section is permitted or required to testify in any private civil action concerning any information that is confidential and privileged under this subsection (3). Nothing in this subsection prohibits cooperation with subpoenas for documents or testimony in criminal matters. Nothing in this section prohibits the insurance commissioner from preparing and publishing reports, analysis, or other documents using the data received under subsection (1) and (2) of this section so long as the data in the reports is in the aggregate form and does not permit the identification of information related to individual companies or consumers. Data in the aggregate form are deemed open records available for public inspection.

(a) The commissioner may share documents, materials, reports, data, investigations, and other information, including the confidential and privileged information received pursuant to this section, with: (i) The national association of insurance commissioners and its affiliates and subsidiaries; (ii) regulatory, law enforcement, and prosecutorial officials of other states and nations, the federal government, tribal governments, and international authorities; (iii) agencies of this state; (iv) rating bureaus; (v) the state fire marshal's office; and (vi) local or tribal law enforcement officials, prosecutors, or fire chiefs and fire marshals in this state. Except as provided in (b) through (e) of this subsection, the commissioner must require a recipient of information shared pursuant to this subsection (3)(a) to maintain the confidentiality and privileged status of the information.

(b) The state fire marshal's office may use information shared under (a) of this subsection for wildfire and resiliency planning purposes, so long as it does not publicly disclose information that contains personally identifiable information about properties, property owners, policyholders, losses, claimants, or claims.

(c) Rating bureaus may use the information shared under (a) of this subsection to analyze and inform rating classifications, so long as they do not publicly disclose, other than to rating subscribers, information that contains personally identifiable information about property owners, policyholders, losses, claimants, claims, or properties, other than aggregated by zip code

or fire district boundary.

(d) Local or tribal law enforcement officials, prosecutors, and fire chiefs and fire marshals in this state may use information shared under (a) of this subsection for public safety planning purposes, so long as they do not publicly disclose information that contains personally identifiable information about properties, property owners, policyholders, losses, claimants, or claims, other than aggregated by zip code.

(e) Local, tribal, state, or federal law enforcement officials, prosecutors, and fire chiefs and fire marshals in this state, and limited authority peace officers employed by the insurance commissioner may use information referenced under this section to investigate and prosecute crime, and in so doing, may release information received under this section as is necessary for investigative and prosecutorial purposes, to comply with all due process rights of criminally accused individuals, and to comply with public records obligations applicable to criminal investigations or prosecutions. Nothing in this section is intended to modify criminal investigative procedures or prosecutions or any authority, process, right, or obligation related to them.

(4) The insurance commissioner may adopt rules as necessary to implement this section. The reporting requirements in subsections (1) and (2) of this section may not be enforced against an insurer until one year after rules implementing this section are adopted by the insurance commissioner.

(5) Beginning 12 months after the reporting requirements in subsections (1) and (2) of this section are initiated, the insurance commissioner shall post a quarterly report on their website based on the aggregate findings by zip code of the previous 12 months of reports of fire loss or damage as required by subsection (1) and (2) of this section.

Sec. 3. RCW 48.50.040 and 2000 c 254 s 2 are each amended to read as follows:

(1) When an insurer has reason to believe that a fire loss reported to the insurer may be of other than accidental cause, the insurer shall notify the ((~~chief of the Washington state patrol, through the director of fire protection~~)) insurance commissioner, in the manner prescribed under RCW 48.05.320 concerning the circumstances of the fire loss, including any and all relevant material developed from the insurer's inquiry into the fire loss.

(2) Notification of the ((~~chief of the Washington state patrol, through the director of fire protection,~~)) insurance commissioner under subsection (1) of this section does not relieve the insurer of the duty to respond to a request for information from any other authorized agency and does not bar an insurer from other reporting under RCW 48.50.030(2)."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5419.

Senators Kauffman and Dozier spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5419.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5419 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5419, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5419, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 0.

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

Voting nay: Senator Harris

SUBSTITUTE SENATE BILL NO. 5419, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 15, 2025

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5445 with the following amendment(s): 5445-S.E AMH APP H2199.1

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;

(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:

(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;

(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 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 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.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Boehnke moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5445.

Senators Boehnke and Shewmake spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Boehnke that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5445.

The motion by Senator Boehnke carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5445 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5445, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5445, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 0.

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

ENGROSSED SUBSTITUTE SENATE BILL NO. 5445, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2025

MR. PRESIDENT:

The House passed SENATE BILL NO. 5463 with the following amendment(s): 5463 AMH ENGR H2167.E

Strike everything after the enacting clause and insert the following:

"**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 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 the timing of violations for the requirements in this subsection, 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.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Alvarado moved that the Senate concur in the House amendment(s) to Senate Bill No. 5463.

Senators Alvarado and King spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Alvarado that the Senate concur in the House amendment(s) to Senate Bill No. 5463.

The motion by Senator Alvarado carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5463 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5463, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5463, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Cortes, Dhingra, Frame, Hansen, Hasegawa, Holy, Kauffman, Lovelett, Lovick, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Dozier, Fortunato, Gildon, Goehner, Harris, King, Krishnadasan, Liias, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, J.

SENATE BILL NO. 5463, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2025

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5486 with the following amendment(s): 5486-S.E AMH CRJ H2089.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 49.60 RCW to read as follows:

(1) A place of public accommodation that is a motion picture theater shall provide access to fully operational and well–maintained closed captioning technology for the general public for each screening of a motion picture that is produced and available with closed captioning as required by Title III of the federal Americans with disabilities act.

(2) If a motion picture is produced with open captioning content and distributed to motion picture theaters, a motion picture theater company that controls, operates, owns, or leases

five or more motion picture theaters in the state shall provide open captioning screenings of such motion picture that has at least five scheduled screenings at that theater, provided that the theater has digital projection systems that support open captioning files. Such open captioning screenings must occur within each of the time periods set forth below:

(a) Within each of the first two weeks of such a motion picture's release, the motion picture theater shall provide at least two open captioning screenings, of which at least one must begin between 5:59 p.m. and 11:01 p.m. on Fridays or between 10:59 a.m. and 11:01 p.m. on Saturdays or Sundays.

(b) Within each week after the first two weeks of such a motion picture's release, the motion picture theater shall provide at least one open captioning screening per week, which must begin between 5:59 p.m. and 10:01 p.m. on Mondays, Tuesdays, Wednesdays, or Thursdays; between 5:59 p.m. and 11:01 p.m. on Fridays; or between 10:59 a.m. and 11:01 p.m. on Saturdays or Sundays.

(3) If a motion picture is produced with open captioning content and distributed to motion picture theaters, a motion picture theater company that controls, operates, owns, or leases four or fewer motion picture theaters in the state shall, at each theater that has digital projection systems that support open captioning files:

(a) Provide an open captioning screening within eight calendar days after receiving a request; or

(b) Offer open captioning consistent with the requirements for motion picture theaters in subsection (2) of this section.

(4) Nothing in this section shall prevent a motion picture theater from offering more open captioning screenings than required by subsections (2) and (3) of this section.

(5) Motion picture theaters shall provide contact information on their websites for the purpose of receiving and fulfilling requests for open captioning screenings.

(6) If an open captioning screening of a motion picture overlaps with one or more other open captioning screenings of the same motion picture at the same motion picture theater, no more than one such motion picture screening may be counted toward the minimum number of screenings required by this section, except where it is not practicable to avoid such overlap.

(7) A motion picture theater shall advertise the date and time of open captioning screenings in the same manner as the motion picture theater advertises all other motion picture screenings and indicate which screenings will include open captioning by using the character symbol "OC."

(8) A motion picture theater shall maintain documents sufficient to demonstrate compliance with the requirements of this section for a period of at least one year.

(9) This section does not apply to drive-in theaters.

(10) For purposes of this section:

(a) "Closed captioning" means the written display of a movie's dialogue or transcript and may include nonspeech information such as music, character identities, and other sounds or sound effects by means of a personal captioning device that delivers captions to individual patrons.

(b) "Motion picture theater" means an establishment in which feature motion pictures are regularly exhibited to the public for an admission charge.

(c) "Motion picture theater company" means any individual or business entity that operates one or more motion picture theaters.

(d) "Open captioning" means the written, on-screen display of a motion picture's dialogue and nonspeech information, which may include music, the identity of the character speaking, or other sounds and sound effects.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2026.

NEW SECTION. **Sec. 3.** This act may be known and cited as the John Waldo act."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Orwall moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5486.

Senators Orwall and Holy spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Orwall that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5486.

The motion by Senator Orwall carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5486 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5486, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5486, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Cortes, Dhingra, Fortunato, Frame, Gildon, Hansen, Hasegawa, Holy, Kauffman, Krishnadasan, Liias, Lovelett, Lovick, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman, Wilson, C. and Wilson, J.

Voting nay: Senators Boehnke, Braun, Christian, Dozier, Goehner, Harris, King, MacEwen, McCune, Muzzall, Short, Torres, Wagoner and Warnick

ENGROSSED SUBSTITUTE SENATE BILL NO. 5486, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2025

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5525 with the following amendment(s): 5525-S.E AMH LAWS H2097.1

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) "Affected employee" means an employee who may reasonably expect to experience an employment loss because of a proposed business closing or mass layoff by an employer.

(2) "Aggrieved employee" means an employee who has worked for the employer ordering the business closing or mass layoff and who, because of the employer's failure to comply with the requirements of this act, did not receive timely notice either

directly or through the employee's representative.

(3) "Bargaining representative" means an exclusive representative of employees under the national labor relations act, 29 U.S.C. Sec. 151 et seq., or the railway labor act, 45 U.S.C. Sec. 151 et seq.

(4) "Business closing" means the permanent or temporary shutdown of a single site of employment of one or more facilities or operating units that will result in an employment loss for 50 or more employees, excluding part-time employees.

(5) "Commissioner" means the commissioner of the employment security department.

(6) "Department" means the employment security department.

(7) "Employee" means a person employed in this state by an employer. "Employee" includes part-time employees.

(8) "Employer" means a person who employs 50 or more employees in this state, excluding part-time employees. "Employer" does not include the state or any political subdivision thereof, including any unit of local government.

(9)(a) "Employment loss" means:

(i) An employment termination, other than a discharge for cause, voluntary separation, or retirement;

(ii) A layoff exceeding six months; or

(iii) A reduction in hours of more than 50 percent of work of individual employees during each month of a six-month period.

(b) "Employment loss" does not include instances when a business closing or mass layoff is the result of the relocation or consolidation of part or all of the employer's business and, before the business closing or mass layoff, the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance, as defined by the department, with no more than a six-month break in employment.

(10) "Mass layoff" means a reduction in employment force that is not the result of a business closing and results in an employment loss during any 30-day period of 50 or more employees, excluding part-time employees.

(11) "Part-time employee" means an employee who is employed for an average of fewer than 20 hours per week, or an employee who has been employed for fewer than six of the twelve months preceding the date on which notice is required. However, if an applicable collective bargaining agreement defines a part-time employee, such definition shall supersede the definition in this subsection.

(12) "Single site of employment" means a single location or a group of contiguous locations, such as a group of structures that form a campus or business park or separate facilities across the street from each other.

NEW SECTION. **Sec. 2.** (1)(a) Subject to section 3 of this act, an employer may not order a business closing or a mass layoff until the end of a 60-day period that begins after the employer, pursuant to this section, serves written notice of such action to the department and to the affected employee or, if the employee is represented by a union, to the employee's bargaining representative.

(b) An employer who has previously announced and carried out a short-term mass layoff of three months or less that is extended beyond three months due to business circumstances not reasonably foreseeable at the time of the initial mass layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A mass layoff extending beyond three months from the date the mass layoff commenced for any other reason must be treated as an employment loss from the date of commencement of the initial mass layoff.

(c) In the case of the sale of part or all of a business, the seller is responsible for providing notice of any business closing or mass layoff which will take place up to and on the effective date of the sale. The buyer is responsible for providing notice of any business closing or mass layoff that will take place thereafter.

(2) Notice from the employer to the department or affected employees or, if the employees are represented, the employees' bargaining representative must be in written form, include the elements required, as they exist on the effective date of this section, by the federal worker adjustment and retraining notification act, 29 U.S.C. Sec. 2101 et seq., and include the following:

(a) The name and address of the employment site where the business closing or mass layoff will occur, and the name and contact information of a company official to contact for further information;

(b) A statement whether the planned action is expected to be permanent or temporary and, if the entire business is to be closed, a statement to that effect. If the planned action is expected to be temporary, the statement must also include whether the planned action is expected to last longer or shorter than three months;

(c) The expected date of the first employment loss and the anticipated schedule for employment losses;

(d) The job titles of positions to be affected and the names of the employees currently holding the affected jobs. The notice to the department must also include the addresses of the affected employees; and

(e) Whether the mass layoff or business closing is the result of, or will result in, the relocation or contracting out of the employer's operations or the employees' positions.

(3) The employer must provide additional notice of the date or schedule of dates of a planned business closing or mass layoff extended beyond the date of any period announced in the original notice.

NEW SECTION. **Sec. 3.** (1) An employer is not required to comply with the notice requirements under section 2 of this act if:

(a)(i) At the time the notice would have been required, the employer was actively seeking capital or business;

(ii) The capital or business sought, if obtained, would have enabled the employer to avoid or postpone the business closing or mass layoff; and

(iii) The employer reasonably and in good faith believed that giving the notice required by section 2 of this act would have precluded the employer from obtaining the needed capital or business;

(b) The mass layoff or business closing is caused by business circumstances that were not reasonably foreseeable at the time the notice would have been required. The unforeseeable business circumstances must be caused by a sudden, dramatic, and unexpected action or condition outside of the employer's control;

(c) The mass layoff or business closing is due to a natural disaster, such as a flood, earthquake, drought, storm, tornado, or similar effects of nature; or

(d) The mass layoff occurs at:

(i) A construction project and the affected employees were hired with the understanding that their employment was limited to the duration of a particular portion of that construction project; or

(ii) A multiemployer construction project and the only affected employees are subject to a full union referral or dispatch system.

(2) If an exception under this section applies for only part of the 60-day notice window, notice is required at the time the exception no longer applies. If notice is not provided, the employer is liable for each day notice is not provided pursuant to sections 4 and 5 of this act.

(3) The department may not determine an exception under this section applies unless the employer meets the documentation and other requirements established by the department pursuant to

section 7 of this act.

NEW SECTION. **Sec. 4.** (1) An employer that orders a business closing or mass layoff without providing a notice required by section 2 of this act is liable to each aggrieved employee who suffers an employment loss because of the closing or layoff for:

(a) Back pay for each day of violation not less than the higher of:

(i) The average regular rate of compensation received by the employee during the last three years of the employee's employment; or

(ii) The employee's final rate of compensation; and

(b) The value of the cost of any benefits to which the employee would have been entitled had their employment not been lost, including the cost of any medical expenses incurred by the employee that would have been covered under an employee benefit plan.

(2) Liability under this section must be calculated for the period of the employer's violation up to a maximum of 60 days.

(3) The amount for which an employer is liable under this section must be reduced by:

(a) Any wages paid by the employer to the employee during the period of the violation;

(b) Any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation;

(c) The amount paid to the employee pursuant to the federal worker adjustment and retraining notification act, 29 U.S.C. Sec. 2101 et seq.; and

(d) Any payment by the employer to a third party or trustee, such as premiums for health benefits or payments to a defined contribution pension plan, on behalf and attributable to the employee for the period of the violation.

(4)(a) The department, an aggrieved employee, or the bargaining representative of the aggrieved employee may bring a civil action on behalf of the person, other persons similarly situated, or both, in any court of competent jurisdiction within three years of the alleged violation. The court may award reasonable attorneys' fees as part of costs to any plaintiff who prevails in a civil action brought under this chapter.

(b) If the court determines that an employer conducted a reasonable investigation in good faith and had reasonable grounds to believe that its conduct was not a violation of this chapter, the court may reduce the amount of any penalty it would otherwise impose against the employer under this chapter.

(c) This chapter does not grant any court the authority to enjoin a mass layoff or business closing.

NEW SECTION. **Sec. 5.** (1) An employer who fails to give the notice required by section 2 of this act to the department is subject to a civil penalty of not more than $500 for each day of the employer's violation. However, the employer is not subject to a civil penalty under this section if the employer pays to all applicable employees the amounts for which the employer is liable under section 4 of this act within three weeks from the date the employer orders the mass layoff, relocation, or termination.

(2) Any civil penalty paid by the employer under the federal worker adjustment and retraining notification act, 29 U.S.C. Sec. 2101 et seq., must be considered a payment of the civil penalty under this section.

(3) All penalties recovered under this section must be paid into the state treasury and credited to the general fund.

NEW SECTION. **Sec. 6.** Except in the cases exempted under section 3(1) (b) through (d) of this act, an employer may not include an employee in an order of a mass layoff if the employee is currently on paid family or medical leave under Title 50A RCW.

NEW SECTION. **Sec. 7.** The department shall administer and enforce the provisions of this chapter and may adopt rules to carry out its purpose. Rules adopted pursuant to this section must include documentation requirements for the exceptions in section 3 of this act.

NEW SECTION. **Sec. 8.** This act may be known and cited as the securing timely notification and benefits for laid-off employees act.

NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. **Sec. 10.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Cleveland moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5525.

Senators Cleveland and King spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Cleveland that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5525.

The motion by Senator Cleveland carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5525 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5525, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5525, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Cortes, Dhingra, Frame, Hansen, Hasegawa, Kauffman, Krishnadasan, Liias, Lovelett, Lovick, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Dozier, Fortunato, Gildon, Goehner, Harris, Holy, King, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, J.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5525, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 15, 2025

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5503 with the following amendment(s): 5503-S AMH BERR H2226.1

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

"Sec. 4. RCW 41.80.200 and 2020 c 89 s 1 are each amended to read as follows:

(1) In order to maintain dedicated and uninterrupted services to the supervision of criminal offenders that are in state correctional facilities and on community supervision, it is the legislature's intent to grant certain employees of the department of corrections interest arbitration rights as an alternative means of settling disputes.

(2) This section applies only to employees covered by chapter 41.06 RCW working for the department of corrections, except confidential employees as defined in RCW 41.80.005, members of the Washington management service, and internal auditors.

(3) Negotiations between the employer and the exclusive bargaining representative of a unit of employees shall be commenced at least five months before submission of the budget to the legislature. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other party. The commission shall appoint a mediator, who shall promptly meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement. A mediator, however, does not have a power of compulsion. The mediator may consider only matters that are subject to bargaining under this chapter.

(4) If an agreement is not reached following a reasonable period of negotiations and mediation, and the director, upon recommendation of the assigned mediator, finds that the parties remain at impasse, then an arbitrator must be appointed to resolve the dispute. The issues for determination by the arbitrator must be limited to the issues certified by the executive director.

(5) Within ten working days after the first Monday in September of every odd-numbered year, the governor or the governor's designee and the bargaining representatives for any bargaining units covered by this section shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. The parties will select an arbitrator by mutual agreement ((~~or~~)), by alternatively striking names from a regional list of seven qualified arbitrators provided by the federal mediation and conciliation service, or, with the consent of the parties, the American arbitration association.

(a) The fees and expenses of the arbitrator, the court reporter, if any, and the cost of the hearing room, if any, will be shared equally between the parties. Each party is responsible for the costs of its attorneys, representatives and witnesses, and all other costs related to the development and presentation of their case.

(b) Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for a potential hearing between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates, absent an agreement to the contrary.

(c) The parties shall execute a written agreement before December 15th of the odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration.

(d)(i) The arbitrator must hold a hearing and provide reasonable notice of the hearing to the parties to the dispute. The hearing must be informal and each party has the opportunity to present evidence and make arguments. The arbitrator may not present the case for a party to the proceedings.

(ii) The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the arbitrator may be received in evidence. A recording of the proceedings must be taken.

(iii) The arbitrator may administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents deemed by the arbitrator to be material to a just determination of the issues in dispute. If a person refuses to obey a subpoena issued by the arbitrator, or refuses to be sworn or to make an affirmation to testify, or a witness, party, or attorney for a party is guilty of contempt while in attendance at a hearing, the arbitrator may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court may issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof.

(6) The arbitrator may consider only matters that are subject to bargaining under RCW 41.80.020(1), and may not consider those subjects listed under RCW 41.80.020 (2) and (3) and 41.80.040.

(a) In making its determination, the arbitrator shall take into consideration the following factors:

(i) The financial ability of the department of corrections to pay for the compensation and benefit provisions of a collective bargaining agreement;

(ii) The constitutional and statutory authority of the employer;

(iii) Stipulations of the parties;

(iv) Comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like state government employers of similar size in the western United States;

(v) The ability of the department of corrections to retain employees;

(vi) The overall compensation presently received by department of corrections employees, including direct wage compensation, vacations, holidays, and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;

(vii) Changes in any of the factors listed in this subsection during the pendency of the proceedings; and

(viii) Such other factors which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under RCW 41.80.020(1).

(b) The decision of an arbitrator under this section is subject to RCW 41.80.010(3).

(7) During the pendency of the proceedings before the arbitrator, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his or her rights or position under chapter 41.56 RCW.

(8)(a) If the representative of either or both the employees and the state refuses to submit to the procedures set forth in subsections (3), (4), and (5) of this section, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and the court may issue an appropriate order. A failure to obey the order may be punished by the court as a contempt thereof.

(b) A decision of the arbitrator is final and binding on the parties, and may be enforced at the instance of either party, the arbitrator, or the commission in the superior court for the county where the dispute arose. However, the decision of the arbitrator is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to the compensation and fringe benefit provision of an interest

arbitration award, the provisions are not binding on the state or department of corrections.

(9) Subject to the provisions of this section, the parties shall follow the commission's procedures for interest arbitration.

Sec. 5. RCW 47.64.170 and 2015 3rd sp.s. c 1 s 305 are each amended to read as follows:

(1) Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit and shall represent all such employees fairly.

(2) A ferry employee organization or organizations and the governor may each designate any individual as its representative to engage in collective bargaining negotiations.

(3) Negotiating sessions, including strategy meetings of the employer or employee organizations, mediation, and the deliberative process of arbitrators are exempt from the provisions of chapter 42.30 RCW. Hearings conducted by arbitrators may be open to the public by mutual consent of the parties.

(4) Terms of any collective bargaining agreement may be enforced by civil action in Thurston county superior court upon the initiative of either party.

(5) Ferry system employees or any employee organization shall not negotiate or attempt to negotiate directly with anyone other than the person who has been appointed or authorized a bargaining representative for the purpose of bargaining with the ferry employees or their representative.

(6)(a) Within ten working days after the first Monday in September of every odd-numbered year, the parties shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. If the parties cannot agree on an arbitrator within the ten-day period, either party may request a list of seven arbitrators from the federal mediation and conciliation service or, with the consent of the parties, the American arbitration association. The parties shall select an interest arbitrator using the coin toss/alternate strike method within thirty calendar days of receipt of the list. Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration. This subsection (6)(a) imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(b) The negotiation of a proposed collective bargaining agreement by representatives of the employer and a ferry employee organization shall commence on or about February 1st of every even-numbered year.

(c) For negotiations covering the 2009-2011 biennium and subsequent biennia, the time periods specified in this section, and in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of all agreements on or before October 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect. These time periods may only be altered by mutual agreement of the parties in writing. Any such agreement and any impasse procedures agreed to by the parties under RCW 47.64.200 must include an agreement regarding the new time periods that will allow final resolution by negotiations or arbitration by October 1st of each even-numbered year.

(7) It is the intent of this section that the collective bargaining agreement or arbitrator's award shall commence on July 1st of each odd-numbered year and shall terminate on June 30th of the next odd-numbered year to coincide with the ensuing biennial budget year, as defined by RCW 43.88.020(((~~(7)~~))) (9), to the extent practical. It is further the intent of this section that all collective bargaining agreements be concluded by October 1st of the even-numbered year before the commencement of the biennial budget year during which the agreements are to be in effect. After the expiration date of a collective bargaining agreement negotiated under this chapter, except to the extent provided in subsection (11) of this section and RCW 47.64.270(4), all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8) The office of financial management shall conduct a salary survey, for use in collective bargaining and arbitration.

(9) Except as provided in subsection (11) of this section:

(a) The governor shall submit a request either for funds necessary to implement the collective bargaining agreements including, but not limited to, the compensation and fringe benefit provisions or for legislation necessary to implement the agreement, or both. Requests for funds necessary to implement the collective bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(b) The governor shall submit a request either for funds necessary to implement the arbitration awards or for legislation necessary to implement the arbitration awards, or both. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(c) The legislature shall approve or reject the submission of the request for funds necessary to implement the collective bargaining agreements or arbitration awards as a whole for each agreement or award. The legislature shall not consider a request for funds to implement a collective bargaining agreement or arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement and award or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 47.64.210 and 47.64.300.

(10) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(11)(a) For the collective bargaining agreements negotiated for the 2011-2013 fiscal biennium, the legislature may consider a request for funds to implement a collective bargaining agreement even if the request for funds was not received by the office of financial management by October 1st and was not transmitted to

the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060.

(b) For the 2013-2015 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee must be a separate agreement for which the governor may request funds necessary to implement the agreement. The legislature may act upon a 2013-2015 collective bargaining agreement related to employee health care benefits if an agreement is reached and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(c) For the collective bargaining agreements negotiated for the 2013-2015 fiscal biennium, the legislature may consider a request for funds to implement a collective bargaining agreement reached after October 1st after a determination of financial infeasibility by the director of the office of financial management if the request for funds is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060."

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

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Valdez moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5503.

Senators Valdez and King spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Valdez that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5503.

The motion by Senator Valdez carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5503 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5503, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5503, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Cortes, Dhingra, Frame, Hansen, Hasegawa, Holy, Kauffman, Krishnadasan, Liias, Lovelett, Lovick, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Dozier, Fortunato, Gildon, Goehner, Harris, King, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5503, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 15, 2025

MR. PRESIDENT:

The House passed SENATE BILL NO. 5506 with the following amendment(s): 5506 AMH ELHS H2084.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. 2023 c 441 s 6 (uncodified) is amended to read as follows:

The department of children, youth, and families shall submit to the appropriate committees of the legislature, in compliance with RCW 43.01.036, a preliminary progress report on licensing and oversight of residential private schools no later than July 1, ((~~2025~~)) 2026, and final report no later than July 1, ((~~2026~~)) 2027.

Sec. 2. 2023 c 441 s 8 (uncodified) is amended to read as follows:

Sections 2 and 4 of this act take effect July 1, ((~~2025~~)) 2026.

NEW SECTION. **Sec. 3.** 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."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Christian moved that the Senate concur in the House amendment(s) to Senate Bill No. 5506.

Senators Christian and Wilson, C. spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Christian that the Senate concur in the House amendment(s) to Senate Bill No. 5506.

The motion by Senator Christian carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5506 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5506, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5506, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 0.

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

SENATE BILL NO. 5506, as amended by the House, having received the constitutional majority, was declared passed. There

being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5014,
SUBSTITUTE SENATE BILL NO. 5025,
SUBSTITUTE SENATE BILL NO. 5323,
SUBSTITUTE SENATE BILL NO. 5370,
ENGROSSED SENATE BILL NO. 5471,
ENGROSSED SENATE BILL NO. 5559,
SUBSTITUTE SENATE BILL NO. 5579,
SENATE BILL NO. 5653,
ENGROSSED SENATE BILL NO. 5662,
SENATE BILL NO. 5672,
and ENGROSSED SUBSTITUTE
SENATE BILL NO. 5677.

MESSAGE FROM THE HOUSE

April 10, 2025

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5651 with the following amendment(s): 5651-S2.E AMH GOOD ADAM 242

On page 2, line 34, after "adjusted" insert "and published"
On page 12, line 25, after "adjusted" insert "and published"
On page 17, line 15, after "adjusted" insert "and published"

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Alvarado moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5651.

Senators Alvarado and Holy spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Alvarado that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5651.

The motion by Senator Alvarado carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5651 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5651, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5651, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Cortes, Dhingra, Fortunato, Frame, Hansen, Harris, Hasegawa, Holy, Kauffman, King, Krishnadasan, Liias, Lovelett, Lovick, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Dozier, Gildon, Goehner, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Wagoner, Warnick and Wilson, J.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5651, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 15, 2025

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5127 with the following amendment(s): 5127-S AMH ENGR H2208.E

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.

(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 vehicle liability insurance policy or 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;

(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.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5127.

Senators Liias and King spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5127.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5127 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5127, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5127, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Alvarado, Bateman, Chapman, Cleveland, Conway, Cortes, Dhingra, Fortunato, Frame, Hansen, Harris, Hasegawa, Kauffman, King, Krishnadasan, Liias, Lovelett, Lovick, Nobles, Orwall, Pedersen, Riccelli, Robinson, Saldaña, Salomon, Shewmake, Slatter, Stanford, Trudeau, Valdez, Wagoner, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Christian, Dozier, Gildon, Goehner, Holy, MacEwen, McCune, Muzzall, Schoesler, Short, Torres, Warnick and Wilson, J.

SUBSTITUTE SENATE BILL NO. 5127, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 14, 2025

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5721 with the following amendment(s): 5721.E AMH CPB H2128.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 48.18 RCW to read as follows:

(1) Every automobile insurance policy that includes first-party coverage for physical damage issued or renewed effective on or after January 1, 2026, must include a provision for the right to an appraisal to resolve disputes between the insurer and the insured regarding the actual cash value and amount of loss on the damaged automobile. The appraisal clause must include the following language, or corresponding language that the insurer certifies is at least as favorable to the insured:

"If . . . (the insurance company) . . . and . . . (the policyholder) . . . are unable to agree as to the amount of loss, either party may make a written demand for an appraisal, and within 10 days each party shall select a competent and disinterested appraiser and notify the other party of its selection.

The appraisers shall then each appraise the actual cash value and the amount of loss, make separate findings regarding the amount of loss for each element of loss, and exchange their completed appraisals. If the appraisers are unable to agree on the losses, the selected appraisers shall appoint a competent and disinterested umpire and submit their differences to the umpire. If the appraisers do not appoint a competent and disinterested umpire within 15 days, either appraiser may notify the commissioner, and the commissioner shall identify a registered competent and disinterested umpire that will be used according to the process that the commissioner specifies by rule.

The appraisers must make their appraisals within 30 calendar days of selection. If an appraiser needs more than 30 days, the appraiser shall provide a reasonable basis to the other appraiser before 25 days has passed. The appraiser must document the reason or reasons for the extension in their file.

The amount of loss must be determined either by agreement of the appraisers or by agreement of one appraiser and the umpire. An agreement of any two is binding.

Each party is responsible for their appraisal expenses, and each party is equally responsible for the cost of the umpire."

(2) For purposes of this section, the following definitions apply:

(a) "Appraiser" means a person selected by the insurer or the insured to place a value on or estimate the amount of loss under an appraisal clause in an insurance contract;

(b) "Competent" means the person has subject matter expertise, relevant training, and experience to make decisions and valuations relating to the amount of loss;

(c) "Disinterested" means the person does not have a direct financial interest in the outcome of the appraisal process; and

(d) "Umpire" means a person selected by the appraisers representing the insurer and the insured, or, if the appraisers cannot agree, by the commissioner, who is charged with resolving issues that the appraisers are unable to agree upon during the course of an appraisal.

(3) The commissioner may adopt rules as necessary to implement this section."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Stanford moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5721.

Senators Stanford and Dozier spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Stanford that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5721.

The motion by Senator Stanford carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5721 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5721, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5721, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 0.

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

Voting nay: Senators Fortunato and Wagoner

ENGROSSED SENATE BILL NO. 5721, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2025

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5556 with the following amendment(s): 5556-S AMH REEV THOC 163

On page 3, line 15, after "of the" insert "reporting requirements of subsection 7 of this section and the"

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5556.

Senator Liias spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5556.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5556 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5556, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5556, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE SENATE BILL NO. 5556, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2025

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5627 with the following amendment(s): 5627-S.E AMH APP H2140.3

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:

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 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 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 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;

(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.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Shewmake moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5627.

Senators Shewmake and Boehnke spoke in favor of the motion.

The Vice President Pro Tempore declared the question before the Senate to be the motion by Senator Shewmake that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5627.

The motion by Senator Shewmake carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5627 by voice vote.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5627, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5627, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 0.

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

ENGROSSED SUBSTITUTE SENATE BILL NO. 5627, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGES FROM THE HOUSE

April 22, 2025

MR. PRESIDENT:
The House has passed:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2049,
and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

April 22, 2025

MR. PRESIDENT:
The House has passed:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2081,
and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

April 22, 2025

MR. PRESIDENT:
The House has passed:
SUBSTITUTE HOUSE BILL NO. 2077,
and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

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

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1498 by House Committee on Appropriations (originally sponsored by Davis, Couture, Macri, Griffey, Walen, Reed, Simmons, Goodman, Parshley, Leavitt, Pollet, Hill, Salahuddin, and Scott)

AN ACT Relating to domestic violence co-responder programs; reenacting and amending RCW 36.18.010; and adding new sections to chapter 43.280 RCW.

Referred to Committee on Ways & Means.

ESHB 2049 by House Committee on Finance (originally sponsored by Bergquist, Pollet, Santos, Peterson, Fosse, Ryu, Ormsby, Parshley, Macri, Wylie, Berry, Ramel, Street, Gregerson, Doglio, Farivar, Reed, Reeves, Hill, and Callan)

AN ACT Relating to investing in the state's paramount duty to fund K-12 education and build strong and safe communities by modifying the state and local property tax authority and adjusting the school funding formula; amending RCW 84.52.0531, 28A.500.015, 84.55.005, and 84.55.100; creating new sections; repealing RCW 84.55.0101; and providing an expiration date.

Referred to Committee on Ways & Means.

SHB 2077 by House Committee on Finance (originally sponsored by Fitzgibbon, and Macri)

AN ACT Relating to establishing a tax on certain business activities related to surpluses generated under the zero-emission vehicle program; amending RCW 42.56.270; adding a new chapter to Title 82 RCW; creating new sections; and declaring an emergency.

Referred to Committee on Ways & Means.

ESHB 2081 by House Committee on Finance (originally sponsored by Fitzgibbon, Peterson, Pollet, Parshley, Scott, Reed, Berry, and Macri)

AN ACT Relating to funding public schools, including higher education, health care, social services, and other programs and services to benefit Washingtonians by modifying business and occupation tax surcharges, rates, and the advanced computing surcharge cap, clarifying the business and occupation tax deduction for certain investments, and creating a temporary business and occupation tax surcharge on large companies with annual revenues with more than $250,000,000; amending RCW 82.04.230, 82.04.240, 82.04.250, 82.04.257, 82.04.263, 82.04.270, 82.04.280, 82.04.285, 82.04.290, 82.04.2905, 82.04.2906, 82.04.260, 82.04.29004, and 82.04.4281; reenacting and amending RCW 82.04.260 and 82.04.299; adding a new section to chapter 82.32 RCW; adding a new section to chapter 82.04 RCW; creating new sections; providing effective dates; and providing expiration dates.

Referred to Committee on Ways & Means.

MOTIONS

On motion of Senator Riccelli, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

At 1:56 p.m., on motion of Senator Riccelli, the Senate adjourned until 10 o'clock a.m. Wednesday, April 23, 2025.

JOHN LOVICK, Vice President Pro Tempore of the Senate

SARAH BANNISTER, Secretary of the Senate