

## SIXTY SEVENTH LEGISLATURE - REGULAR SESSION

## FIFTIETH DAY

House Chamber, Olympia, Monday, February 28, 2022

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

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

## RESOLUTION

HOUSE RESOLUTION NO. 2022-4650, by Representatives Jinkins, Wilcox, Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Donaghy, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wylie, Ybarra, and Young

WHEREAS, Former Representative and Senator Mark L. Doumit was a native of Wahkiakum County who spent 18 years in elected office serving the communities and citizens of Wahkiakum County, southwest Washington, and the State of Washington; and

WHEREAS, He was a proud graduate of Wahkiakum High School in Cathlamet, Washington in 1980, where he wrestled and played baseball, and later attended Lower Columbia College in Longview; and

WHEREAS, He began his career of service to his community as a volunteer firefighter and EMT in Cathlamet starting at age 16; and

WHEREAS, While still in high school, he began a lifelong career in the commercial salmon fishing industry, starting out as crew for his cousin Milt Doumit's fish buying business, then later as a commercial fisherman himself on the Columbia River; and

WHEREAS, In 1984 he earned his bachelor's degree in international business at Washington State University, including a study abroad at the University of Copenhagen, Denmark, affording him the opportunity to travel around Cold War-era Europe; and

WHEREAS, While still in college, he began a 40-year career in Alaska's commercial fishing industry, starting out as a summer cannery worker and fishing vessel crew in Bristol Bay and Prince William Sound, then later purchasing and operating his own salmon drift gillnet fishing vessel

Cook Inlet, Alaska in 1986 where he spent the remainder of his Alaska fishing career every summer working alongside family and friends such as his sons, his brothers Paul and Matt, and friends Gordie Souvenir and Fred Ostling; and

WHEREAS, In 1992, Mark, along with his brother John, purchased a cattle ranch in Cathlamet, which they later converted into Doumit Tree Farm after realizing that trees do not jump fences nor mind the rain as much as cattle do; and

WHEREAS, Mark retained Doumit Tree Farm until his passing, learning how to manage forests for both economic benefit and other values like wildlife habitat, built relationships with others in the forestry industry, and eventually followed in his father's footsteps to protect the land by selling some of it for conservation purposes; and

WHEREAS, Mark's experiences in the fishing industry on the Columbia River and Alaska, cattle ranching, and tree farming gave him a deep appreciation and respect for our state's and country's natural resources, communities dependent on natural resources, people working in natural resources industries, and Washington's tribes whose history and culture is intimately tied to the land and water; and

WHEREAS, Mark ran for and was elected as a Wahkiakum County Commissioner in 1988 where he served until 1996, including helping to organize the county's response to the Inauguration Day Storm; and

WHEREAS, In 1996, Mark ran for and was elected to the Washington House of Representatives where he served until 2002; and

WHEREAS, While a member of the House, Mark served as Chair of the House Natural Resources Committee, where he was the driving force behind the transformative Forest & Fish Law in 1999, which improved forest practices and habitat for the benefit of both forestry industries and endangered salmon runs on more than 9 million acres of state and private forests and 60,000 miles of streams in Washington; and

WHEREAS, While a member of the House, Mark also served on the House Appropriations Committee where he helped negotiate state budgets and was regarded as a trusted voice on budget matters by both Democratic and Republican caucuses; and

WHEREAS, In 2002, he was appointed to succeed his friend and mentor Senator Sid Snyder in the Washington State Senate, where Mark served until 2006; and

WHEREAS, While a member of the Senate, Mark chaired the Senate Natural Resources Committee and served as vice chair of the Senate Ways & Means Committee where he continued to advocate for natural resources, natural

resources-dependent industries and communities, and continued to be a respected voice on state budget matters; and

WHEREAS, While serving in the Legislature, Mark was widely respected by his fellow legislators, legislative staff, and the larger legislative community and earned a reputation for bipartisanship, integrity, kindness, a keen sense of humor, intelligence, strategic thinking, and grit, as well as someone who was hard to keep off the dance floor at the Governor's Inaugural Ball; and

WHEREAS, In 2006, Mark left legislative service to become a full-time advocate for working forests as Executive Director of the Washington Forest Protection Association in Olympia until his passing; and

WHEREAS, Mark continued advocating for natural resources communities in Olympia, and worked to recognize the importance of Washington's forestry industries in salmon recovery, combatting climate change, and preventing wildfire, and working to pass new funding for forest restoration and wildfire prevention; and

WHEREAS, Mark also continued to build relationships within the legislative community and promote collaboration between the forestry industry, Washington's tribes, and environmental interests in meeting natural resources challenges; and

WHEREAS, Even on the day of his passing, he was optimistic about the future of Washington's natural resources, excited to continue his work at WFPA, and looked forward to the end of the COVID-19 pandemic so that people could once again safely and effectively engage and build relationships to solve pressing issues; and

WHEREAS, Mark cherished the privilege of representing his community in the Legislature and representing the people working in the state's natural resources industries; and

WHEREAS, Mark passed away on June 21, 2021, at the age of 59, but his legacy lives on through his family, friends, colleagues, and record of service to the people of Washington; and

WHEREAS, Mark is survived by his wife Mindy; three sons Matthew, Benjamin, and David and their spouses Denise, Charleann, and Molli; his three grandchildren Huntleigh, Eliana, and Hudson; brothers John, James, Thomas, Patrick, and Matthew, sisters Anne and Helen; and many loving friends and extended family;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives honor former Representative and Senator Mark Doumit and further his dedication and service to the citizens of Washington State.

There being no objection, HOUSE RESOLUTION NO. 4650 was adopted.

### RESOLUTION

HOUSE RESOLUTION NO. 2022-4661, by Representatives Kraft, Chambers, Goehner, Chase, Graham,

Rule, Orcutt, Boehnke, Orwall, Schmick, Robertson, Hoff, Walsh, Dent, Pollet, Volz, Leavitt, Klippert, Eslick, Dufault, and Sutherland

WHEREAS, Countless law enforcement men and women freely put themselves in harm's way each day to ensure the protection of Washington's citizens; and

WHEREAS, Law enforcement officers exemplify leadership, selflessness, sacrifice, and honor; and

WHEREAS, When a law enforcement officer makes the ultimate sacrifice, it cuts to the heart of their community, inflicting unforeseeable pain and loss not only to the family of the fallen officer, but to the lives these men and women have touched; and

WHEREAS, The communities and people affected by such a loss come together in support of the families, friends, and loved ones of these fallen heroes, who in their passing, bring together and strengthen their communities one last time; and

WHEREAS, A member of Vancouver's law enforcement community and a member of Clark County's law enforcement community have given their lives in the line of duty within the past year; and

WHEREAS, Eight members of Washington State's law enforcement community made the ultimate sacrifice in 2021 and 2022:

Officer Donald Sahota, 52, ended his 28-year career in law enforcement and seven-year watch for the Vancouver Police Department on January 29, 2022, and is survived by his wife and two children;

Sergeant Jeremy Brown, 46, ended his 15-year watch for the Clark County Sheriff's Office on July 23, 2021, and is survived by his wife, five children, and three siblings;

Corrections Officer Darryl L. Goodrich, Jr., 49, ended his 10-year career of law enforcement and one-year watch for the Washington State Department of Corrections on August 20, 2021, and is survived by his wife, three children, father, and two brothers;

Trooper Eric Gunderson, 38, ended his 15-year watch for the Washington State Patrol on September 26, 2021, and is survived by his wife and two sons;

Corrections Officer Gabriel K. Forrest, 42, ended his 19-year watch for the Washington State Department of Corrections on June 17, 2021, and is survived by his daughter, parents, four siblings, and many nieces and nephews;

Officer Alexandra "Lexi" Harris, 38, ended her five-year watch for the Seattle Police Department on June 13, 2021, and is survived by her parents, brother, and fiancé and his two daughters;

Officer Cesar Sibonga, 63, ended his 18-year watch for the United States Customs and Border Protection on February 7, 2021, and is survived by his wife and two sons; and

Officer Jay Hughes, 64, ended his 44-year watch for the Kalispel Tribal Police Department on January 6, 2021, and is survived by his wife, four children, 12 grandchildren, and one great-grandson;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize each of these men and women who exemplified duty, honor, and selflessness to their country, state, and communities with their sacrifice; and

BE IT FURTHER RESOLVED, That the mothers, fathers, sons, daughters, grandchildren, brothers, sisters, and loved ones of these fallen heroes have joined a community of Honored Survivors, whose sacrifice can never be repaid in kind; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the Honored Survivor families recorded herein.

There being no objection, HOUSE RESOLUTION NO. 4661 was adopted.

#### RESOLUTION

HOUSE RESOLUTION NO. 2022-4662, by Representatives Ybarra, Dufault, Corry, Valdez, Volz, J. Johnson, Orwall, Walen, Boehnke, Goehner, Schmick, Abbarno, Callan, Dye, Chambers, McCaslin, Jacobsen, Riccelli, Dent, Chase, Orcutt, Robertson, Simmons, Klicker, Chandler, Hoff, Kraft, and Morgan

WHEREAS, Cooper Douglas Kupp was born in Yakima, Washington on June 15, 1993, to Craig and Karin Kupp; and

WHEREAS, Cooper graduated from A.C. Davis High School in Yakima in 2012, where he earned first-team All-Columbia Basin Big Nine League wide receiver and defensive back honors for himself and the Davis Pirates football program; and

WHEREAS, Cooper went on to attend Eastern Washington University (EWU) where he played football for the EWU Eagles under the coaching of Beau Baldwin from 2012 to 2016, and was the first freshman wide receiver to be named first-team All-American since 1996 - going on to win that award for a second time in 2014; and

WHEREAS, Cooper was named first-team Big Sky Conference wide receiver, holding that title for three consecutive years, breaking league records for receptions, receiving yards, and receiving touchdowns, and going on to win the Walter Payton Award; and

WHEREAS, The Los Angeles Rams drafted Cooper Kupp in the third round of the 2017 NFL draft, becoming the second highest pick in EWU history; and

WHEREAS, Cooper had a breakout rookie year and was named to the 2017 All-Rookie Team by the Pro Football Writers Association (PFWA); and

WHEREAS, Cooper suffered an injury during the 2018 season and missed the chance to play in Super Bowl LIII with his team; and

WHEREAS, Cooper ignored the skeptics and worked hard to overcome his injury, returning to football in 2019 to finish the season with well over 1,000 receiving yards, catching 10 touchdowns, including a stretch where he caught a touchdown in five consecutive games; and

WHEREAS, In 2021, Cooper broke the record for most receiving yards in a single season, including postseason, with 2,425 yards and was voted the NFL Offensive Player of the Year for, among other things, being the first player since 2005 to lead the league in receptions, receiving touchdowns, and receiving yards (the "triple crown"); and

WHEREAS, Cooper was named the Most Valuable Player (MVP) of Super Bowl LVI after a 92-yard, two touchdown effort including the game winning touchdown catch in the game versus the Cincinnati Bengals; and

WHEREAS, Cooper's athletic accomplishments have inspired Washingtonians across the state, including the men, women, and children in his hometown of Yakima, Davis High School, and the EWU Eagles football programs; and

WHEREAS, Cooper continues to humbly serve others by helping young athletes and supporting several local charities - attributing his success to God, faith, and family - which includes his beloved wife Anna and their two sons, Cooper Jameson Kupp and Cypress Stellar Kupp;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives, on behalf of the people, recognize and honor the life and profession of Cooper Douglas Kupp, a native Washingtonian and National Football League wide receiver for the Los Angeles Rams; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Cooper Kupp and his family.

There being no objection, HOUSE RESOLUTION NO. 4662 was adopted.

#### RESOLUTION

HOUSE RESOLUTION NO. 2022-4663, by Representatives Dufault, Shewmake, Santos, Eslick, Schmick, Chandler, Walsh, Chase, Walen, Mosbrucker, Barkis, Ybarra, Hoff, Young, Chambers, Corry, Volz, Jacobsen, McCaslin, and Springer

WHEREAS, Washington State is home to artists who enrich our communities and elevate the human experience; and

WHEREAS, Nationally acclaimed sculptor and painter Simon Kogan, an Olympia resident, emigrated from the Soviet Union to the United States in 1991 in pursuit of the American dream; and

WHEREAS, Simon Kogan, inspired by the first stanza in the song "America the Beautiful," designed and constructed the World War II Memorial on the Washington

State Capitol campus, dedicated in 1999 to honor the Veterans of that conflict, including the nearly 6,000 Washingtonians who made the ultimate sacrifice; and

WHEREAS, In 1999, Simon Kogan's monument, Motherhood, was dedicated in Olympia's Percival Landing Park; and

WHEREAS, In 2004, Simon Kogan completed the Justice William O. Douglas Memorial statue at Davis High School, where the late United States Supreme Court Justice both studied and taught when it was called North Yakima High School; and

WHEREAS, In 2005, Simon Kogan designed and constructed the Temple Beth Shalom Holocaust Memorial in Spokane to remember the 6 million lives lost and the countless lives never to be born; and

WHEREAS, Simon Kogan's extensive body of work is inextricably linked to the cultural fabric of Washington State and its history; and

WHEREAS, Simon Kogan has devoted his life to the mentorship of young artists in the United States and around the world;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives, on behalf of the people of the State of Washington, recognize and honor the life and work of Simon Kogan; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Simon Kogan and his family.

There being no objection, HOUSE RESOLUTION NO. 4663 was adopted.

### RESOLUTION

HOUSE RESOLUTION NO. 2022-4664, by Representatives Dufault, Corry, Santos, Dent, Eslick, Schmick, Chandler, Walsh, Chase, Walen, Mosbrucker, Barkis, Hoff, Young, Ybarra, Chambers, Goehner, Klicker, Volz, Caldier, Jacobsen, Wilcox, Kretz, McEntire, Klippert, McCaslin, Cody, Stokesbary, and Springer

WHEREAS, The House of Representatives, on behalf of the people, recognize and honor Bruce Morris Smith, for his lifetime of civic and philanthropic contributions to the Yakima Valley and Washington State; and

WHEREAS, Bruce was born in Yakima, Washington, on April 6, 1959, and made his mark at each school he attended, including Franklin Junior High School, where he was elected student body president; A.C. Davis High School, where he was named Yakima School District's Student of the Year in 1977 and where he and current Yakima Mayor Janice Richards were voted Most Likely to Succeed; and Gonzaga University, where he was the youngest and longest-serving editor of the Gonzaga Bulletin student newspaper; and

WHEREAS, Colonel Bruce Smith (newspaper honorific) founded Yakima Valley Publishing on his kitchen

table and turned its flagship product, the Yakima Valley Business Times, into the most authoritative and trusted source of Yakima Valley news and information for over 25 years; and

WHEREAS, Bruce was first appointed to and then elected by his friends and neighbors in East Valley and Moxee to serve on the East Valley School Board; and

WHEREAS, Bruce accepted appointments to chair or serve on various Yakima city and county commissions and blue-ribbon panels, including first chairman of the Yakima Mayor's Youth Task Force, member of Yakima City Transit Commission (revived insolvent transit system); cochair of Yakima County Jail Commission (revived insolvent jail project); member of Yakima County Facilities Committee, cochair of Yakima County Quality of Life Committee, cochair of Yakima City Performance Audit Committee, and chair of the Yakima City Downtown Area Redevelopment Committee, where he helped create the popular Yakima Farmer's Market; and

WHEREAS, Bruce also volunteered his time and expertise in service of numerous Washington state boards and organizations, including as a member of Enterprise Washington's board of directors, member of Group Health's Eastern Washington advisory board, chair of National Federation of Independent Business' state leadership council, member of Washington Policy Center's Eastern Washington advisory board, member of Central Washington Homebuilders Association's board, co-founder and chair of Forward Yakima Initiative, and co-founder of what became the Jennifer Dunn Leadership Institute; and

WHEREAS, Bruce has shaped generations of elected officials in Yakima County; and

WHEREAS, Bruce has kept local print media in Yakima County alive, thriving and profitable while nearly all others have failed through his business acumen and unmatched reputation for character, honor, and trustworthiness; and

WHEREAS, Bruce has mentored and helped dozens of Yakima young people from the wrong side of the tracks become the best versions of themselves, including former drug dealers, gang members, and many others; and

WHEREAS, Bruce surprised his dear friend, former state representative Charles Ross, by coordinating a special early swearing-in ceremony with Washington State Supreme Court Justice Mary Fairhurst, Bruce's long-time friend from their days together at Gonzaga University; and

WHEREAS, Bruce, an avid poker player, has hosted with his close friend, Gerardo "Jerry" Arias, thousands of hours of gaming entertainment in his private poker room and has won a Texas Hold Em tournament at the old Horseshoe Casino in Las Vegas where the World Series of Poker used to be held; and

WHEREAS, For all his public accomplishments, Bruce is most loved, admired, and supported by his wife, Ginger, and their four children, Rob, Amber, David, and Lindsey, along with grandchildren, Faith, Khale, and Taylor, and countless "adopted" and "honorary" family members in need of temporary, or even a permanent, home or family;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives, on behalf of the people of the State of Washington, recognize and honor the lifetime contributions of Bruce Morris Smith; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Bruce Smith and his family.

There being no objection, HOUSE RESOLUTION NO. 4664 was adopted.

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

### INTRODUCTION & FIRST READING

HB 2130 by Representatives Chambers and Walen

AN ACT Relating to reducing the state sales and use tax rate; amending RCW 82.08.020; creating a new section; and providing an effective date.

Referred to Committee on Finance.

HB 2131 by Representative Klippert

AN ACT Relating to providing parents and their children with more choices for a quality K-12 education through the family empowerment scholarship program; amending RCW 83.100.230; adding a new section to chapter 28A.150 RCW; adding a new section to chapter 28B.77 RCW; and creating a new section.

Referred to Committee on Education.

HB 2132 by Representatives Dufault, Rude and Boehnke

AN ACT Relating to immediate employment programs for people experiencing homelessness; adding a new section to chapter 43.185C RCW; and providing an expiration date.

Referred to Committee on Housing, Human Services & Veterans.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

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

### MOTION

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

ENGROSSED SUBSTITUTE SENATE BILL NO.  
5974

SUBSTITUTE SENATE BILL NO. 5975

### RESOLUTION

HOUSE RESOLUTION NO. 2022-4665, by Representatives Graham, Taylor, Dent, Griffey, Mosbrucker, Young, Orcutt, Boehnke, Simmons, Walsh, and Eslick

WHEREAS, Survivors of violent crimes and domestic violence often carry physical scars, injuries, and disabilities as a result of surviving these attacks; and

WHEREAS, According to the United Health Foundation, "America's Health Rankings in 2021," for every 1,000 residents of Washington, there were 2.94 instances of violent crime in the form of murders, rapes, robberies, and aggravated assaults; and

WHEREAS, According to the Washington Association of Sheriffs and Police Chiefs, over the course of 2020, Washington saw a 47 percent increase in murders from 2019; and

WHEREAS, The National Coalition Against Domestic Violence estimates that 41.4 percent of Washington women and 31.7 percent of Washington men experience intimate partner rape, stalking, or other physical violence; and

WHEREAS, According to the U.S. Department of Justice report "Socio-emotional Impact of Violent Crime," victims often face nonphysical challenges, such as the possibility of trauma and posttraumatic stress or socioemotional problems, affecting their ability to trust or function day to day; and

WHEREAS, The impact of violent crime often affects more than just the direct victims, devastating thousands of these victims' families and friends across Washington as well; and

WHEREAS, Law-abiding citizens are deserving of justice, rights, resources, restoration, and rehabilitation; and

WHEREAS, The Washington State House of Representatives recognize the importance of honoring crime victims because of the adversity they face and the resilience they exemplify;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize the plight of those affected and victimized by violent crime, and honor those victims and the survivors amongst them; and

BE IT FURTHER RESOLVED, That copies of this resolution be transmitted to Victim Support Services.

There being no objection, HOUSE RESOLUTION NO. 4665 was adopted.

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

### REPORTS OF STANDING COMMITTEES

February 25, 2022

HB 1990 Prime Sponsor, Representative Duerr:  
Concerning a sales and use tax deferral for

projects to improve the state route number 167 and Interstate 405 corridor. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Dent; Donaghy; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; McCaslin; Orcutt; Paul; Ramel; Riccelli; Slatter; Sutherland; Taylor; Valdez; Walsh and Wicks.

Referred to Committee on Rules for second reading.

February 24, 2022

HB 2118 Prime Sponsor, Representative Fey: Concerning additive transportation funding and appropriations. Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Berry; Chapman; Donaghy; Duerr; Entenman; Hackney; Paul; Ramel; Riccelli; Slatter; Taylor; Valdez and Wicks.

MINORITY recommendation: Do not pass. Signed by Representatives Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Dent; Goehner; Griffey; Klicker; McCaslin; Orcutt; Sutherland and Walsh.

Referred to Committee on Rules for second reading.

February 28, 2022

ESB 5017 Prime Sponsor, Senator Wellman: Clarifying school district procurement requirements for personal service contracts for construction management, value engineering, constructibility review, and building commissioning. (REVISED FOR ENGROSSED: Clarifying school district procurement requirements for service contracts for construction management, value engineering, constructibility review, and building commissioning.) Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass. Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bateman; Dye; Eslick; Gilday; Kloba; Kraft; Leavitt; MacEwen; Maycumber;

Mosbrucker; Peterson; Riccelli; Rule; Santos; Sells; Shewmake and Volz.

Referred to Committee on Rules for second reading.

February 25, 2022

SB 5510 Prime Sponsor, Senator King: Concerning renewal of the sales and use tax for transportation benefit districts. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Dent; Donaghy; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; Ramel; Riccelli; Slatter; Taylor; Valdez and Wicks.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt; Sutherland and Walsh.

MINORITY recommendation: Without recommendation. Signed by Representatives McCaslin and Paul.

Referred to Committee on Rules for second reading.

February 25, 2022

SB 5898 Prime Sponsor, Senator Liias: Concerning the use of vehicle-related fees to fulfill certain state general obligation bonds. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Donaghy; Duerr; Entenman; Hackney; Paul; Ramel; Riccelli; Slatter; Taylor; Valdez and Wicks.

MINORITY recommendation: Without recommendation. Signed by Representatives Goehner; Griffey and Klicker.

MINORITY recommendation: Do not pass. Signed by Representatives Eslick, Assistant Ranking Minority Member; Dent; McCaslin; Orcutt; Sutherland and Walsh.

Referred to Committee on Rules for second reading.

February 28, 2022

SSB 5933 Prime Sponsor, Committee on Ways & Means: Establishing a school seismic safety grant program. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass. Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bateman; Dye; Eslick; Gilday; Kloba; Kraft; Leavitt; MacEwen; Maycumber; Mosbrucker; Peterson; Riccelli; Rule; Santos; Sells; Shewmake and Volz.

Referred to Committee on Rules for second reading.

**SUPPLEMENTAL  
REPORTS OF STANDING COMMITTEES**

February 28, 2022

2SSB 5085 Prime Sponsor, Committee on Transportation: Modifying the alternative fuel vehicle fee for electric motorcycles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Dent; Donaghy; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; McCaslin; Orcutt; Paul; Ramel; Riccelli; Slatter; Sutherland; Taylor; Valdez; Walsh and Wicks.

Referred to Committee on Rules for second reading.

February 28, 2022

2SSB 5332 Prime Sponsor, Committee on Transportation: Concerning off-road and wheeled all-terrain vehicles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Dent; Donaghy; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; McCaslin; Orcutt; Paul; Ramel; Riccelli; Slatter; Sutherland; Taylor; Valdez; Walsh and Wicks.

Referred to Committee on Rules for second reading.

February 28, 2022

SSB 5528 Prime Sponsor, Committee on Transportation: Concerning the imposition of supplemental revenue sources within a regional transit authority area. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Berry; Chapman; Donaghy; Duerr; Entenman; Hackney; Ramel; Riccelli; Slatter; Taylor; Valdez and Wicks.

MINORITY recommendation: Do not pass. Signed by Representatives Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Dent; Goehner; Griffey; Klicker; McCaslin; Orcutt; Sutherland and Walsh.

MINORITY recommendation: Without recommendation. Signed by Representative Paul.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5539 Prime Sponsor, Senator Hunt: Concerning state funding for educational service districts. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; MacEwen, Assistant Ranking Minority Member; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Harris; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Jacobsen and Schmick.

Referred to Committee on Rules for second reading.

February 28, 2022

SSB 5558 Prime Sponsor, Committee on Transportation: Concerning the bistate governance of interstate toll bridges owned by local governments. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Dent; Donaghy; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; McCaslin; Orcutt; Paul; Ramel;

Riccelli; Slatter; Sutherland; Taylor; Valdez; Walsh and Wicks.

Referred to Committee on Rules for second reading.

February 24, 2022

2SSB 5616 Prime Sponsor, Committee on Transportation: Concerning accounts. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

SSB 5631 Prime Sponsor, Committee on Transportation: Making human trafficking a disqualifying offense for a commercial driver's license and coming into compliance with the requirements of the federal motor carrier safety administration. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Dent; Donaghy; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; McCaslin; Orcutt; Paul; Ramel; Riccelli; Slatter; Sutherland; Taylor; Valdez; Walsh and Wicks.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5634 Prime Sponsor, Senator Carlyle: Updating the utilities and transportation commission's regulatory fees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representative Harris.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Dye; Jacobsen; Rude; Schmick and Steele.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5676 Prime Sponsor, Senator Conway: Providing a benefit increase to certain retirees of the public employees' retirement system plan 1 and the teachers' retirement system plan 1. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

SB 5687 Prime Sponsor, Senator Wilson, C.: Addressing certain traffic safety improvements. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Berry; Donaghy; Duerr; Entenman; Hackney; Paul; Ramel; Riccelli; Slatter; Taylor; Valdez and Wicks.

MINORITY recommendation: Without recommendation. Signed by Representative Chapman.

MINORITY recommendation: Do not pass. Signed by Representatives Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Dent; Goehner; Griffey; Klicker; McCaslin; Orcutt; Sutherland and Walsh.

Referred to Committee on Rules for second reading.

February 24, 2022



**SSB 5728** Prime Sponsor, Committee on Ways & Means: Concerning the state's portion of civil asset forfeiture collections. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 69.50.505 and 2013 c 3 s 25 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession

constitutes a misdemeanor under RCW 69.50.4014;

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(f) All drug ~~((paraphernalia21))~~ paraphernalia other than paraphernalia possessed, sold, or used solely to facilitate marijuana-related activities that are not violations of this chapter;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell marijuana, or was an employee of a licensed producer, processor, or retailer, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any ((board)) commission inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A ((board)) commission inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The ((board)) commission inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of

seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(d), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon

mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the ~~((board))~~ commission or seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8) (a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9) (a) By January 31st of each year, each seizing agency shall remit to the state ~~((treasurer))~~ an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter. ~~((Money remitted shall be deposited in the state general fund.))~~

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in

the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Forfeited property and net proceeds not required to be ~~((paid))~~ remitted to the state ~~((treasurer))~~ shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(11) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the ~~((board))~~ commission, the owners of which are unknown, are contraband and shall be summarily forfeited to the ~~((board))~~ commission.

(12) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the ~~((board))~~ commission.

(13) The failure, upon demand by a ~~((board))~~ commission inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an

appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(14) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(15) (a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7) (b) of this section, only if:

(i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

(A) Only if the funds applied under (a) (ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

(b) For any claim filed under (a) (ii) of this subsection, the law enforcement agency shall pay the claim unless the

agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(16) The landlord's claim for damages under subsection (15) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7) (b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9) (b) of this section.

(17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

**Sec. 2.** RCW 46.61.5058 and 2013 2nd sp.s. c 35 s 18 are each amended to read as follows:

(1) Upon the arrest of a person or upon the filing of a complaint, citation, or information in a court of competent jurisdiction, based upon probable cause to believe that a person has violated RCW 46.20.740, 46.61.502, or 46.61.504 or any similar municipal ordinance, if such person has a prior offense within seven years as defined in RCW 46.61.5055, and where the person has been provided written notice that any transfer, sale,

or encumbrance of such person's interest in the vehicle over which that person was actually driving or had physical control when the violation occurred, is unlawful pending either acquittal, dismissal, sixty days after conviction, or other termination of the charge, such person shall be prohibited from encumbering, selling, or transferring his or her interest in such vehicle, except as otherwise provided in (a), (b), and (c) of this subsection, until either acquittal, dismissal, sixty days after conviction, or other termination of the charge. The prohibition against transfer of title shall not be stayed pending the determination of an appeal from the conviction.

(a) A vehicle encumbered by a bona fide security interest may be transferred to the secured party or to a person designated by the secured party;

(b) A leased or rented vehicle may be transferred to the lessor, rental agency, or to a person designated by the lessor or rental agency; and

(c) A vehicle may be transferred to a third party or a vehicle dealer who is a bona fide purchaser or may be subject to a bona fide security interest in the vehicle unless it is established that (i) in the case of a purchase by a third party or vehicle dealer, such party or dealer had actual notice that the vehicle was subject to the prohibition prior to the purchase, or (ii) in the case of a security interest, the holder of the security interest had actual notice that the vehicle was subject to the prohibition prior to the encumbrance of title.

(2) On conviction for a violation of either RCW 46.20.740, 46.61.502, or 46.61.504 or any similar municipal ordinance where the person convicted has a prior offense within seven years as defined in RCW 46.61.5055, the motor vehicle the person was driving or over which the person had actual physical control at the time of the offense, if the person has a financial interest in the vehicle, the court shall consider at sentencing whether the vehicle shall be seized and forfeited pursuant to this section if a seizure or forfeiture has not yet occurred.

(3) A vehicle subject to forfeiture under this chapter may be seized by a law enforcement officer of this state upon process issued by a court of competent

jurisdiction. Seizure of a vehicle may be made without process if the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) Seizure under subsection (3) of this section automatically commences proceedings for forfeiture. The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized vehicle to be served within fifteen days after the seizure on the owner of the vehicle seized, on the person in charge of the vehicle, and on any person having a known right or interest in the vehicle, including a community property interest. The notice of seizure may be served by any method authorized by law or court rule, including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected on a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the vehicle is deemed forfeited.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person

seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the vehicle is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the vehicle involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the legal owner or the person claiming to have the lawful right to possession of the vehicle. The seizing law enforcement agency shall promptly return the vehicle to the claimant upon a determination by the administrative law judge or court that the claimant is the present legal owner under this title or is lawfully entitled to possession of the vehicle.

(7) When a vehicle is forfeited under this chapter the seizing law enforcement agency may sell the vehicle, retain it for official use, or upon application by a law enforcement agency of this state release the vehicle to that agency for the exclusive use of enforcing this title; provided, however, that the agency shall first satisfy any bona fide security interest to which the vehicle is subject under subsection (1)(a) or (c) of this section.

(8) When a vehicle is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the vehicle, the disposition of the vehicle, the value of the vehicle at the time of seizure, and the amount of proceeds realized from disposition of the vehicle.

(9) Each seizing agency shall retain records of forfeited vehicles for at least seven years.

(10) Each seizing agency shall file a report including a copy of the records of forfeited vehicles with the state treasurer each calendar quarter.

(11) The quarterly report need not include a record of a forfeited vehicle that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(12) By January 31st of each year, each seizing agency shall remit to the state (~~treasurer~~) an amount equal to ten percent of the net proceeds of vehicles forfeited during the preceding calendar year (~~(Money remitted shall be deposited in the state general fund)~~) for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.

(13) The net proceeds of a forfeited vehicle is the value of the forfeitable interest in the vehicle after deducting the cost of satisfying a bona fide security interest to which the vehicle is subject at the time of seizure; and in the case of a sold vehicle, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(14) The value of a sold forfeited vehicle is the sale price. The value of a retained forfeited vehicle is the fair market value of the vehicle at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing. A seizing agency may, but need not, use an independent qualified appraiser to determine the value of retained vehicles. If an appraiser is used, the value of the vehicle appraised is net of the cost of the appraisal.

**Sec. 3.** RCW 10.105.010 and 2009 c 479 s 15 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the

commission of a felony. No property may be forfeited under this section until after there has been a superior court conviction of the owner of the property for the felony in connection with which the property was employed, furnished, or acquired.

A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if at the time the security interest was created, the secured party neither had knowledge of nor consented to the commission of the felony.

(2) Personal property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding;

(c) A law enforcement officer has probable cause to believe that the property is directly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in the commission of a felony.

(3) In the event of seizure pursuant to this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. The notice of seizure may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a

financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(5) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. The seizing law enforcement



agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(6) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the criminal law;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public.

(7) By January 31st of each year, each seizing agency shall remit to the state (~~(treasurer)~~) an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year (~~(Money remitted shall be deposited in the state general fund)~~) for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.

(a) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(b) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(c) Retained property and net proceeds not required to be (~~(paid)~~) remitted to the state (~~(treasurer)~~), or otherwise

required to be spent under this section, shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

**Sec. 4.** RCW 9.68A.120 and 2014 c 188 s 3 are each amended to read as follows:

The following are subject to seizure and forfeiture:

(1) All visual or printed matter that depicts a minor engaged in sexually explicit conduct.

(2) All raw materials, equipment, and other tangible personal property of any kind used or intended to be used to manufacture or process any visual or printed matter that depicts a minor engaged in sexually explicit conduct, and all conveyances, including aircraft, vehicles, or vessels that are used or intended for use to transport, or in any manner to facilitate the transportation of, visual or printed matter in violation of RCW 9.68A.050 or 9.68A.060, but:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) No property is subject to forfeiture under this section by reason of any act or omission established by the owner of the property to have been committed or omitted without the owner's knowledge or consent;

(c) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(d) When the owner of a conveyance has been arrested under this chapter the conveyance may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest.

(3) All personal property, moneys, negotiable instruments, securities, or other tangible or intangible property furnished or intended to be furnished by any person in exchange for visual or printed matter depicting a minor engaged

in sexually explicit conduct, or constituting proceeds traceable to any violation of this chapter.

(4) Property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(5) In the event of seizure under subsection (4) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(6) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of seized items within forty-five days of the seizure, the item seized shall be deemed forfeited.

(7) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of seized items within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim

or right. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. The hearing before an administrative law judge and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the seized items. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is lawfully entitled to possession thereof of the seized items.

(8) If property is sought to be forfeited on the ground that it constitutes proceeds traceable to a violation of this chapter, the seizing law enforcement agency must prove by a preponderance of the evidence that the property constitutes proceeds traceable to a violation of this chapter.

(9) When property is forfeited under this chapter the seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release the property to that agency for the exclusive use of enforcing this chapter or chapter 9A.88 RCW;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public; or

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law.

(10) (a) By January 31st of each year, each seizing agency shall remit to the state (~~treasurer~~) an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the prostitution prevention and intervention account under RCW 43.63A.740.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to an independent selling agency.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure determined when possible by reference to an applicable commonly used index. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(11) Forfeited property and net proceeds not required to be ~~((paid))~~ remitted to the state ~~((treasurer))~~ under this chapter shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Money remaining after payment of these expenses shall be retained by the seizing law enforcement agency for the exclusive use of enforcing the provisions of this chapter or chapter 9A.88 RCW.

**Sec. 5.** RCW 9A.88.150 and 2014 c 188 s 4 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) Any property or other interest acquired or maintained in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070 to the extent of the investment of funds, and any appreciation or income attributable to the investment, from a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(b) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate a violation of RCW

9.68A.100, 9.68A.101, or 9A.88.070, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(iv) When the owner of a conveyance has been arrested for a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(c) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(d) All proceeds traceable to or derived from an offense defined in RCW 9.68A.100, 9.68A.101, or 9A.88.070 and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate commission of the offense;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(f) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070,

all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(f), to the extent of the interest of an owner, by reason of any act or omission, which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(g) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, if a substantial nexus exists between the violation and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this section may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until

ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding; or

(c) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including, but not limited to, service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within

the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking

removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter, the seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release the property to that agency for the exclusive use of enforcing this chapter or chapter 9.68A RCW;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public; or

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law.

(8) (a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9) (a) By January 31st of each year, each seizing agency shall remit to the state (~~(treasurer)~~) an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the prostitution prevention and intervention account under RCW 43.63A.740.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (12) of this section.

(c) The value of sold forfeited property is the sale price. The value of destroyed property and retained firearms or illegal property is zero.

(10) Net proceeds not required to be (~~paid~~) remitted to the state (~~(treasurer)~~) shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Money remaining after payment of these expenses shall be retained by the seizing law enforcement agency for the exclusive use of enforcing the provisions of this chapter or chapter 9.68A RCW.

(11) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the

assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(12) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (9) of this section, only if:

(a) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence;

(b) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section:

(i) Only if the funds applied under (b) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(ii) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty day period. Nothing in this section requires the claim to be paid by the end of the sixty day or thirty day period; and

(c) For any claim filed under (b) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(13) The landlord's claim for damages under subsection (12) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (9) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (12) of this section.

(14) Subsections (12) and (13) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (12) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

**Sec. 6.** RCW 43.79A.040 and 2021 c 175 s 10 and 2021 c 108 s 5 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased

banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship (~~((account))~~) account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship

account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average

daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 7.** This act takes effect July 1, 2022."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

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

Referred to Committee on Rules for second reading.

February 24, 2022

2SSB 5736

Prime Sponsor, Committee on Ways & Means: Concerning partial hospitalizations and intensive outpatient treatment services for minors. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking



Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5748 Prime Sponsor, Senator Schoesler: Concerning disability benefits in the public safety employees' retirement system. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 24, 2022

SSB 5791 Prime Sponsor, Committee on Ways & Means: Concerning law enforcement officers' and firefighters' retirement system benefits. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 24, 2022

SSB 5814 Prime Sponsor, Committee on Human Services, Reentry & Rehabilitation: Providing funding for medical evaluations of suspected victims of child abuse. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary,

Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

ESSB 5815 Prime Sponsor, Committee on Transportation: Implementing an identicard program to provide individuals a Washington state-issued identicard. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Dent; Donaghy; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; McCaslin; Orcutt; Paul; Ramel; Riccelli; Slatter; Sutherland; Taylor; Valdez; Walsh and Wicks.

Referred to Committee on Rules for second reading.

February 28, 2022

ESSB 5853 Prime Sponsor, Committee on Transportation: Establishing a limited project regarding leasing certain department of transportation property in order to remedy past impacts to historically marginalized populations. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Berry; Chapman; Donaghy; Duerr; Entenman; Hackney; Paul; Ramel; Riccelli; Slatter; Taylor; Valdez and Wicks.

MINORITY recommendation: Without recommendation. Signed by Representatives Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Dent; Griffey; McCaslin; Orcutt and Walsh.

MINORITY recommendation: Do not pass. Signed by Representatives Goehner; Klicker and Sutherland.

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5863** Prime Sponsor, Committee on Transportation: Concerning the removal of vehicles by a regional transit authority when obstructing the operation of high capacity transportation vehicles or jeopardizing public safety. Reported by Committee on Transportation

**MAJORITY recommendation: Do pass as amended.**

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 46.55.010 and 2005 c 88 s 2 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in the operator's possession for one hundred twenty consecutive hours.

(2) "Immobilize" means the use of a locking wheel boot that, when attached to the wheel of a vehicle, prevents the vehicle from moving without damage to the tire to which the locking wheel boot is attached.

(3) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(4) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds—public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(5) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield, or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

(6) "Master log" means the document or an electronic facsimile prescribed by the department and the Washington state patrol in which an operator records transactions involving impounded vehicles.

(7) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

(8) "Residential property" means property that has no more than four living units located on it.

(9) "Suspended license impound" means an impound ordered under RCW 46.55.113 because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345.

(10) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the state patrol.

(11) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(12) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(13) "Tow truck service" means the transporting upon the public streets and highways of this state of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(14) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

(a) Public locations:

(i) Constituting an accident or a traffic hazard as

defined in RCW 46.55.113 Immediately

- (ii) On a highway and tagged as described in RCW 46.55.085 24 hours
- (iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 Immediately
- (iv) Within the right of way used by a regional transit authority for high capacity transportation where the vehicle constitutes an obstruction to the operation of high capacity transportation vehicles or jeopardizes public safety Immediately
- (b) Private locations:
- (i) On residential property Immediately
- (ii) On private, nonresidential property, properly posted under RCW 46.55.070 Immediately
- (iii) On private, nonresidential property, not posted 24 hours

**Sec. 2.** RCW 46.55.080 and 2018 c 22 s 12 are each amended to read as follows:

(1) If a vehicle is in violation of the time restrictions of RCW 46.55.010(14), it may be impounded by a registered tow truck operator at the direction of a law enforcement officer, authorized regional transit authority representative under the conditions described in RCW 46.55.010(14)(a)(iv), or other public official with jurisdiction if the vehicle is on public property, or at the direction of the property owner or an agent if it is on private property. A law enforcement

officer may also direct the impoundment of a vehicle pursuant to a writ or court order.

(2) The person requesting a private impound or a law enforcement officer, authorized regional transit authority representative, or public official requesting a public impound shall provide a signed authorization for the impound at the time and place of the impound to the registered tow truck operator before the operator may proceed with the impound. A registered tow truck operator, employee, or his or her agent may not serve as an agent of a property owner for the purposes of signing an impound authorization or, independent of the property owner, identify a vehicle for impound.

(3) In the case of a private impound, the impound authorization shall include the following statement: "A person authorizing this impound, if the impound is found in violation of chapter 46.55 RCW, may be held liable for the costs incurred by the vehicle owner."

(4) A registered tow truck operator shall record and keep in the operator's files the date and time that a vehicle is put in the operator's custody and released. The operator shall make an entry into a master log regarding transactions relating to impounded vehicles. The operator shall make this master log available, upon request, to representatives of the department or the state patrol.

(5) A person who engages in or offers to engage in the activities of a registered tow truck operator may not be associated in any way with a person or business whose main activity is authorizing the impounding of vehicles."

Correct the title.

Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Dent; Donaghy; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; McCaslin; Orcutt; Paul; Ramel; Riccelli; Slatter; Sutherland; Taylor; Valdez; Walsh and Wicks.

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5907** Prime Sponsor, Committee on Transportation: Concerning roadside safety measures. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** This act may be known and cited as the Arthur Anderson and Raymond Mitchell tow operators safety act.

**Sec. 2.** RCW 46.37.196 and 1977 ex.s. c 355 s 16 are each amended to read as follows:

All emergency tow trucks shall be identified by an intermittent or revolving red light capable of 360(<sup>2</sup>) degree visibility at a distance of five hundred feet under normal atmospheric conditions. ~~((This intermittent or revolving red light shall be used only at the scene of an emergency or accident, and it will be unlawful to use such light while traveling to or from an emergency or accident, or for any other purposes.))~~ The emergency tow trucks may also operate rear facing blue lights for use only at the scene of an emergency or accident. The red lights may be used when the tow truck is reentering the roadway from the scene of an emergency or accident for a reasonable distance to reach operating speed from the scene, and the combination of red and blue lights may be used only at the scene of an emergency or accident. It is unlawful to use the combination of lights when traveling to or from the scene of an accident or for any other purpose.

**Sec. 3.** RCW 46.61.212 and 2019 c 106 s 1 are each amended to read as follows:

(1) An emergency or work zone is defined as the adjacent lanes of the roadway ~~((two hundred))~~ 200 feet before and after:

(a) A stationary authorized emergency vehicle that is making use of audible and/or visual signals meeting the requirements of RCW 46.37.190;

(b) A tow truck that is making use of visual ~~((red))~~ lights meeting the requirements of RCW 46.37.196;

(c) Other vehicles providing roadside assistance that are making use of warning lights with ~~((three hundred sixty))~~ 360 degree visibility;

(d) A police vehicle properly and lawfully displaying a flashing, blinking, or alternating emergency light or lights; or

(e) A stationary or slow moving highway construction vehicle, highway maintenance vehicle, solid waste vehicle, or utility service vehicle making use of flashing lights that meet the requirements of RCW 46.37.300 or warning lights with ~~((three hundred sixty))~~ 360 degree visibility.

(2) The driver of any motor vehicle, upon approaching an emergency or work zone, shall:

(a) On a highway having four or more lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution, reduce the speed of the vehicle, and, if the opportunity exists, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change or moving away from the lane or shoulder occupied by an emergency or work zone vehicle identified in subsection (1) of this section;

(b) On a highway having less than four lanes, proceed with caution, reduce the speed of the vehicle, and, if the opportunity exists, with due regard for safety and traffic conditions, and under the rules of this chapter, yield the right-of-way by passing to the left at a safe distance and simultaneously yield the right-of-way to all vehicles traveling in the proper direction upon the highway; or

(c) If changing lanes or moving away would be unsafe, proceed with due caution and continue to reduce the speed of the vehicle to at least ~~((ten))~~ 10 miles per hour below the posted speed limit, except for when the posted speed limit exceeds 60 miles per hour or more, then reduce the speed of the vehicle to 50 miles per hour or lower.

(3) A person may not drive a vehicle in an emergency or work zone at a speed greater than the posted speed limit or greater than what is permitted under subsection (2) (c) of this section.

(4) A person found to be in violation of this section, or any infraction relating to speed restrictions in an emergency or work zone, must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110.

This penalty may not be waived, reduced, or suspended.

(5) A person who drives a vehicle in an emergency or work zone in such a manner as to endanger or be likely to endanger any emergency or work zone worker or property is guilty of reckless endangerment of emergency or work zone workers. A violation of this subsection is a gross misdemeanor punishable under chapter 9A.20 RCW.

(6) The department shall suspend for ~~(sixty)~~ 60 days the driver's license, permit to drive, or nonresident driving privilege of a person convicted of reckless endangerment of emergency or work zone workers.

NEW SECTION. Sec. 4. A new section is added to chapter 46.08 RCW to read as follows:

The department shall develop an appropriate training module relating to the requirements of RCW 46.61.212, for inclusion in all new driver training curricula.

NEW SECTION. Sec. 5. A new section is added to chapter 46.20 RCW to read as follows:

(1) The department shall provide each driver's license, identicard, instruction permit, intermediate license, and commercial driver's license applicant with written materials regarding the contents and requirements of RCW 46.61.212, the slow down and move over law, at the completion of the applicant's licensing transaction.

(2) The department shall place signage in each of the licensing service offices that provide background on the written materials that the applicant will receive regarding the slow down and move over law.

NEW SECTION. Sec. 6. A new section is added to chapter 47.04 RCW to read as follows:

The department shall substantially increase the use of roadway signage and electronic display sign boards along roadways in the state to reflect the requirements and penalties associated with a violation of RCW 46.61.212.

NEW SECTION. Sec. 7. By January 31, 2023, the department of licensing and the Washington traffic safety commission, working independently or in collaboration or both, shall develop a

statewide public awareness campaign to inform and educate Washington citizens about the slow down and move over law, RCW 46.61.212. The educational campaign must include the use of public service announcements and written and digital informative and educational materials distributed by all reasonable means possible. The department of licensing and the Washington traffic safety commission, working independently or in collaboration or both, shall develop the public awareness campaign using all available resources, as well as federal and other grant funds that may, from time to time, become available.

NEW SECTION. Sec. 8. Section 4 of this act takes effect October 1, 2023.

NEW SECTION. Sec. 9. Section 5 of this act takes effect October 30, 2022."

Correct the title.

Signed by Representatives Fey, Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry; Chapman; Dent; Donaghy; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; McCaslin; Orcutt; Paul; Ramel; Riccelli; Slatter; Sutherland; Taylor; Valdez; Walsh and Wicks.

Referred to Committee on Rules for second reading.

## 2<sup>ND</sup> SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

February 28, 2022

### HB 1682

Prime Sponsor, Representative Fitzgibbon: Concerning a compliance pathway specific to emissions-intensive, trade-exposed businesses for achieving their proportionate share of the state's emissions reduction limits through 2050. Reported by Committee on Appropriations

**MAJORITY recommendation:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Environment & Energy. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Caldier; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Harris; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

**MINORITY recommendation:** Without recommendation. Signed by Representatives Chambers,

Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Chandler; Dye; Hoff; Jacobsen and Schmick.

Referred to Committee on Rules for second reading.

February 28, 2022

HB 1850 Prime Sponsor, Representative Slatter: Protecting and enforcing the foundational data privacy rights of Washingtonians. Reported by Committee on Appropriations

MAJORITY recommendation: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Civil Rights & Judiciary. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Johnson, J.; Lekanoff; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representative Pollet.

MINORITY recommendation: Do not pass. Signed by Representatives Bergquist, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Dye; Harris; Hoff; Jacobsen; Rude; Schmick and Steele.

Referred to Committee on Rules for second reading.

February 28, 2022

HB 1988 Prime Sponsor, Representative Shewmake: Concerning tax deferrals for investment projects in clean technology manufacturing, clean alternative fuels production, and renewable energy storage. Reported by Committee on Appropriations

MAJORITY recommendation: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Finance. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representative Harris.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier;

Chandler; Dye; Hoff; Jacobsen; Rude; Schmick and Steele.

Referred to Committee on Rules for second reading.

February 28, 2022

HB 2018 Prime Sponsor, Representative Paul: Creating a three-day shop local and save sales and use tax holiday to benefit all Washington families for certain items \$1,000 or less during the month of September. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chopp; Cody; Dolan; Dye; Frame; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Chandler; Fitzgibbon and Pollet.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member and Hansen.

Referred to Committee on Rules for second reading.

February 28, 2022

HB 2124 Prime Sponsor, Representative Riccelli: Concerning extending collective bargaining to legislative employees. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Chandler; Dye; Hoff; Jacobsen; Schmick and Steele.

MINORITY recommendation: Without recommendation. Signed by Representatives Caldier; Harris and Rude.

February 28, 2022

E2SSB 5155 Prime Sponsor, Committee on Ways & Means: Concerning prejudgment interest. Reported by Committee on Appropriations

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.56.110 and 2019 c 371 s 1 are each amended to read as follows:

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3) (a) ~~((Judgments))~~ (i) Except as otherwise provided in this subsection (3), judgments founded on the tortious conduct of a "public agency" as defined in RCW 42.30.020 shall bear interest from the date ((of entry)) the cause of action accrued at two percentage points above the equivalent coupon issue yield, as published by the board of governors of the federal reserve system, of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately preceding the date of entry. ((In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.))

(ii) Judgments founded on tortious conduct that occurred while the plaintiff was a minor shall bear interest at the same rate as in (a)(i) of this subsection (3) from the date the action is commenced or the date the minor attains the age of eighteen years, whichever is earlier.

(b) (i) Except as otherwise provided in ((a) or (f)) this subsection (3), judgments founded on the tortious conduct of individuals or other entities that are not a "public agency" as defined in RCW 42.30.020, whether acting in their personal or representative capacities, shall bear interest from the date ((of entry)) the cause of action accrued at two percentage points above the prime rate, as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry. ((In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.))

(ii) Judgments founded on tortious conduct that occurred while the plaintiff was a minor shall bear interest at the same rate as in (b)(i) of this subsection (3) from the date the action is commenced or the date the minor attains the age of eighteen years, whichever is earlier.

(c) For judgments pursuant to (a) and (b) of this subsection (3), any interest incurred prior to the date the judgment is entered applies only to arbitration awards and judgments entered following trial of the matter. All other judgments founded on tortious conduct bear interest from the date of entry.

(4) Except as provided under subsection (1) of this section, judgments for unpaid private student loan debt, as defined in RCW 6.01.060, shall bear interest from the date of entry at two percentage points above the prime rate, as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry.

(5) Except as provided under subsection (1) of this section, judgments for unpaid consumer debt, as defined in RCW 6.01.060, shall bear interest from the date of entry at a rate of nine percent.

(6) Except as provided under subsections (1) through (5) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof. In any case where

a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. The method for determining an interest rate prescribed by this subsection is also the method for determining the "rate applicable to civil judgments" for purposes of RCW 10.82.090.

NEW SECTION. Sec. 2. RCW 4.56.111 (Interest on judgments—Rate) and 2010 c 149 s 2 are each repealed."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Stonier and Sullivan.

MINORITY recommendation: Without recommendation. Signed by Representative Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Dye; Harris; Hoff; Jacobsen; Rude; Schmick; Springer and Steele.

Referred to Committee on Rules for second reading.

February 28, 2022

2SSB 5241 Prime Sponsor, Committee on Ways & Means: Promoting economic inclusion. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Housing, Human Services & Veterans.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature declares that economic inclusion shall be a top priority of Washington state's economic recovery. The legislature finds that the novel coronavirus has had a disproportionate effect upon at-risk communities. The legislature recognizes that for communities to thrive and remain vibrant, that recovery needs to be inclusive of people who are furthest away from opportunity and disproportionately more likely to experience economic

hardship. The legislature acknowledges that stand-alone human service programs meet a pressing need but can be difficult to access for those lacking the resources to do so. The legislature recognizes that barriers to access can delay reentry into the workforce and career development. The legislature finds that leveraging or supporting the integration of existing benefits and services whenever possible will help people access the benefits they need to help them move out of poverty, without creating another duplicative system. The legislature finds that incorporating people with lived experience into systems development can help improve meaningful access to state programs. The legislature, therefore, intends to help facilitate an inclusive economic recovery by creating an economic inclusion grant program to provide greater access to resources for those in need.

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

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

(2) "People experiencing poverty" means households whose income are at or below 200 percent of the federal poverty level.

(3) "Rural counties" has the same meaning as provided for in RCW 82.14.370.

(4) "Self-sufficiency" means a level of household income that is equal to or more than the self-sufficiency standard for a household as determined by the University of Washington's self-sufficiency calculator.

(5) "Steering committee" means the poverty reduction work group steering committee created in response to a directive of the governor, dated November 6, 2017.

NEW SECTION. Sec. 3. (1) The department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and families, the health care authority, the steering committee, and other stakeholders as determined by the department, shall make and oversee the implementation of local economic inclusion grants available to local communities to promote equity, economic inclusion, and a stable financial



foundation for people experiencing poverty, with a particular focus on people of color and people in rural counties, primarily through better coordination of existing programs and resources. The purpose of these grants is to empower and incentivize local communities to coordinate existing poverty reduction resources and benefits to make them easier to access, get them to the people who need them, and work as a coordinated system, to help more people move out of poverty and be included in Washington's economic success.

(2) Subject to the availability of funds appropriated for this specific purpose, local economic inclusion grants shall be made available in communities throughout all regions of the state, including rural counties and urban communities for the purpose as described in subsection (1) of this section, with an emphasis on economically distressed communities as defined by the department.

(3) Recipients of local economic inclusion grants shall:

(a) Coordinate with existing local providers to make benefits easier to access and work as a coordinated system, to help more people move out of poverty and be included in Washington's economic success;

(b) Provide input to inform the work described in section 5 of this act, by identifying examples of federal regulations that prevent better local coordination and identifying other needs for additional state or federal funding for continuous improvement of the poverty reduction system in future years;

(c) Utilize the existing local workforce development councils to develop local economic inclusion grant partnerships that must include people experiencing poverty, people of color, homelessness programs, and representatives of the health care authority, community service offices, accountable communities of health, and associate development organizations, and may include other members;

(d) Coordinate leadership among the local workforce development council, associate development council, and other organizations, and utilize the workforce development council as the fiscal agent;

(e) Work with people experiencing poverty to ensure they have access to multiple benefits to help them meet their

basic needs, in alignment with local care coordination efforts, and when ready, develop individualized career plans leading to a self-sufficiency wage, which must be the level established by the University of Washington self-sufficiency standard;

(f) Provide streamlined access to local partners who can pay for education or training elements of a person's individualized career plan using federal Pell grants, the Washington college grant, or other resources;

(g) Provide streamlined access to local partners who can make monthly payments to the low-income person while in training, using existing resources such as incentive payments, work study payments, work experience payments, needs-related payments, or other financial aid or workforce development resources, as identified locally, and in consultation with technical assistance provided by the department. Such payments must work to maximize the total benefits available to the individual. To the extent possible under federal law, such payments must be structured so they do not reduce other benefits; including but not limited to the supplemental nutritional assistance program, temporary assistance for needy families, special supplemental nutrition program for women, infants, and children, medicaid, workforce innovation and opportunity act supportive services, or other financial and health benefits, and may be comparable to payments received by trade adjustment assistance or Montgomery GI beneficiaries; in order to provide stability during training and education;

(h) Through the local workforce development councils, develop a local economic inclusion grant coordination team that works to ensure easier access to all state and local government services, and identifies staff to be care and benefits navigators. These may be existing coordinators and navigators if solutions are already in place for the community to build upon rather than duplicate. The care and benefit navigators must provide convenient one-stop access to benefits available to people experiencing poverty. At a minimum, it shall be encouraged that people served by the economic inclusion grants apply for and, if eligible, receive supplemental nutritional assistance program, temporary assistance

for needy families, medicaid, workforce innovation and opportunity act supportive services, or other financial and health benefits, as deemed eligible and appropriate for each person. To the extent allowable under federal law, access to benefits may not be conditioned upon seeking employment nor limited to people pursuing individual career plans, and benefits must be available to people experiencing poverty who are in need of financial stability whether or not they are pursuing career plans;

(i) Ensure equitable access to state and local government services for people with disabilities, which may include equipment and technology purchases;

(j) Both identify where federal barriers hinder efforts to coordinate benefits for customers, and elevate those issues to the department. The department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and families, the health care authority, the steering committee, and other stakeholders as identified by the department may apply for federal waivers and propose federal law changes to make the authorizing environment better support coordinated service delivery across programs;

(k) Ensure options for career development, English language learners, and other services for both parents in two-parent families, including child care if desired by the family; and

(l) When available, use the local and state teams already in place for similar efforts, expanding the partners on those teams as needed to meet the requirements of this section.

**NEW SECTION. Sec. 4.** In managing the economic inclusion grants, the department shall consult with the steering committee. Members of the steering committee must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, as well as child care and other expenses as needed for each day a steering committee member attends meetings to provide consultative assistance to the agencies managing the economic inclusion grants; for up to 12 meetings per calendar year.

**NEW SECTION. Sec. 5.** (1) The department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and

families, the health care authority, the steering committee, and other stakeholders as identified by the department, shall develop a comprehensive list of federal waivers to remove federal barriers to coordinating service delivery across multiple programs. Where waivers are not possible, the department shall develop a comprehensive list of federal rules and or policies that are creating barriers and include this information. Information developed in this section shall be included in the annual report as provided for in subsection (4) of this section.

(2) The department of social and health services, in consultation with the department, the department of commerce, the department of children, youth, and families, the health care authority, the steering committee, and other stakeholders as determined by the department, shall further develop measures and indicators of equitable and inclusive economic recovery already underway in the department of social and health services technical advisory group on inclusive economic recovery, and apply those measures as needed to help promote economic recovery that is racially equitable and fully inclusive of people experiencing poverty, people of color, people in rural counties, people with disabilities, and other key demographics that have historically been left behind in economic recovery.

(3) In the event an applicant has not submitted adequate documentation to participate within three months after grant announcement, the agencies may redistribute the unclaimed funding to other participating local areas.

(4) By November 15, 2022, and annually thereafter, and in compliance with RCW 43.01.036, the department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and families, the health care authority, and the steering committee shall report to the governor, the appropriate committees of the legislature, and the legislative-executive work-first poverty reduction oversight task force. The annual report must include progress reports, an estimate of costs avoided by the state when a person moves out of poverty and into self-sufficiency, measures of equitable and inclusive economic

recovery, and model legislative language to further expand economic inclusion, reduce poverty, and increase coordinated service delivery across programs and agencies.

NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 43 RCW."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

ESSB 5268 Prime Sponsor, Committee on Health & Long Term Care: Transforming services for individuals with intellectual and developmental disabilities by increasing the capabilities of community residential settings and redesigning the long-term nature of intermediate care facilities. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Housing, Human Services & Veterans.

Strike everything after the enacting clause and insert the following:

**"Part 1: Increase the Capabilities of Community Residential Settings and Services**

NEW SECTION. **Sec. 1.** (1) The legislature finds that the recommendations in the December 2019 report, "Rethinking Intellectual and Developmental Disability Policy to Empower Clients, Develop Providers, and Improve Services" and recommendations in the 2021 preliminary report of the joint executive and legislative task force established in chapter 317, Laws of 2020 are the product of deliberations among a diverse and dedicated group of stakeholders and are critical to advancing the continuum of care for individuals with developmental disabilities.

(2) The legislature intends to continue efforts to expand community residential settings and supports with the goals of reducing the risk of federal divestment from Washington's intermediate care facilities and delivering appropriate care to clients of the developmental disabilities administration. To that end, the legislature finds that a reliable network of community providers is critical to meeting these goals and that community residential rates must be established at appropriate levels to ensure that individuals with intellectual and developmental disabilities have community residential options that appropriately address their needs and ensure stable, permanent outcomes.

(3) The legislature also finds that it is imperative that internal processes within the department of social and health services, including those that guide eligibility determinations, assess hours of service delivery, and measure quality of providers, be examined to ensure that these systems function in the most streamlined and efficient manner with the goal of achieving a system that has greater consistency with regard to expectations and requirements of providers and that is structured to be more person-centered and user-friendly at interface.

**Sec. 2.** RCW 43.88C.010 and 2021 c 334 s 975 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after

each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030;

(c) The number of students who are eligible for the Washington college grant program under RCW 28B.92.200 and 28B.92.205 and are expected to attend an institution of higher education as defined in RCW 28B.92.030; and

(d) The number of children who are eligible, as defined in RCW 43.216.505, to participate in, and the number of children actually served by, the early childhood education and assistance program.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) ~~((The))~~ By January 1, 2023, the caseload forecast council shall present the number of individuals who are assessed as eligible for and have requested a service through the individual and family services waiver and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(10) Beginning with the official forecast submitted in November 2022 and subject to the availability of amounts appropriated for this specific purpose, the caseload forecast council shall forecast the number of individuals who are assessed as eligible for and have requested supported living services, a service through the core waiver, an individual and family services waiver, and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(11) As a courtesy, beginning with the official forecast submitted in November 2022, the caseload forecast council shall forecast the number of individuals who are expected to reside in state-operated living alternatives administered by the developmental disabilities administration.

(12) The caseload forecast council shall forecast youth participating in the extended foster care program pursuant to RCW 74.13.031 separately from other children who are residing in foster care and who are under eighteen years of age.

~~((11))~~ (13) The caseload forecast council shall forecast the number of youth expected to receive behavioral rehabilitation services while involved in the foster care system and the number

of screened in reports of child abuse or neglect.

~~((112))~~ (14) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

~~((113))~~ (15) During the 2021-2023 fiscal biennium, and beginning with the November 2021 forecast, the caseload forecast council shall produce an unofficial forecast of the long-term caseload for juvenile rehabilitation as a courtesy.

NEW SECTION. **Sec. 3.** A new section is added to chapter 71A.18 RCW to read as follows:

(1) Expenditures for the individual and family services waiver and the basic plus waiver administered under Title 71A RCW must be considered by the governor and the legislature for inclusion in maintenance level budgets beginning with the governor's budget proposal submitted in December 2022 and funding for these expenditures are subject to amounts appropriated for this specific purpose. The department of social and health services must annually submit a budget request for these expenditures.

(2) Beginning with the governor's budget proposal submitted in December 2022 and within the department's existing appropriations, the department of social and health services must annually submit a budget request for expenditures for the number of individuals who are expected to reside in state-operated living alternatives administered by the developmental disabilities administration under Title 71A RCW.

NEW SECTION. **Sec. 4.** (1) With consideration to legislative intent to expand community residential settings, and within the department's existing appropriations, the department of social and health services shall examine the need for community respite beds to serve eligible individuals and stabilization, assessment, and intervention beds to provide crisis stabilization services for individuals with complex behavioral needs. No later than October 1, 2022, the department of social and health services must submit a preliminary report to the governor and the legislature that estimates the number of beds needed in fiscal years 2023 through 2025, recommends geographic locations of these beds, provides options for contracting with community providers for these beds,

provides options for utilizing existing intermediate care facilities to meet these needs, includes the average length of stay for clients residing in state-operated intermediate care facilities, and recommends whether or not an increase to respite hours is needed. A progress report is due on October 1, 2023, and a final report of this information shall be submitted no later than October 1, 2024.

(2) This section expires January 1, 2025.

NEW SECTION. **Sec. 5.** (1) The department of social and health services must contract with a private vendor for a study of medicaid rates for contracted community residential service providers. The study must be submitted to the governor and the appropriate committees of the legislature no later than December 1, 2023, and must include:

(a) A recommendation of rates needed for facilities to cover their costs and adequately recruit, train, and retain direct care professionals;

(b) Recommendations for an enhanced rate structure, including when and for whom this rate structure would be appropriate; and

(c) An assessment of options for an alternative, opt-in rate structure for contracted supported living providers who voluntarily serve individuals with complex behaviors, complete additional training, and submit to additional monitoring.

(2) This section expires January 31, 2024.

NEW SECTION. **Sec. 6.** (1) With consideration to legislative intent to expand community residential settings and within the department's existing appropriations, the department of social and health services shall submit by October 1, 2022, a five-year plan to phase-in the appropriate level of funding and staffing to achieve case management ratios of one case manager to no more than 35 clients. The five-year plan must include:

(a) An analysis of current procedures to hire and train new staff within the developmental disabilities administration of the department of social and health services;

(b) Identification of any necessary changes to these procedures to ensure a

more efficient and timely process for hiring and training staff; and

(c) Identification of the number of new hires needed on an annual basis to achieve the phased implementation included in the five-year plan.

(2) This section expires January 31, 2024.

**NEW SECTION. Sec. 7.** (1) Within the department's existing appropriations, and no later than June 30, 2023, the department of social and health services in collaboration with appropriate stakeholders shall develop uniform quality assurance metrics that are applied across community residential settings, intermediate care facilities, and state-operated nursing facilities. The department of social and health services must submit a report of these activities to the governor and the legislature no later than June 30, 2023.

(2) This section expires July 31, 2023.

**NEW SECTION. Sec. 8.** (1) The joint legislative audit and review committee shall:

(a) Review the developmental disabilities administration's existing processes and staffing methodology used for determining eligibility, assessing for eligibility, delivering services, and managing individuals who are waiting for services;

(b) Review best practices from other states regarding eligibility determination, eligibility assessment, service delivery, management of individuals who are waiting for services, and staffing models; and

(c) Identify options for streamlining the eligibility, assessment, service delivery, and management of individuals who are waiting for services processes and the potential staffing impacts.

(2) The joint legislative audit and review committee shall report its findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2024.

(3) This section expires January 31, 2025.

**Part 2: Improve Cross-System Coordination**

**NEW SECTION. Sec. 9.** An individual's disability will often overshadow other

medical or functional needs which can result in missed connections and poor outcomes. It is the intent of the legislature that cross-system coordination involving individuals with intellectual and developmental disabilities be improved to ensure that these individuals receive the appropriate types of services and supports when they are needed to adequately address mental health conditions, medical conditions, individual preferences, and the natural aging process.

**NEW SECTION. Sec. 10.** (1) Within the department's existing appropriations, the department of social and health services shall work with the developmental disabilities council to:

(a) Coordinate collaboration efforts among relevant stakeholders to develop and disseminate best practices related to serving individuals with co-occurring intellectual and developmental disabilities and mental health conditions;

(b) Work with Washington state's apprenticeship and training council, colleges, and universities to establish medical, dental, nursing, and direct care apprenticeship programs that would address gaps in provider training and overall competence;

(c) Devise options for consideration by the governor and the legislature to prioritize funding for housing for individuals with intellectual and developmental disabilities when a lack of affordable housing is the barrier preventing an individual from moving to a least restrictive community setting; and

(d) Coordinate collaboration efforts among relevant stakeholders to examine existing law with regard to guardianship and protective proceedings and make any necessary recommendations for changes to existing law to ensure that guardianship or other protective proceedings are designed to provide individuals with intellectual and developmental disabilities with the decision-making support they require to live as independently as possible in the least restrictive environment, including consideration of mechanisms that enable regular payment for services rendered by these legal representatives when appropriate.

(2) Within the department's existing appropriations, the department of social and health services shall work with the health care authority and Washington state's managed care organizations to establish the necessary agreements for intellectual and developmental disabilities clients who live in the community to access intermediate care facility-based professionals to receive care covered under the state plan. The department of social and health services must consider methods to deliver these services at mobile or brick-and-mortar clinical settings in the community.

(3) No later than December 1, 2022, the department of social and health services shall submit a report describing the efforts outlined in subsections (1) and (2) of this section and any recommendations for policy or fiscal changes to the governor and the legislature for consideration in the 2023 legislative session.

(4) This section expires January 31, 2023.

**Part 3: Redesign State-Operated Intermediate Care Facilities to Function as Short-Term Crisis Stabilization and Intervention**

NEW SECTION. **Sec. 11.** It is the intent of the legislature that intermediate care facilities be redesigned from long-term care settings to settings that support short-term crisis stabilization and intervention and that, in order to achieve stable, permanent placements in the least restrictive settings possible, an infrastructure of procedures be developed to ensure that individuals placed in intermediate care settings remain in that setting no longer than is absolutely necessary.

NEW SECTION. **Sec. 12.** (1) Within the department of social and health services' existing appropriations, the developmental disabilities administration must develop procedures that ensure that:

(a) Clear, written, and verbal information is provided to the individual and their family member that explains:

(i) That placement in the intermediate care facility is temporary; and

(ii) What constitutes continuous aggressive active treatment and its eligibility implications;

(b) Discharge planning begins immediately upon placement of an individual within the intermediate care facility and that the individual and their family member is provided clear descriptions of all placement options and their requirements;

(c) When stabilization services are available in the community, the individual is presented with the option to receive those services in the community prior to being offered services in a state-operated intermediate care facility; and

(d) When the individual has not achieved crisis stabilization after 60 consecutive days in the state-operated intermediate care facility, the department of social and health services must convene the individual's team of care providers including, but not limited to, the individual's case manager, the individual's community-based providers, and, if applicable, the individual's managed care organization to review and make any necessary changes to the individual's care plan.

(2) Subject to funding appropriated specifically for this purpose, the department of social and health services must expand the number of family mentors and establish peer mentors to connect each client in an intermediate care facility with a mentor to assist in their transition planning.

(3) Subject to funding appropriated specifically for this purpose, the department of social and health services must make every effort to ensure the individual does not lose their community residential services while the individual is receiving stabilization services in a state-operated intermediate care facility. The department of social and health services must:

(a) Work with community residential service providers to provide a 90-day vacancy payment for individuals who are transferred from the community residential service provider to a state-operated intermediate care facility for stabilization services; and

(b) Utilize client resources or other resources to pay the rent for individuals who are facing eviction due to failure to pay the rent caused by the transfer to a state-operated intermediate care facility for stabilization services.

(4) No later than November 1, 2022, the department of social and health services must submit a report describing the efforts outlined in subsections (1) through (3) of this section and make any necessary recommendations for policy or fiscal changes to the governor and the legislature for consideration in the 2023 legislative session.

(5) This section expires January 31, 2023.

**NEW SECTION. Sec. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Calder; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5411** Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Establishing a programmatic safe harbor agreement on forestlands for northern spotted owls. Reported by Committee on Appropriations

**MAJORITY recommendation:** Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Calder; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

**2SSB 5532** Prime Sponsor, Committee on Ways & Means: Establishing a prescription drug

affordability board. Reported by Committee on Appropriations

**MAJORITY recommendation:** Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the health care authority.

(2) "Biological product" has the same meaning as in 42 U.S.C. Sec. 262(i)(1).

(3) "Biosimilar" has the same meaning as in 42 U.S.C. Sec. 262(i)(2).

(4) "Board" means the prescription drug affordability board.

(5) "Excess costs" means:

(a) Costs of appropriate utilization of a prescription drug that exceed the therapeutic benefit relative to other alternative treatments; or

(b) Costs of appropriate utilization of a prescription drug that are not sustainable to public and private health care systems over a 10-year time frame.

(6) "Generic drug" has the same meaning as in RCW 69.48.020.

(7) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005.

(8) "Manufacturer" means a person, corporation, or other entity engaged in the manufacture of prescription drugs sold in or into Washington state. "Manufacturer" does not include a private label distributor or retail pharmacy that sells a drug under the retail pharmacy's store, or a prescription drug repackager.

(9) "Prescription drug" means a drug regulated under chapter 69.41 or 69.50 RCW, including generic, brand name, specialty drugs, and biological products.

**NEW SECTION. Sec. 2. PRESCRIPTION DRUG AFFORDABILITY BOARD.** (1) The prescription drug affordability board is established, to include five members who have expertise in health care economics or clinical medicine appointed by the governor.



(2) Board members shall serve for a term of five years and members may be reappointed by the governor for additional terms.

(3) No board member or advisory group member may be an employee of, a board member of, or consultant to a prescription drug manufacturer, pharmacy benefit manager, health carrier, prescription drug wholesale distributor, or related trade association, except that a representative from the prescription drug industry serving on an advisory group may be an employee, consultant, or board member of a prescription drug manufacturer or related trade association and shall not be deemed to have a conflict of interest pursuant to subsection (4) of this section.

(4)(a) Board members, advisory group members, staff members, and contractors providing services on behalf of the board shall recuse themselves from any board activity in any case in which they have a conflict of interest.

(b) For the purposes of this section, a conflict of interest means an association, including a financial or personal association, that has the potential to bias or appear to bias an individual's decisions in matters related to the board or the activities of the board.

(5) The board shall establish advisory groups consisting of relevant stakeholders, including but not limited to patients and patient advocates for the condition treated by the drug and one member who is a representative of the prescription drug industry, for each drug affordability review conducted by the board pursuant to section 4 of this act. Advisory group members are immune from civil liability for any official act performed in good faith as a member of the group.

(6) The authority shall provide administrative support to the board and any advisory group of the board and shall adopt rules governing their operation that shall include how and when the board will use and discuss confidential information that is exempt from public disclosure. The rules adopted under this subsection may not go into effect until at least 90 days after the next regular legislative session.

(7) Board members shall be compensated for participation in the work of the board in accordance with a personal

services contract to be executed after appointment and before commencement of activities related to the work of the board.

(8) A simple majority of the board's membership constitutes a quorum for the purpose of conducting business.

(9) All meetings of the board must be open and public, except that the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

(10) The board may not hold its first meeting until at least one year after the authority publishes its first report on the impact that drug costs, rebates, and other discounts have on health care premiums pursuant to RCW 43.71C.100.

(11) The board must coordinate and collaborate with the authority, other boards, work groups, and commissions related to prescription drug costs and emerging therapies, including but not limited to the health care cost transparency board established in chapter 70.390 RCW, and the universal health care commission established in RCW 41.05.840. All coordination and collaboration by the board pursuant to this subsection must comply with chapter 42.30 RCW, the open public meetings act.

(12) The board may collaborate with prescription drug affordability boards established in other states.

**NEW SECTION. Sec. 3. AUTHORITY TO REVIEW DRUG PRICES.** By June 30, 2023, and annually thereafter, utilizing data collected pursuant to chapter 43.71C RCW, the all-payer health care claims database, or other data deemed relevant by the board, the board must identify prescription drugs that have been on the market for at least seven years, are dispensed at a retail, specialty, or mail-order pharmacy, are not designated by the United States food and drug administration under 21 U.S.C. Sec. 360bb as a drug solely for the treatment of a rare disease or condition, and meet the following thresholds:

(1) Brand name prescription drugs and biologic products that:

(a) Have a wholesale acquisition cost of \$60,000 or more per year or course of treatment lasting less than one year; or

(b) Have a price increase of 15 percent or more in any 12-month period or for a course of treatment lasting less than 12

months, or a 50 percent cumulative increase over three years;

(2) A biosimilar product with an initial wholesale acquisition cost that is not at least 15 percent lower than the reference biological product; and

(3) Generic drugs with a wholesale acquisition cost of \$100 or more for a 30-day supply or less that has increased in price by 200 percent or more in the preceding 12 months.

**NEW SECTION. Sec. 4. AFFORDABILITY REVIEWS.** (1) The board may choose to conduct an affordability review of up to 24 prescription drugs per year identified pursuant to section 3 of this act. When deciding whether to conduct a review, the board shall consider:

(a) The class of the prescription drug and whether any therapeutically equivalent prescription drugs are available for sale;

(b) Input from relevant advisory groups established pursuant to section 2 of this act; and

(c) The average patient's out-of-pocket cost for the drug.

(2) For prescription drugs chosen for an affordability review, the board must determine whether the prescription drug has led or will lead to excess costs to patients. The board may examine publicly available information as well as collect confidential and proprietary information from the prescription drug manufacturer and other relevant sources.

(3) A manufacturer must submit all requested information to the board within 30 days of the request.

(4) The authority may assess a fine of up to \$100,000 against a manufacturer for each failure to comply with an information request from the board. The process for the assessment of a fine under this subsection shall be established by the authority in rule and is subject to review under the administrative procedure act, chapter 34.05 RCW. The rules adopted under this subsection may not go into effect until at least 90 days after the next regular legislative session.

(5) When conducting a review, the board shall consider:

(a) The relevant factors contributing to the price paid for the prescription drug, including the wholesale

acquisition cost, discounts, rebates, or other price concessions;

(b) The average patient copay or other cost sharing for the drug;

(c) The effect of the price on consumers' access to the drug in the state;

(d) Orphan drug status;

(e) The dollar value and accessibility of patient assistance programs offered by the manufacturer for the drug;

(f) The price and availability of therapeutic alternatives;

(g) Input from:

(i) Patients affected by the condition or disease treated by the drug; and

(ii) Individuals with medical or scientific expertise related to the condition or disease treated by the drug;

(h) Any other information the drug manufacturer or other relevant entity chooses to provide;

(i) The impact of pharmacy benefit manager policies on the price consumers pay for the drug; and

(j) Any other relevant factors as determined by the board.

(6) In performing an affordability review of a drug the board may consider the following factors:

(a) Life-cycle management;

(b) The average cost of the drug in the state;

(c) Market competition and context;

(d) Projected revenue;

(e) Off-label usage of the drug; and

(f) Any additional factors identified by the board.

(7) All information collected by the board pursuant to this section is confidential and not subject to public disclosure under chapter 42.56 RCW.

(8) The board shall publicize which prescription drugs are subject to an affordability review before the review begins.

**NEW SECTION. Sec. 5. UPPER PAYMENT LIMITS.** (1) The authority must adopt rules setting forth a methodology established by the board for setting upper payment limits for prescription

drugs the board has determined have led or will lead to excess costs based on its affordability review. The rules adopted under this subsection may not go into effect until at least 90 days after the next regular legislative session. Each year, the board may set an upper payment limit for up to 12 prescription drugs.

(2) The methodology must take into consideration:

(a) The cost of administering the drug;

(b) The cost of delivering the drug to patients;

(c) The status of the drug on the drug shortage list published by the United States food and drug administration; and

(d) Other relevant administrative costs related to the production and delivery of the drug.

(3) The methodology determined by the board must not use quality-adjusted life years that take into account a patient's age or severity of illness or disability to identify subpopulations for which a prescription drug would be less cost-effective. For any prescription drug that extends life, the board's analysis of cost-effectiveness may not employ a measure or metric which assigns a reduced value to the life extension provided by a treatment based on a preexisting disability or chronic health condition of the individuals whom the treatment would benefit.

(4) Before setting an upper payment limit for a drug, the board must post notice of the proposed upper payment limit on the authority's website, including an explanation of the factors considered when setting the proposed limit and instructions to submit written comment. The board must provide 30 days to submit public comment.

(5) The board must monitor the supply of drugs for which it sets an upper payment limit and may suspend that limit if there is a shortage of the drug in the state.

(6) An upper payment limit for a prescription drug established by the board applies to all purchases of the drug by any entity and reimbursements for a claim for the drug by a health carrier, or a health plan offered under chapter 41.05 RCW, when the drug is dispensed or administered to an individual in the

state in person, by mail, or by other means.

(7) An employer-sponsored self-funded plan may elect to be subject to the upper payment limits as established by the board.

(8) The board must establish an effective date for each upper payment limit, provided that the upper payment limit may not go into effect until at least 90 days after the next regular legislative session and that the date is at least six months after the adoption of the upper payment limit and applies only to purchases, contracts, and plans that are issued on or renewed after the effective date.

(9) Any entity affected by a decision of the board may request an appeal within 30 days of the board's decision, and the board must rule on the appeal within 60 days. Board rulings are subject to judicial review pursuant to chapter 34.05 RCW.

(10) For any upper payment limit set by the board, the board must notify the manufacturer of the drug and the manufacturer must inform the board if it is able to make the drug available for sale in the state and include a rationale for its decision. The board must annually report to the relevant committees of the legislature detailing the manufacturers' responses.

(11) The board may reassess the upper payment limit for any drug annually based on current economic factors.

(12) The board may not establish an upper payment limit for any prescription drug before January 1, 2027.

(13) (a) Any individual denied coverage by a health carrier for a prescription drug because the drug was unavailable due to an upper payment limit established by the board, may seek review of the denial pursuant to RCW 48.43.530 and 48.43.535.

(b) If it is determined that the prescription drug should be covered based on medical necessity, the carrier may disregard the upper payment limit and must provide coverage for the drug.

**NEW SECTION. Sec. 6. USE OF SAVINGS.**

(1) Any savings generated for a health plan, as defined in RCW 48.43.005, or a health plan offered under chapter 41.05 RCW that are attributable to the establishment of an upper payment limit established by the board must be used to

reduce costs to consumers, prioritizing the reduction of out-of-pocket costs for prescription drugs.

(2) By January 1, 2024, the board must establish a formula for calculating savings for the purpose of complying with this section.

(3) By March 1st of the year following the effective date of the first upper payment limit, and annually thereafter, each state agency and health carrier issuing a health plan in the state must submit a report to the board describing the savings in the previous calendar year that were attributable to upper payment limits set by the board and how the savings were used to satisfy the requirements of subsection (1) of this section.

**NEW SECTION. Sec. 7. MANUFACTURER WITHDRAWAL FROM THE MARKET.** (1) Any manufacturer that intends to withdraw a prescription drug from sale or distribution within the state because the board has established an upper payment limit for that drug shall provide a notice of withdrawal in writing indicating the drug will be withdrawn because of the establishment of the upper payment limit at least 180 days before the withdrawal to the office of the insurance commissioner, the authority, and any entity in the state with which the manufacturer has a contract for the sale or distribution of the drug.

(2) If a manufacturer chooses to withdraw the prescription drug from the state, it shall be prohibited from selling that drug in the state for a period of three years.

(3) A manufacturer that has withdrawn a drug from the market may petition the authority, in a form and manner determined by the authority in rule, to reenter the market before the expiration of the three-year ban if it agrees to make the drug available for sale in compliance with the upper payment limit.

(4) The rules adopted under this section may not go into effect until at least 90 days after the next regular legislative session.

**NEW SECTION. Sec. 8.** By December 15, 2022, and annually thereafter, the board shall provide a comprehensive report to the legislature detailing all actions the board has taken in the past year, including any rules adopted by the authority pursuant to this act,

establishing any processes, such as the methodology for the upper payment limit, the list of drugs identified in section 3 of this act, the drugs the board completed an affordability review of and any determinations of whether the drug had led or will lead to excess costs, and the establishment of any upper payment limits.

**NEW SECTION. Sec. 9. RULE MAKING.** The authority may adopt any rules necessary to implement this chapter. The rules adopted under this section may not go into effect until at least 90 days after the next regular legislative session.

**NEW SECTION. Sec. 10.** A new section is added to chapter 48.43 RCW to read as follows:

(1) For health plans issued or renewed on or after January 1, 2024, if the prescription drug affordability board, as established in chapter 70.--- RCW (the new chapter created in section 12 of this act), establishes an upper payment limit for a prescription drug pursuant to section 5 of this act, a carrier must provide sufficient information, as determined by the commissioner, to indicate that reimbursement for a claim for that prescription drug will not exceed the upper payment limit for the drug established by the board.

(2) The commissioner may adopt any rules necessary to implement this section.

**Sec. 11.** RCW 43.71C.100 and 2019 c 334 s 10 are each amended to read as follows:

(1) The authority shall compile and analyze the data submitted by health carriers, pharmacy benefit managers, manufacturers, and pharmacy services administrative organizations pursuant to this chapter and prepare an annual report for the public and the legislature synthesizing the data to demonstrate the overall impact that drug costs, rebates, and other discounts have on health care premiums.

(2) The data in the report must be aggregated and must not reveal information specific to individual health carriers, pharmacy benefit managers, pharmacy services administrative organizations, individual prescription drugs, individual classes of prescription drugs, individual manufacturers, or discount amounts paid

in connection with individual prescription drugs.

(3) Beginning January 1, 2021, and by each January 1st thereafter, the authority must publish the report on its web site.

(4) Except for the report, and as provided in subsection (5) of this section, the authority shall keep confidential all data submitted pursuant to RCW 43.71C.020 through 43.71C.080.

(5) For purposes of public policy, upon request of a legislator, the authority must provide all data provided pursuant to RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority. Any information provided pursuant to this subsection must be kept confidential within the legislature and may not be publicly released.

(6) For the purpose of reviewing drug prices and conducting affordability reviews, the prescription drug affordability board, as established in chapter 70.--- RCW (the new chapter created in section 12 of this act), and the health care cost transparency board, established in chapter 70.390 RCW, may access all data collected pursuant to RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority.

(7) The data collected pursuant to this chapter is not subject to public disclosure under chapter 42.56 RCW. Any information provided pursuant to this section must be kept confidential and may not be publicly released. Recipients of data under subsection (6) of this section shall:

(a) Follow all rules adopted by the authority regarding appropriate data use and protection; and

(b) Acknowledge that the recipient is responsible for any liability arising from misuse of the data and that the recipient does not have any conflicts under the ethics in public service act that would prevent the recipient from accessing or using the data.

**NEW SECTION. Sec. 12.** Sections 1 through 9 of this act constitute a new chapter in Title 70 RCW.

**Sec. 13.** RCW 42.30.110 and 2019 c 162 s 2 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing

body from holding an executive session during a regular or special meeting:

(a)(i) To consider matters affecting national security;

(ii) To consider, if in compliance with any required data security breach disclosure under RCW 19.255.010 and 42.56.590, and with legal counsel available, information regarding the infrastructure and security of computer and telecommunications networks, security and service recovery plans, security risk assessments and security test results to the extent that they identify specific system vulnerabilities, and other information that if made public may increase the risk to the confidentiality, integrity, or availability of agency security or to information technology infrastructure or assets;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally

applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1) (i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1) (i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2) (a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive

economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider information regarding staff privileges or quality improvement committees under RCW 70.41.205;

(p) To consider proprietary or confidential data collected or analyzed pursuant to chapter 70.--- RCW (the new chapter created in section 12 of this act).

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

**NEW SECTION. Sec. 14.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Harris; Johnson, J.; Lekanoff; Pollet; Ryu; Schmick; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Dye; Hoff; Jacobsen; Rude and Steele.

Referred to Committee on Rules for second reading.

February 28, 2022

**SB 5566** Prime Sponsor, Senator Kuderer: Expanding eligibility for the independent youth housing program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.63A.307 and 2009 c 148 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) "Department" means the department of ~~((community, trade, and economic development))~~ commerce.

(2) "Eligible youth" means an individual who:

(a) On or after September 1, 2006, is at least eighteen, was a dependent of the state under chapter 13.34 RCW at any time ~~((during the four month period))~~ before his or her eighteenth birthday, and has not yet reached the age of ~~((twenty-three))~~ 25;

(b) Except as provided in RCW 43.63A.309(2)(a), has a total income from all sources, except for temporary sources that include, but are not limited to, overtime wages, bonuses, or short-term temporary assignments, that does not exceed fifty percent of the area median income;

(c) ~~((Is not receiving services under RCW 74.13.031(10)(b))~~;

~~((d))~~ Complies with other eligibility requirements the department may establish.

(3) "Fair market rent" means the fair market rent in each county of the state, as determined by the United States department of housing and urban development.

(4) "Independent housing" means a housing unit that is not owned by or located within the home of the eligible youth's biological parents or any of the eligible youth's former foster care families or dependency guardians. "Independent housing" may include a unit in a transitional or other supportive housing facility.

(5) "Individual development account" or "account" means an account established by contract between a low-income individual and a sponsoring organization for the benefit of the low-income individual and funded through periodic contributions by the low-income individual that are matched with contributions by or through the sponsoring organization.

(6) "Subcontractor organization" means an eligible organization described under RCW 43.185A.040 that contracts with the department to administer the independent youth housing program.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Boehnke; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Harris; Hoff; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Caldier; Chandler; Jacobsen; Rude; Schmick and Steele.

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

Referred to Committee on Rules for second reading.

February 28, 2022

SSB 5575 Prime Sponsor, Committee on Law & Justice: Adding additional superior court judges in Snohomish county. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

SSB 5589 Prime Sponsor, Committee on Health & Long Term Care: Concerning statewide spending on primary care. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

E2SSB 5600 Prime Sponsor, Committee on Ways & Means: Concerning the sustainability and expansion of state registered apprenticeship programs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** Washington state has maintained a robust registered apprenticeship system that has created tens of thousands of high-skill, high-wage careers in traditional apprenticeship programs that are financially stable and jointly managed to ensure future generations of apprentices for high demand occupations. The earn while you learn apprenticeship model

opens opportunities to diverse groups and communities that have not been able to access traditional higher education and traditional apprenticeship programs in the past. The legislature recognizes that the COVID-19 pandemic has also created a significant dislocation and disruption of our workforce that can be repaired in part by reconnecting workers with innovative apprenticeships that lead to new career pathways. The legislature intends to encourage and foster new apprenticeship opportunities through programs sponsored by public and private entities. It is the intent of the legislature that apprenticeship programs seeking state registration receive prompt consideration with minimum delay. To achieve the goals of rebuilding a robust postpandemic workforce and undertaking active efforts to provide equity, diversity, inclusion, and accessibility in apprenticeship programs will take sustained effort and support.

NEW SECTION. **Sec. 2.** A new section is added to chapter 49.04 RCW to read as follows:

(1) For any existing active registered apprenticeship programs, or when a new program gains approval, the apprenticeship council must establish an economic or industry sector-based platform.

(2) The economic or industry sector-based platforms may be in the following areas: Building trades, manufacturing and engineering, health care and behavioral health, education and early learning, information and communications technology, biotechnology and life sciences, hospitality, and maritime. Any platform established under this section must have an equal number of employer and employee organization representatives. All platforms established under this section must:

(a) Promote collaboration within their economic or industry sector;

(b) Periodically review the required classroom and on-the-job training standards for apprenticeship programs within their economic or industry sector;

(c) Collaborate with any relevant centers of excellence in RCW 28B.50.902; and

(d) Review applications for new apprenticeship programs in the platform's economic or industry sector and make recommendations on the approval



or rejection of the applications, or suggested modifications to the applicant apprenticeship programs, to the apprenticeship council.

(3) The department of labor and industries must assign an industry liaison to support each platform.

(4) The platform must report at least annually to the apprenticeship council on the following within their economic or industry sector:

(a) Participation in existing approved apprenticeship programs;

(b) Progress in developing new apprenticeship programs; and

(c) Any review of required classroom and on-the-job training standards.

(5) The department must consult with the United States department of labor about opportunities for Washington state employers to participate in apprenticeship programs, and to pursue federal grants on behalf of state registered apprentices and apprenticeship programs.

NEW SECTION. Sec. 3. A new section is added to chapter 49.04 RCW to read as follows:

The governor shall establish a committee of state agency human resources managers to undertake the development of appropriate apprenticeship programs for state agencies. The committee will involve the exclusive collective bargaining representatives and public sector agencies conducting work study programs that enable high school graduates to achieve entry-level employment and placement in registered apprenticeship programs as potential apprenticeship pathways are considered and developed. The current registered apprenticeship program for industrial insurance at the department of labor and industries shall be consulted as a model for other agencies.

**Sec. 4.** RCW 49.04.050 and 2011 c 308 s 4 are each amended to read as follows:

(1) To be eligible for registration, apprenticeship program standards must conform to the rules adopted under this chapter.

(2) The apprenticeship council must require new apprenticeship programs seeking approval to provide an assessment for future sustainability of the program.

(3) When evaluating applications for new apprenticeship programs, the apprenticeship council must consider whether graduating apprentices will move toward a living wage, the availability of a career ladder to graduating apprentices, or the existence of other nonwage benefits as factors in the approval process.

(4) The apprenticeship council must annually report to the appropriate committees of the legislature a list of apprenticeship programs that have applied for state approval, whether those applicant apprenticeship programs have been approved or not approved, and the reasons for any denials of approval by the apprenticeship council. The apprenticeship council must provide its first report to the legislature by December 15, 2022.

NEW SECTION. Sec. 5. A new section is added to chapter 49.04 RCW to read as follows:

(1) A grant program for technology and remote learning infrastructure modernization of state registered apprenticeships is established.

(2) The department of labor and industries must manage and oversee the grant program and may establish application procedures and criteria for the receipt of grants. The department of labor and industries must require grant applications to include a plan to sustain the technology and remote learning infrastructure over time.

(3) Subject to the availability of funds appropriated for this specific purpose, the department of labor and industries may award one-time grants to state registered apprenticeship programs for modernizing technology and remote learning infrastructure.

(4) No funds from the accident fund established in RCW 51.44.010 or the medical aid fund established in RCW 51.44.020 may be used in funding the grant program established under this section.

NEW SECTION. Sec. 6. A new section is added to chapter 49.04 RCW to read as follows:

(1) A grant program for wrap-around support services to mitigate barriers to beginning or participating in state registered apprenticeship programs is established. Support services shall

include provisions for child care, health care, transportation to job sites, and other support services necessary to mitigate barriers to beginning or participating in state registered apprenticeship programs.

(2) The department of labor and industries must manage and oversee the grant program and may establish application procedures and criteria for the receipt of grants.

(3) Subject to the availability of funds appropriated for this specific purpose, the department of labor and industries may award grants to nonprofit organizations and state registered apprenticeship training committees that support individuals currently in, or seeking to enter, state registered apprenticeship programs or apprenticeship council recognized apprenticeship preparation programs by providing, or connecting apprentices to, wrap-around services, including child care, professional clothing, required tools, or transportation.

(4) No funds from the accident fund established in RCW 51.44.010 or the medical aid fund established in RCW 51.44.020 may be used in funding the grant program established under this section.

NEW SECTION. **Sec. 7.** A new section is added to chapter 49.04 RCW to read as follows:

(1) A grant program for updating equipment in state registered apprenticeship programs is established.

(2) The department of labor and industries must manage and oversee the grant program and may establish application procedures and criteria for the receipt of grants.

(3) Subject to the availability of funds appropriated for this specific purpose, the department of labor and industries may award grants to state registered apprenticeship programs to upgrade equipment necessary for the program.

(4) No funds from the accident fund established in RCW 51.44.010 or the medical aid fund established in RCW 51.44.020 may be used in funding the grant program established under this section.

NEW SECTION. **Sec. 8.** A new section is added to chapter 49.04 RCW to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the department of labor and industries must provide vouchers to cover the cost of driver's education courses for minors enrolled in a state registered apprenticeship program.

(2) The department of labor and industries may establish application and award procedures for implementing this section.

(3) No funds from the accident fund established in RCW 51.44.010 or the medical aid fund established in RCW 51.44.020 may be used in funding the voucher program established under this section.

NEW SECTION. **Sec. 9.** A new section is added to chapter 49.04 RCW to read as follows:

(1) The department of labor and industries must conduct an apprentice retention study of state registered apprentices. The study must collect data from apprentices that are six months into their apprenticeships on the barriers and challenges new apprentices encounter that may prevent them from continuing their apprenticeships.

(2) The department of labor and industries must aggregate the data collected in subsection (1) of this section by trade and post the data on a dashboard on its public website annually.

(3) The department of labor and industries must use the data collected under this section to work with apprenticeship coordinators to implement an early alert response system to connect apprentices with needed support and wrap-around services.

(4) By December 1, 2026, and in compliance with RCW 43.01.036, the department of labor and industries must submit a report to the legislature on its key findings on the barriers and challenges in retaining apprentices and its recommendations.

(5) This section expires December 31, 2027.

NEW SECTION. **Sec. 10.** (1) The department of labor and industries must develop a list of options for incentivizing apprenticeship utilization

in the private sector, especially in nontraditional industries or smaller employers that have lower apprenticeship utilization rates. The department must also assess the lack of local apprenticeship programs in rural communities and the logistical burdens, including travel time, apprentices in rural communities encounter when participating in approved apprenticeship programs and develop policy options for alleviating these issues.

(2) By September 30, 2023, and in compliance with RCW 43.01.036, the department of labor and industries must submit a report to the legislature detailing the list of options for incentivizing apprenticeship utilization and the policy option recommendations addressing apprenticeship issues in rural communities developed in subsection (1) of this section.

(3) This section expires December 31, 2023.

**NEW SECTION. Sec. 11.** (1) By December 1, 2022, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction, in collaboration with career connect Washington, must submit a report to the legislature detailing the requirements and options for, and any barriers to, high schools in this state having a career pathways day once per year for students in their junior year of high school, including any recommendations on necessary legislative actions.

(2) By December 1, 2022, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction, in collaboration with the apprenticeship section of the department of labor and industries, must submit a report to the legislature to identify opportunities and challenges for expansion, enhancement, and sustainability of high quality career and technical education. The report must identify existing state registered preapprenticeship programs and existing high school career and technical education programs that could be eligible to become state registered preapprenticeship programs.

(3) This section expires December 31, 2023.

**NEW SECTION. Sec. 12.** Section 2 of this act takes effect July 1, 2023.

**NEW SECTION. Sec. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Harris; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

**MINORITY recommendation:** Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Dye; Hoff; Rude; Schmick and Steele.

**MINORITY recommendation:** Without recommendation. Signed by Representatives MacEwen, Assistant Ranking Minority Member and Jacobsen.

Referred to Committee on Rules for second reading.

February 28, 2022

**2SSB 5619** Prime Sponsor, Committee on Ways & Means: Conserving and restoring kelp forests and eelgrass meadows in Washington state. Reported by Committee on Appropriations

**MAJORITY recommendation:** Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that coastal ecosystems and marine vegetation provide an array of valuable ecosystem goods and services to deep water and nearshore environments in Puget Sound and along the coastline. In particular, kelp forests and eelgrass meadows act as three dimensional foundations for diverse and productive nearshore ecosystems, supporting food webs and providing important habitat for a wide array of marine life, including orcas and threatened and endangered salmon and salmonid species. These marine forests and meadows play an important role in climate mitigation and adaptation by sequestering carbon and relieving impacts from ocean acidification. Marine vegetation can sequester up to 20 times more carbon than terrestrial forests, and therefore represent a critical tool in the fight against climate change.

(2) Washington state is home to 22 species of kelp and is a global hotspot for kelp diversity. However, these kelp forests are under threat and have declined in recent decades. A 2018 study conducted by the Samish Indian Nation on the bull kelp beds in the San Juan Islands found a 305-acre loss of kelp beds from 2006 to 2016, a 36 percent decline in one decade. A statewide study published in 2021 by the department of natural resources found that compared to the earliest baseline in 1878, the amount of bull kelp in 2017 had decreased by 63 percent in south Puget Sound, with individual areas showing up to 96 percent loss.

(3) The legislature also finds that kelp and eelgrass have important cultural value to northwest tribal nations and have provided diverse marine resources that have sustained and inspired indigenous traditions over generations. In particular, bull kelp has played a prominent role in traditional knowledge and technology and is used in fishing, hunting, and food preparation and storage. Decline in kelp forests threatens these uses, and the cultural livelihoods of Northwest tribal nations.

(4) Washington state's native eelgrass meadows (*Zostera marina*) also provide vital habitat for many organisms, including nursery habitat for juvenile salmon and feeder fish. Native eelgrass can provide a refuge for shellfish from the effects of ocean acidification. Native eelgrass also helps prevent erosion and maintain shoreline stability by anchoring seafloor sediment with its spreading roots and rhizomes. Native eelgrass is used as an indicator of estuary health, because of its fast response to changes in water quality. Examples of rapid native eelgrass loss include Westcott Bay in San Juan county, where in 2000 there were 37 acres of eelgrass meadows and 20 years later less than one acre remains. Changes in the abundance or distribution of this resource are likely to reflect changes in environmental conditions and therefore are key species to monitor and protect to ensure marine ecosystem health.

(5) Kelp forests and eelgrass meadows also provide and enhance diverse recreational opportunities, including productive fishing and picturesque kayaking and diving. These activities are important for local economies and for

promoting strong senses of place and overall human well-being in communities.

(6) There is a need for greater education and outreach to communities to promote sustainable recreation practices in and near native kelp forests and eelgrass meadows, such as those called for in the Puget Sound kelp conservation and recovery plan.

(7) Existing regional plans for conservation of kelp forests and eelgrass meadows, including the Puget Sound kelp conservation and recovery plan (2020) and the Puget Sound eelgrass recovery strategy (2015), identify the need to prioritize areas for conservation and restoration based on historical and current distributions.

(8) Existing state plans for combatting ocean acidification in Washington, adopted in 2013 and 2017, identify actions to advance research and explore conservation and restoration of kelp and eelgrass, along with other aquatic vegetation, to help mitigate impacts of ocean acidification locally.

(9) The legislature further finds that our terrestrial and marine ecosystems are interlinked and the state must be proactive in conserving our resources from trees to seas by protecting and restoring our marine forests and meadows in concert with conservation and reforestation of terrestrial forests. Therefore, it is the intent of the legislature to conserve and restore 10,000 acres of native kelp forests and eelgrass meadows by 2040.

**NEW SECTION. Sec. 2.** A new section is added to chapter 79.135 RCW to read as follows:

(1) The department shall, consistent with this section, and subject to available funding, work with partners to establish a native kelp forest and eelgrass meadow health and conservation plan that endeavors to, by the year 2040, conserve and restore at least 10,000 acres of native kelp forests and eelgrass meadows. The plan should proactively and systematically address:

(a) The potential loss of native kelp forest and eelgrass meadow habitat throughout Puget Sound and along the Washington state coastline;

(b) Potential current and future stressors related to the decline of

native kelp forests and eelgrass meadows;  
and

(c) Awareness, action, and engagement tools being used by public and private entities in the Puget Sound region to raise awareness of the importance of conserving and restoring native kelp forests and eelgrass meadows and reducing stressors related to their decline.

(2) The department shall develop the plan to assess and prioritize areas for coordinated conservation and restoration actions. The plan must consist of the following elements: Assessment and prioritization; identifying coordinated actions and success measures; monitoring; and reporting.

(a) The department shall, together with partners, develop a framework to identify and prioritize native kelp forest and eelgrass meadow areas in greatest need of conservation or restoration. The framework must:

(i) Incorporate conservation of native kelp forests and eelgrass meadows. Utilize and build on existing research to map and prioritize areas of native kelp forests and eelgrass meadows throughout Puget Sound and along the coast that are at highest risk of permanent loss, or contribute significant environmental, economic, and cultural benefits to tribal nations and local communities, including salmon recovery and water quality, and where opportunities for partnership and collaboration can accelerate progress towards the goal, and develop criteria by which an acre of kelp forests and eelgrass meadows can be considered to be conserved or restored;

(ii) Identify research necessary to analyze and assess potential ecological, environmental, and community benefits of aquaculture of native seaweed species;

(iii) Map and prioritize native kelp forest and eelgrass meadow areas throughout Puget Sound and along the coast where they were historically present, identifying priority locations for restoration, and where opportunities for partnership and collaboration exist that will accelerate progress towards the goal. This should include identification of sites where restoration may be possible and would most benefit nearshore ecosystem function, including where restoration could also support healthy kelp forests and eelgrass meadows, salmon recovery, water quality, and other ecosystem benefits, such as mitigating

the negative effects of ocean acidification;

(iv) Identify potential stressors impacting the health and vitality of native kelp forests and eelgrass meadows in prioritized areas in order to specifically address them in conservation and restoration efforts.

(b) In developing coordinated actions and success measures, the department shall:

(i) Conduct an assessment and inventory of existing tools relevant to conserving and restoring native kelp forests and eelgrass meadows and reducing stressors related to their decline;

(ii) Identify new or amended tools that would support the goals of the plan created under this section; and

(iii) Identify success measures to track progress toward the conservation and restoration goal.

(3) In developing the plan, the department shall:

(a) Involve impacted communities using the community engagement plan developed under RCW 70A.02.050;

(b) Consult with federally recognized tribal nations, including consultation on the cultural and ecological importance of native kelp forests and eelgrass meadows now threatened by urbanization or other disturbances;

(c) Engage and collaborate with state and federal agencies, such as the national oceanic and atmospheric administration, the Northwest straits commission, the department of ecology, the department of fish and wildlife, the Puget Sound partnership, the recreation and conservation office, and the marine resources advisory council;

(d) Engage with representatives from other stakeholder groups that may have vested and direct interest in the outcomes of the plan including, but not limited to, shellfish growers, the boating industry, and recreational user communities.

(4) (a) By December 1, 2022, the department must submit a report in compliance with RCW 43.01.036 to the office of financial management and the appropriate committees of the legislature, to include community engagement plans and schedule for plan development. The native kelp forest and

eelgrass meadow health and conservation plan must be finalized and submitted to the office of financial management and the appropriate committees of the legislature by December 1, 2023, including a map and justification of identified priority areas based on collaboratively developed criteria, and a list of potential tools and actions for conservation or restoration of these priority areas. A monitoring plan based on the identified success measures will also be submitted.

(b) Subsequently, each biennium, the department shall continue to monitor the distributions and trends of native kelp forests and eelgrass meadows to inform adaptive management of the plan and coordinated partner actions. The department shall submit a report to the legislature that describes the native kelp forest and eelgrass meadow conservation priority areas, and monitoring approaches and findings, including success measures established in the plan. Beginning December 1, 2024, and by December 1st of each even-numbered year thereafter, the department shall provide the appropriate committees of the legislature and the office of financial management with:

(i) An updated map of distributions and trends, and summary of success measures and findings, including relevant information from the prioritization process;

(ii) An updated list summarizing potential stressors, prioritized areas, and corresponding coordinated actions and success measures. The summary must include any barriers to plan implementation and legislative or administrative recommendations to address those barriers;

(iii) An update on the number of acres of native kelp forests and eelgrass meadows conserved by region, including restoration or loss in priority areas;

(iv) An update on consultation with federally recognized tribal nations; and

(v) An update on the department's community engagement plan or plans developed under RCW 70A.02.050.

NEW SECTION. **Sec. 3.** The department of natural resources shall map areas of native and nonnative kelp forests and eelgrass meadows, together with areas in which there are both native and nonnative kelp forests and eelgrass meadows,

throughout Puget Sound and along the coastline. The department of natural resources may utilize the map when establishing a native kelp forest and eelgrass meadow health and conservation plan under section 2 of this act. The map of areas of native and nonnative kelp forests and eelgrass meadows, together with areas in which there are both native and nonnative kelp forests and eelgrass meadows, must be submitted to the office of financial management and the appropriate committees of the legislature by December 1, 2023.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Calder; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

2SSB 5649 Prime Sponsor, Committee on Ways & Means: Modifying the Washington state paid family and medical leave act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Labor & Workplace Standards.

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 50A.05.010 and 2021 c 232 s 2 are each amended to read as follows:

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

(1) (a) "Casual labor" means work that:

(i) Is performed infrequently and irregularly; and

(ii) If performed for an employer, does not promote or advance the employer's customary trade or business.

(b) For purposes of casual labor:

(i) "Infrequently" means work performed twelve or fewer times per calendar quarter; and

(ii) "Irregularly" means work performed not on a consistent cadence.

(2) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(3) "Commissioner" means the commissioner of the department or the commissioner's designee.

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

(5) (a) "Employee" means an individual who is in the employment of an employer.

(b) "Employee" does not include employees of the United States of America.

(6) "Employee's average weekly wage" means the quotient derived by dividing the employee's total wages during the two quarters of the employee's qualifying period in which total wages were highest by twenty-six. If the result is not a multiple of one dollar, the department must round the result to the next lower multiple of one dollar.

(7) (a) "Employer" means: (i) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title; (ii) the state, state institutions, and state agencies; and (iii) any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.

(b) "Employer" does not include the United States of America.

(8) (a) "Employment" means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied. The term "employment" includes an individual's entire service performed within or without or both within and without this state, if:

(i) The service is localized in this state; or

(ii) The service is not localized in any state, but some of the service is performed in this state; and

(A) The base of operations of the employee is in the state, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or

(B) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(b) "Employment" does not include:

(i) Self-employed individuals;

(ii) Casual labor;

(iii) Services for remuneration when it is shown to the satisfaction of the commissioner that:

(A) (I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service; or

(B) As a separate alternative:

(I) Such individual has been and will continue to be free from control or direction over the performance of such

service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or such individual has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and

(IV) On the effective date of the contract of service, such individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and

(V) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, such individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(VI) On the effective date of the contract of service, such individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting; or

(iv) Services that require registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW rendered by an individual when:

(A) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact;

(B) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(C) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes, other than that furnished by the employer for which the business has contracted to furnish services;

(D) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(E) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(F) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting; and

(G) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW or an electrical contractor license pursuant to chapter 19.28 RCW.

(9) "Employment benefits" means all benefits provided or made available to employees by an employer, including group



life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

(10) "Family leave" means any leave taken by an employee from work:

(a) To participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;

(b) To bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of a child under the age of eighteen with the employee; ~~((or))~~

(c) Because of any qualifying exigency as permitted under the federal family and medical leave act, 29 U.S.C. Sec. 2612(a)(1)(E) and 29 C.F.R. Sec. 825.126(b)(1) through (9), as they existed on October 19, 2017, for family members as defined in subsection (11) of this section; or

(d) During the seven calendar days following the death of the family member for whom the employee:

(i) Would have qualified for medical leave under subsection (15) of this section for the birth of their child; or

(ii) Would have qualified for family leave under (b) of this subsection.

(11) "Family member" means a child, grandchild, grandparent, parent, sibling, or spouse of an employee, and also includes any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care. "Family member" includes any individual who regularly resides in the employee's home, except that it does not include an individual who simply resides in the same home with no expectation that the employee care for the individual.

(12) "Grandchild" means a child of the employee's child.

(13) "Grandparent" means a parent of the employee's parent.

(14) "Health care provider" means: (a) A person licensed as a physician under chapter 18.71 RCW or an osteopathic physician and surgeon under chapter 18.57 RCW; (b) a person licensed as an advanced registered nurse practitioner under

chapter 18.79 RCW; or (c) any other person determined by the commissioner to be capable of providing health care services.

(15) "Medical leave" means any leave taken by an employee from work made necessary by the employee's own serious health condition.

(16) "Paid time off" includes vacation leave, personal leave, medical leave, sick leave, compensatory leave, or any other paid leave offered by an employer under the employer's established policy.

(17) "Parent" means the biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse, or an individual who stood in loco parentis to an employee when the employee was a child.

(18) "Period of incapacity" means an inability to work, attend school, or perform other regular daily activities because of a serious health condition, treatment of that condition or recovery from it, or subsequent treatment in connection with such inpatient care.

(19) "Postnatal" means the first six weeks after birth.

(20) "Premium" or "premiums" means the payments required by RCW 50A.10.030 and paid to the department for deposit in the family and medical leave insurance account under RCW 50A.05.070.

~~((+20))~~ (21) "Qualifying period" means the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application for leave.

~~((+21))~~ (22) (a) "Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash.

(b) Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, is considered remuneration for the period to which it is assigned. Assignment clearly occurs when the

compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

(c) Remuneration also includes settlements or other proceeds received by an individual as a result of a negotiated settlement for termination of an individual written employment contract prior to its expiration date. The proceeds are deemed assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract.

(d) Remuneration does not include:

(i) The payment of tips;

(ii) Supplemental benefit payments made by an employer to an employee in addition to any paid family or medical leave benefits received by the employee; or

(iii) Payments to members of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

~~((422))~~ (23)(a) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

(i) Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or

(ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(A) A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(I) Treatment two or more times, within thirty days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services, such as a physical therapist, under orders of, or on referral by, a health care provider; or

(II) Treatment by a health care provider on at least one occasion which

results in a regimen of continuing treatment under the supervision of the health care provider;

(B) Any period of incapacity due to pregnancy, or for prenatal care;

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(I) Requires periodic visits, defined as at least twice a year, for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;

(II) Continues over an extended period of time, including recurring episodes of a single underlying condition; and

(III) May cause episodic rather than a continuing period of incapacity, including asthma, diabetes, and epilepsy;

(D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider, including Alzheimer's, a severe stroke, or the terminal stages of a disease; or

(E) Any period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for: (I) Restorative surgery after an accident or other injury; or (II) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

(b) The requirement in (a)(i) and (ii) of this subsection for treatment by a health care provider means an in-person visit to a health care provider. The first, or only, in-person treatment visit must take place within seven days of the first day of incapacity.

(c) Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty-day period shall be determined by the health care provider.

(d) The term extenuating circumstances in (a) (ii) (A) (I) of this subsection means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example, extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the thirty-day period, but the health care provider does not have any available appointments during that time period.

(e) Treatment for purposes of (a) of this subsection includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under (a) (ii) (A) (II) of this subsection, a regimen of continuing treatment includes, but is not limited to, a course of prescription medication, such as an antibiotic, or therapy requiring special equipment to resolve or alleviate the health condition, such as oxygen. A regimen of continuing treatment that includes taking over-the-counter medications, such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of this title.

(f) Conditions for which cosmetic treatments are administered, such as most treatments for acne or plastic surgery, are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that are not serious health conditions and do not qualify for leave under this title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this section are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(g) (i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this title.

(ii) Treatment for substance abuse does not prevent an employer from taking employment action against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take medical leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking medical leave. An employee may also take family leave to care for a covered family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a covered family member receiving treatment for substance abuse.

(h) Absences attributable to incapacity under (a) (ii) (B) or (C) of this subsection qualify for leave under this title even though the employee or the family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

~~((23))~~ (24) "Service is localized in this state" has the same meaning as described in RCW 50.04.120.

~~((24))~~ (25) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

~~((25))~~ (26) "State average weekly wage" means the most recent average

weekly wage calculated under RCW 50.04.355 and available on January 1st of each year.

~~((+26))~~ (27) "Supplemental benefit payments" means payments made by an employer to an employee as salary continuation or as paid time off. Such payments must be in addition to any paid family or medical leave benefits the employee is receiving.

~~((+27))~~ (28) "Typical workweek hours" means:

(a) For an hourly employee, the average number of hours worked per week by an employee within the qualifying period; and

(b) Forty hours for a salaried employee, regardless of the number of hours the salaried employee typically works.

~~((+28))~~ (29) "Wage" or "wages" means:

(a) For the purpose of premium assessment, the remuneration paid by an employer to an employee. The maximum wages subject to a premium assessment are those wages as set by the commissioner under RCW 50A.10.030;

(b) For the purpose of payment of benefits, the remuneration paid by one or more employers to an employee for employment during the employee's qualifying period. At the request of an employee, wages may be calculated on the basis of remuneration payable. The department shall notify each employee that wages are calculated on the basis of remuneration paid, but at the employee's request a redetermination may be performed and based on remuneration payable; and

(c) For the purpose of a self-employed person electing coverage under RCW 50A.10.010, the meaning is defined by rule.

**Sec. 2.** RCW 50A.05.090 and 2019 c 13 s 37 are each amended to read as follows:

(1) Nothing in this title 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 rights and responsibilities under this title unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(2) This section expires December 31, 2023.

**Sec. 3.** RCW 50A.15.020 and 2020 c 125 s 4 are each amended to read as follows:

(1) Beginning January 1, 2020, family and medical leave are available and benefits are payable to a qualified employee under this section.

(a) Following a waiting period consisting of the first seven consecutive calendar days, benefits are payable when family or medical leave is required. However, no waiting period is required for leave for the birth or placement of a child, or for leave because of any qualifying exigency as defined under RCW 50A.05.010(10)(c). The waiting period begins the previous Sunday of the week when an otherwise eligible employee takes leave for the minimum claim duration under subsection (2)(c) of this section. Eligible employees may satisfy the waiting period requirement while simultaneously receiving paid time off for any part of the waiting period.

(b) Benefits may continue during the continuance of the need for family or medical leave, subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in this title.

(2) The weekly benefit shall be prorated by the percentage of hours on leave compared to the number of hours provided as the typical workweek hours as defined in RCW 50A.05.010.

(a) The benefits in this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar.

(b) Hours on leave claimed for benefits under this title, if not a multiple of one hour, shall be reduced to the next lower multiple of one hour.

(c) The minimum claim duration payment is for eight consecutive hours of leave.

(3)(a) The maximum duration of paid family leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks.

(b) The maximum duration of paid medical leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks. This leave may be extended an additional two times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(c) An employee is not entitled to paid family and medical leave benefits under this title that exceeds a combined total of sixteen times the typical workweek hours. The combined total of family and medical leave may be extended to eighteen times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(4)(a) Any paid leave benefits under this chapter used in the postnatal period by an employee eligible for benefits under RCW 50A.05.010(23)(a)(ii)(B) must be medical leave, subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in this title, unless the employee chooses to use family leave during the postnatal period.

(b) Certification of a serious health condition is not required for paid leave benefits used in the postnatal period by an employee eligible for benefits under RCW 50A.05.010(23)(a)(ii)(B).

(5) The weekly benefit for family and medical leave shall be determined as follows: If the employee's average weekly wage is: (a) Equal to or less than one-half of the state average weekly wage, then the benefit amount is equal to ninety percent of the employee's average weekly wage; or (b) greater than one-half of the state average weekly wage, then the benefit amount is the sum of: (i) Ninety percent of one-half of the state average weekly wage; and (ii) fifty percent of the difference of the employee's average weekly wage and one-half of the state average weekly wage.

~~((5))~~ (6)(a) The maximum weekly benefit for family and medical leave that occurs on or after January 1, 2020, shall be one thousand dollars. By September 30, 2020, and by each subsequent September 30th, the commissioner shall adjust the maximum weekly benefit amount to ninety percent of the state average weekly wage. The adjusted maximum weekly benefit amount takes effect on the following January 1st.

(b) The minimum weekly benefit shall not be less than one hundred dollars per week except that if the employee's average weekly wage at the time of family or medical leave is less than one hundred dollars per week, the weekly benefit shall be the employee's full wage.

**Sec. 4.** RCW 50A.25.020 and 2019 c 13 s 71 are each amended to read as follows:

(1) Any information or records concerning an individual or employer obtained by the department pursuant to the administration of this title shall be private and confidential, except as otherwise provided in this chapter or RCW 50A.05.040.

(2) This chapter does not create a rule of evidence.

(3) The department must publish, on its website, a current list of all employers that have approved voluntary plans under chapter 50A.30 RCW.

**NEW SECTION. Sec. 5.** A new section is added to chapter 50A.05 RCW to read as follows:

(1) The office of actuarial services is established within the department.

(2) The head of the office must be qualified by education and experience in the field of actuarial science.

**Sec. 6.** RCW 50A.15.040 and 2019 c 13 s 6 are each amended to read as follows:

(1) Family and medical leave insurance benefits are payable to an employee during a period in which the employee is unable to perform his or her regular or customary work because he or she is on family and medical leave if the employee:

(a) Files an application for benefits as required by rules adopted by the commissioner;

(b) Has met the eligibility requirements of RCW 50A.15.010 or the elective coverage requirements under RCW 50A.10.010;

(c) Consents to the disclosure of information or records deemed private and confidential under state law. Initial disclosure of this information and these records by another state agency to the department is solely for purposes related to the administration of this title. Further disclosure of this information or these records is subject to chapter 50A.25 RCW ~~((τ))~~ and RCW 50A.05.020(3) ~~((τ))~~ and ~~((RCW))~~ 50A.20.030;

(d) Provides his or her social security number;

(e) Provides a document authorizing the family member's or employee's health care provider, as applicable, to disclose the family member's or employee's health care information in the form of the

certification of a serious health condition;

(f) Provides the employer from whom family and medical leave is to be taken with written notice of the employee's intention to take family leave in the same manner as an employee is required to provide notice in RCW 50A.15.030 and, in the employee's initial application for benefits, attests that written notice has been provided, unless notice has been waived by the employer under RCW 50A.15.030(3); and

(g) Provides documentation of a military exigency, if requested by the employer.

(2) An employee who is not in employment for an employer at the time of filing an application for benefits is exempt from subsection (1)(f) and (g) of this section.

(3) Beginning July 1, 2022, and until the 12 months after the end of the state of emergency declared by the governor due to COVID-19, the department must ask the employee applicant whether their family or medical leave is related to the COVID-19 pandemic. Initial disclosure of this information is solely for purposes related to the administration of this title, including monitoring potential impacts on the solvency and stability of the family and medical leave insurance account created in RCW 50A.05.070. Further disclosure of this information or these records is subject to chapter 50A.25 RCW and RCW 50A.05.020(3) and 50A.20.030.

**Sec. 7.** RCW 50A.05.050 and 2017 3rd sp.s. c 5 s 86 are each amended to read as follows:

(1) Beginning December 1, 2020, and annually thereafter, the department shall report to the legislature on the entire program, including:

~~((1))~~ (a) Projected and actual program participation;

~~((2))~~ (b) Premium rates;

~~((3))~~ (c) Fund balances;

~~((4))~~ (d) Benefits paid;

~~((5))~~ (e) Demographic information on program participants, including income, gender, race, ethnicity, geographic distribution by county and legislative district, and employment sector;

~~((6))~~ (f) Costs of providing benefits;

~~((7))~~ (g) Elective coverage participation;

~~((8))~~ (h) Voluntary plan participation;

~~((9))~~ (i) Outreach efforts; and

~~((10))~~ (j) Small business assistance.

(2)(a) Beginning January 1, 2023, the office of actuarial services created in section 5 of this act must annually report, by November 1st, to the advisory committee in RCW 50A.05.030 on the experience and financial condition of the family and medical leave insurance account, and the lowest future premium rates necessary to maintain solvency of the family and medical leave insurance account in the next four years while limiting fluctuation in premium rates.

(b) For calendar years 2023 through 2028, the annual reports in (a) of this subsection must be submitted to the appropriate committees of the legislature in compliance with RCW 43.01.036.

(3) Beginning October 1, 2023, the department must report quarterly to the advisory committee in RCW 50A.05.030 on premium collections, benefit payments, the family and medical leave insurance account balance, and other program expenditures.

**NEW SECTION. Sec. 8.** A new section is added to chapter 50A.05 RCW to read as follows:

(1) The office of financial management must enter into a contract with a public or private entity for actuarial services to provide a report to the appropriate committees of the legislature by October 1, 2022, on the following:

(a) The experience and financial condition of the family and medical leave insurance account created in RCW 50A.05.070;

(b) Any recommendations for options to modify the provisions of chapter 50A.10 RCW to maintain the long-term stability and solvency of the family and medical leave insurance account; and

(c) A comparison of the provisions of RCW 50A.10.030 with similar provisions in those states with both paid medical leave

insurance and paid family leave insurance programs.

(2) The contract is exempt from the competitive procurement requirements in chapter 39.26 RCW.

(3) The report in this section must comply with RCW 43.01.036.

(4) This section expires December 31, 2023.

**Sec. 9.** RCW 44.44.040 and 2019 c 363 s 22 are each amended to read as follows:

The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law.

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under RCW 41.04.276.

(7) Provide actuarial assistance to the law enforcement officers' and

firefighters' plan 2 retirement board as provided in chapter 2, Laws of 2003. Reimbursement for services shall be made to the state actuary under RCW 39.34.130 and section 5(5), chapter 2, Laws of 2003.

(8) Provide actuarial assistance to the committee on advanced tuition payment pursuant to chapter 28B.95 RCW, including recommending a tuition unit price to the committee on advanced tuition payment to be used in the ensuing enrollment period. Reimbursement for services shall be made to the state actuary under RCW 39.34.130.

(9) Provide actuarial assistance to the long-term services and supports trust commission pursuant to chapter 50B.04 RCW. Reimbursement for services shall be made to the state actuary under RCW 39.34.130.

(10) Provide actuarial assistance, as requested by the employment security department or the office of financial management, to the employment security department related to the family and medical leave program in Title 50A RCW.

**Sec. 10.** RCW 50A.25.070 and 2020 c 125 s 8 are each amended to read as follows:

(1) The department may enter into data-sharing contracts and may disclose records and information deemed confidential to state or local government agencies under this chapter only if permitted under subsection (2) of this section and RCW 50A.25.090. A state or local government agency must need the records or information for an official purpose and must also provide:

(a) An application in writing to the department for the records or information containing a statement of the official purposes for which the state or local government agency needs the information or records and specifically identify the records or information sought from the department; and

(b) A written verification of the need for the specific information from the director, commissioner, chief executive, or other official of the requesting state or local government agency either on the application or on a separate document.

(2) The department may disclose information or records deemed confidential under this chapter to the following state or local government agencies:

(a) To the department of social and health services to identify child support obligations as defined in RCW 50A.15.080;

(b) To the department of revenue to determine potential tax liability or employer compliance with registration and licensing requirements;

(c) To the department of labor and industries to compare records or information to detect improper or fraudulent claims;

(d) To the office of financial management for the purpose of conducting periodic salary or fringe benefit studies pursuant to law or for the actuarial services created under this act;

(e) To the office of the state treasurer and any financial or banking institutions deemed necessary by the office of the state treasurer and the department for the proper administration of funds;

(f) To the office of the attorney general for purposes of legal representation;

(g) To a county clerk for the purpose of RCW 9.94A.760 if requested by the county clerk's office;

(h) To the office of administrative hearings for the purpose of administering the administrative appeal process;

(i) To the department of enterprise services for the purpose of agency administration and operations; ~~((and))~~

(j) To the consolidated technology services agency for the purpose of enterprise technology support;

(k) To the office of the state actuary for the purpose of performing actuarial services to assess the financial stability and solvency of the family and medical leave program, and specifically the family and medical leave insurance account created in RCW 50A.05.070; and

(l) To the joint legislative audit and review committee, in accordance with RCW 44.28.110, for the purpose of conducting performance audits.

**NEW SECTION. Sec. 11.** (1)(a) A legislative task force on paid family and medical leave insurance premiums is established, with members as provided in this subsection.

(i) The president of the senate must appoint two members from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives must appoint two members from each of the two largest caucuses of the house of representatives.

(iii) The voting members of the advisory committee in RCW 50A.05.030.

(iv) The governor shall appoint two members, one representing the governor's office and one representing the employment security department.

(b) The task force must choose its cochairs from among its legislative membership described in (a)(i) and (ii) of this subsection.

(2) The task force must review the reports submitted under RCW 50A.05.050 and make recommendations for any legislative modifications to the provisions of chapter 50A.10 RCW to ensure the lowest future premium rates necessary to maintain solvency of the family and medical leave insurance account created in RCW 50A.05.070 in the next four years while limiting fluctuation in family and medical leave insurance premium rates.

(3)(a) Staff support for the task force must be provided by the senate committee services and the house of representatives office of program research.

(b) The staff must convene the initial meeting of the task force no later than November 4, 2022.

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

(5) The expenses of the committee must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.



(6) The task force shall issue a final report on its findings and recommendations to the governor and the appropriate committees of the legislature by December 30, 2022.

(7) This section expires January 4, 2023.

**NEW SECTION. Sec. 12.** (1) By October 1, 2024, the joint legislative audit and review committee, in consultation with the employment security department and the advisory committee in RCW 50A.05.030, must conduct a performance audit analyzing the implementation of the paid family and medical leave insurance program. The analysis must include, at a minimum, the following components:

(a) Evaluate the extent to which the department makes fair and timely decisions, and communicates with employers and workers in a timely, responsive, and accurate manner;

(b) Determine if current organization and service delivery models are the most efficient available;

(c) Determine whether current initiatives improve service delivery, meet the needs of current and future workers, and are measurable;

(d) Evaluate whether the department prepares financial information for the account under RCW 50A.05.070 in accordance with generally accepted accounting principles;

(e) Evaluate the solvency of the account under RCW 50A.05.070 taking into account insurance risks and standard accounting principles; and

(f) Make recommendations regarding administrative changes that should be made to improve efficiency while maintaining quality service to help address system costs and identify any needed legislative changes to implement these recommendations.

(2) The joint legislative audit and review committee may contract with an outside consulting firm with expertise in insurance or social insurance and insurance principles.

(3) The joint legislative audit and review committee must submit a final report on their findings to the appropriate committees of the legislature by October 1, 2024, and must submit a progress report by October 1, 2023.

(4) This section expires December 31, 2025.

**NEW SECTION. Sec. 13.** Section 8 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 14.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

2SSB 5664

Prime Sponsor, Committee on Ways & Means: Concerning forensic competency restoration programs. Reported by Committee on Appropriations

**MAJORITY recommendation:** Do pass as amended by Committee on Civil Rights & Judiciary.

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 10.77.010 and 2021 c 263 s 9 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

(2) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less-restrictive setting.

(3) "Community behavioral health agency" has the same meaning as "licensed

or certified behavioral health agency" defined in RCW 71.24.025.

(4) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(5) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(6) "Department" means the state department of social and health services.

(7) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(8) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(9) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(10) "Developmental disability" means the condition as defined in RCW 71A.10.020(5).

(11) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(12) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(13) "Habilitative services" means those services provided by program personnel to assist persons in acquiring

and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct.

(14) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

(15) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

(16) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(17) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(18) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for

proposed movement to less-restrictive settings, criteria for proposed eventual release, and a projected possible date for release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(19) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW; (~~or~~)

(c) A psychiatric advanced registered nurse practitioner, as defined in RCW 71.05.020; or

(d) A social worker with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(20) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

(21) "Secretary" means the secretary of the department of social and health services or his or her designee.

(22) "Treatment" means any currently standardized medical or mental health procedure including medication.

(23) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others.

(24) "Violent act" means behavior that: (a) (i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

(25) "Authority" means the Washington state health care authority.

**Sec. 2.** RCW 10.77.060 and 2021 c 263 s 5 are each amended to read as follows:

(1) (a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate a qualified expert or professional person, who shall be approved by the prosecuting attorney, to evaluate and report upon the mental condition of the defendant.

(b) The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. If the court is advised by any party that the defendant may have a developmental disability, the evaluation must be performed by a developmental disabilities professional and the evaluator shall have access to records of the developmental disabilities administration of the department.

(c) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant to a hospital or secure mental health facility for a period of

commitment not to exceed fifteen days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(d) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation.

(e) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

(f) When a defendant is ordered to be evaluated under this subsection (1), or when a party or the court determines at first appearance that an order for evaluation under this subsection will be requested or ordered if charges are pursued, the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the evaluation shall include the following:

(a) A description of the nature of the evaluation;

(b) A diagnosis or description of the current mental status of the defendant;

(c) If the defendant suffers from a mental disease or defect, or has a developmental disability, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a designated crisis responder under chapter 71.05 RCW.

(4) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

**Sec. 3.** RCW 10.77.068 and 2015 c 5 s 1 are each amended to read as follows:

(1)(a) The legislature establishes ~~((the following))~~ a performance ~~((targets and maximum time limits for the timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient restoration services related to competency to proceed or stand trial for adult criminal defendants))~~ target of seven days or fewer for the following services related to competency to stand trial, when access to the services is legally authorized:

(i) To extend an offer of admission to a defendant in pretrial custody for inpatient competency evaluation or inpatient competency restoration services;

(ii) To extend an offer of admission to a defendant ordered to be committed to a state hospital following dismissal of charges based on incompetency to stand trial under RCW 10.77.086; and

(iii) To complete a competency evaluation in jail and distribute the evaluation report.

(b) The legislature establishes a performance target of 21 days or fewer to complete a competency evaluation in the community and distribute the evaluation report.

(2) A maximum time limit of 14 days is established to complete the services specified in subsection (1)(a) of this section, subject to the limitations under subsection (9) of this section.

(3) The legislature recognizes that these targets may not be achievable in all cases ((without compromise to the quality of competency evaluation and restoration services)), but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy and quality of competency ((evaluations and restorations, and to otherwise make sustainable improvements

~~and track performance related to the timeliness of competency services:~~

~~(i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial:~~

~~(A) A performance target of seven days or less; and~~

~~(B) A maximum time limit of fourteen days;~~

~~(ii) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized inpatient restoration treatment related to competency:~~

~~(A) A performance target of seven days or less; and~~

~~(B) A maximum time limit of fourteen days;~~

~~(iii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody:~~

~~(A) A performance target of seven days or less; and~~

~~(B) A maximum time limit of fourteen days, plus an additional seven day extension if needed for clinical reasons to complete the evaluation at the determination of the department;~~

~~(iv) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, a performance target of twenty one days or less)) services.~~

~~((b))~~ The time periods measured in ~~((these performance targets and maximum time limits))~~ subsection (1) of this section shall run from the date on which the state hospital receives the court referral and charging documents, discovery, police reports, the names and addresses of the attorneys for the defendant and state or county, the name of the judge ordering the evaluation, information about the alleged crime, and criminal history information related to the defendant. ~~((The maximum time limits in (a) of this subsection shall be phased~~

~~in over a one year period beginning July 1, 2015, in a manner that results in measurable incremental progress toward meeting the time limits over the course of the year.~~

~~(e))~~ (4) It shall be a defense to an allegation that the department has exceeded the maximum time limits for completion of competency services described in ~~((a) of this)~~ subsection (2) of this section if the department can demonstrate by a preponderance of the evidence that the reason for exceeding the maximum time limits was outside of the department's control including, but not limited to, the following circumstances:

~~((i))~~ (a) Despite a timely request, the department has not received necessary medical ~~((clearance))~~ information regarding the current medical status of a defendant ~~((in pretrial custody for the purposes of admission to a state hospital))~~;

~~((ii))~~ (b) The individual circumstances of the defendant make accurate completion of an evaluation of competency to ~~((proceed or))~~ stand trial dependent upon review of mental health, substance use disorder, or medical history information which is in the custody of a third party and cannot be immediately obtained by the department ~~((. Completion of a competency evaluation))~~, provided that completion shall not be postponed for procurement of ((mental health, substance use disorder, or medical history)) information which is merely supplementary ((to the competency determination));

~~((iii))~~ (c) Additional time is needed for the defendant to no longer show active signs and symptoms of impairment related to substance use so that an accurate evaluation may be completed;

(d) The defendant is medically unavailable for competency evaluation or admission to a facility for competency restoration;

(e) Completion of the referral ((is frustrated by lack of)) requires additional time to accommodate the availability or participation ((by)) of counsel, ((jail or)) court personnel, interpreters, or the defendant;

~~((iv) The department does not have access to appropriate private space to~~

~~conduct a competency evaluation for a defendant in pretrial custody;~~

~~(v))~~ (f) The defendant asserts legal rights that result in a delay in the provision of competency services; or

~~((vi))~~ (g) An unusual spike in the receipt of evaluation referrals or in the number of defendants requiring restoration services has occurred, causing temporary delays until the unexpected excess demand for competency services can be resolved.

~~((2))~~ (5) The department shall provide written notice to the court when it will not be able to meet the maximum time limits under subsection (2) of this section and identify the reasons for the delay and provide a reasonable estimate of the time necessary to complete the competency service. Good cause for an extension for the additional time estimated by the department shall be presumed absent a written response from the court or a party received by the department within seven days.

(6) The department shall:

(a) Develop, document, and implement procedures to monitor the clinical status of defendants admitted to a state hospital for competency services that allow the state hospital to accomplish early discharge for defendants for whom clinical objectives have been achieved or may be achieved before expiration of the commitment period;

(b) Investigate the extent to which patients admitted to a state hospital under this chapter overstay time periods authorized by law and take reasonable steps to limit the time of commitment to authorized periods; and

(c) Establish written standards for the productivity of forensic evaluators and utilize these standards to internally review the performance of forensic evaluators.

~~((3))~~ (7) Following any quarter in which a state hospital has failed to meet one or more of the performance targets or maximum time limits ((in)) under subsection (1) or (2) of this section ((after full implementation of the performance target or maximum time limit)), the department shall report to the executive and the legislature the extent of this deviation and describe any corrective action being taken to improve performance. This report ((must)) shall

be made publicly available. An average may be used to determine timeliness under this subsection.

~~((4) Beginning December 1, 2013, the))~~ (8) The department shall report annually to the legislature and the executive on the timeliness of services related to competency to ~~((proceed or))~~ stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.

~~((5))~~ (9) This section does not create any new entitlement or cause of action related to the timeliness of competency ~~((evaluations or admission for inpatient restoration))~~ to stand trial services ~~((related to competency to proceed or stand trial))~~, nor can it form the basis for contempt sanctions under chapter 7.21 RCW or a motion to dismiss criminal charges.

**Sec. 4.** RCW 10.77.086 and 2019 c 326 s 4 are each amended to read as follows:

(1) ~~((a) (i))~~ If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event for a period of no longer than ~~((ninety))~~ 90 days, the court shall commit the defendant to the custody of the secretary for inpatient competency restoration ~~((Based))~~, or may alternatively order the defendant to receive outpatient competency restoration based on a recommendation from a forensic navigator and input from the parties ~~((, the court may order the defendant to receive inpatient competency restoration or outpatient competency restoration))~~.

~~((A))~~ (a) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

~~((I))~~ (i) Adhere to medications or receive prescribed intramuscular medication; ~~((and~~

~~((II))~~ (ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

~~((B))~~ (b) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration.

~~((C))~~ (c) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management ~~((and))~~. The court may order regular urinalysis testing ~~((for defendants who have a current substance use disorder diagnosis))~~. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

~~((D))~~ (d) If a defendant fails to comply with the restrictions of the outpatient restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, ~~((department shall remove the defendant from the outpatient restoration program and place the defendant instead))~~ director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration program and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration ~~((for no longer than the time allowed as if the defendant had been initially placed into inpatient competency restoration, in addition to reasonable time for transport to or from the facility))~~. The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under (d) (i) of this subsection to ensure that

the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be the same as if the outpatient competency restoration had not occurred, starting from admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate the outpatient competency restoration program.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance, and may authorize the peace officer to detain the defendant for transport to the designated inpatient competency restoration facility. The signed outpatient competency restoration order of the court shall serve as authority for the detention of the defendant under this subsection. This subsection does not preclude voluntary transportation of the defendant to a facility for medical clearance or inpatient competency restoration, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the ~~((change in placement))~~ defendant's admission for inpatient competency restoration before the close of the next judicial day. The court shall schedule a hearing within five days to review the ~~((placement and))~~ conditions of release of the defendant and anticipated release from treatment and issue appropriate orders. ~~((The standard of proof shall be a preponderance of the evidence, and the court may in its discretion render its decision based on written submissions, live testimony, or remote testimony.~~

~~(E))~~ (e) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient competency restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

~~((ii) The ninety day period for competency restoration under this subsection (1) includes only the time the~~

~~defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.~~

~~(b))~~ (2) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial felony competency restoration period ~~((of commitment for competency restoration))~~ is ~~((forty five))~~ 45 days. ~~((The forty-five day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.~~

~~(e))~~ (3) If the court determines or the parties agree before the initial felony competency restoration period or at any subsequent stage of the proceedings that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo an initial or further period of competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection ~~((4))~~ (5) of this section.

~~((2))~~ (4) On or before expiration of the initial felony competency restoration period ~~((of commitment under subsection (1) of this section))~~ the court shall conduct a hearing ~~((, at which it shall))~~ to determine whether ~~((or not))~~ the defendant is ~~((incompetent.~~ ~~(3))~~ now competent to stand trial. If the court finds by a preponderance of the evidence that ~~((a))~~ the defendant ~~((charged with a felony))~~ is incompetent to stand trial, the court ~~((shall have the option of extending the))~~ may order ~~((of commitment or alternative treatment))~~ an extension of the competency restoration period for an additional period of ~~((ninety))~~ 90 days, but the court must at the same time ~~((of extension))~~ set a date for a ~~((prompt))~~ new hearing to determine the defendant's competency to stand trial before the expiration of ~~((the))~~ this second restoration period. The defendant, the defendant's attorney, ~~((or))~~ and the prosecutor ~~((has))~~ have the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third felony competency restoration period ~~((as provided in subsection (4) of this section))~~ if the defendant's incompetence has been



determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension. ~~((The ninety day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.~~

~~(4) For persons charged with a felony, at)~~

(5) At the hearing upon the expiration of the second felony competency restoration period, or at the end of the first felony competency restoration period ~~((in the case of a))~~ if the defendant ~~((with a developmental disability))~~ is ineligible for a second or third competency restoration period under subsection (4) of this section, if the jury or court finds that the defendant is incompetent ~~((, or if the court or jury at any stage finds that the defendant is incompetent and the court determines that the defendant is unlikely to regain competency, the charges shall be dismissed))~~ to stand trial, the court shall dismiss the charges without prejudice ~~((,))~~ and ~~((the court shall))~~ order the defendant to be committed to a state hospital ~~((as defined in RCW 72.23.010))~~ for up to ~~((seventy two))~~ 120 hours if the defendant has not undergone competency restoration services and up to 72 hours if the defendant engaged in competency restoration services starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. ~~((The criminal charges))~~ However, the court shall not ~~((be dismissed))~~ dismiss the charges if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. ~~((In the event that))~~ If the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months. ~~((The six month))~~

(6) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility and is in

addition to reasonable time for transport to or from the facility.

**Sec. 5.** RCW 10.77.088 and 2020 c 18 s 4 are each amended to read as follows:

(1) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:

(a) Shall dismiss the proceedings without prejudice and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW, unless the prosecutor objects to the dismissal and provides notice of a motion for an order for nonfelony competency restoration treatment, in which case the court shall schedule a hearing within seven days ~~((to determine whether to enter an order of competency restoration))~~.

(b) At the hearing, the prosecuting attorney must establish that there is a compelling state interest to order nonfelony competency restoration treatment for the defendant. The court may consider prior criminal history, prior history in treatment, prior history of violence, the quality and severity of the pending charges, any history that suggests whether ~~((or not))~~ nonfelony competency restoration treatment is likely to be successful, in addition to the factors listed under RCW 10.77.092. If the prosecuting attorney proves by a preponderance of the evidence that there is a compelling state interest in ordering nonfelony competency restoration treatment, then the court shall issue an order ~~((competency restoration))~~ in accordance with subsection (2) ~~((a))~~ of this section.

(2) ~~((a))~~ If a court finds pursuant to subsection (1)(b) of this section that there is a compelling state interest in pursuing nonfelony competency restoration treatment, ~~((then))~~ the court shall commit the defendant to the custody of the secretary for inpatient competency restoration ~~((Based))~~, or may alternatively order the defendant to receive outpatient competency restoration based on a recommendation from a forensic navigator and input from the parties ~~((, the court may order the defendant to receive inpatient competency restoration or outpatient competency restoration))~~.

~~((i))~~ (a) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

~~((A))~~ (i) Adhere to medications or receive prescribed intramuscular medication; ~~(and~~

~~(B))~~ (ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

~~((ii))~~ (b) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration under ~~((B))~~ subsection (3) of this ~~(subsection)~~ section.

~~((iii))~~ (c) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management ~~((and))~~. The court may order regular urinalysis testing ~~((for defendants who have a current substance use disorder diagnosis))~~. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

~~((iv))~~ (d) If a defendant fails to comply with the restrictions of the outpatient competency restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the ~~((department shall remove the defendant from the outpatient restoration program. The department shall place the defendant instead))~~ director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration program and intent to request

placement for the defendant in an appropriate facility of the department for inpatient competency restoration ((for no longer than twenty-nine days regardless of any time spent in outpatient competency restoration, in addition to reasonable time for transport to or from the facility)). The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under (d)(i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be the same as if the outpatient competency restoration had not occurred, starting from admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate of the outpatient competency restoration program.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance, and may authorize the peace officer to detain the defendant for transport to the designated inpatient competency restoration facility. The signed outpatient competency restoration order of the court shall serve as authority for the detention of the defendant under this subsection. This subsection does not preclude voluntary transportation of the defendant to a facility for medical clearance or inpatient competency restoration, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the ((change in placement)) defendant's admission for inpatient competency restoration before the close of the next judicial day. The court shall schedule a hearing within five days to review the ((placement and)) conditions of release of the defendant and anticipated release from treatment and issue appropriate orders. ((The standard of proof shall be a preponderance of the evidence, and the court may in its discretion render its decision based on written submissions, live testimony, or remote testimony.

~~(v)~~) (e) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

~~(b)~~) (3) The placement under ~~(a)~~) subsection (2) of this ~~(subsection)~~ section shall not exceed ~~(twenty-nine)~~) 29 days if the defendant is ordered to receive inpatient competency restoration, ~~(or)~~) and shall not exceed ~~(ninety)~~) 90 days if the defendant is ordered to receive outpatient competency restoration. The court may order any combination of this subsection ~~(, not to exceed ninety days. This period must be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility)~~.

~~(c)~~) (4) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo nonfelony competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in ~~(d)~~) subsection (5) of this ~~(subsection)~~) section.

~~(d)(i)~~) (5) (a) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated crisis responder within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

~~(iii)~~) (b) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to ~~(seventy-two)~~) 120 hours if the defendant has not undergone competency restoration services and up to 72 hours if the defendant engaged in competency restoration services, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The ~~(seventy-two)~~) 120-hour or 72-hour

period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the ~~(seventy-two)~~) 120-hour or 72-hour period.

~~(3)~~) (6) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092 and found by the court to be not competent, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least ~~(twenty-four)~~) 24 hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

~~(4)~~) (7) If at any time the court dismisses charges under subsections (1) through ~~(3)~~) (6) of this section, the court shall make a finding as to whether the defendant has a history of one or more violent acts. If the court so finds, the defendant is barred from the possession of firearms until a court restores his or her right to possess a firearm under RCW 9.41.047. The court shall state to the defendant and provide written notice that the defendant is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

(8) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

**Sec. 6.** RCW 10.77.220 and 2015 1st sp.s. c 7 s 8 are each amended to read as follows:

(1) No person who is criminally insane confined pursuant to this chapter shall be incarcerated in a state correctional institution or facility. This section does not apply to confinement in a mental health facility located wholly within a correctional institution. Confinement of a person who is criminally insane in a county jail or other local facility while awaiting either placement in a treatment program or a court hearing pursuant to

this chapter is permitted for no more than seven days.

(2) In the event that a person remains in jail 21 days after service on the department of a court order to transport the person to a facility designated by the department for inpatient competency restoration treatment, the department shall upon the request of any party perform a competency to stand trial status check at reasonable intervals to determine if the circumstances of the person have changed such that the court should authorize an updated competency evaluation, and provide a status update to the parties and the court.

**Sec. 7.** RCW 10.77.250 and 1987 c 75 s 1 are each amended to read as follows:

~~(The)~~ (1) Within amounts appropriated, the department shall be responsible for all costs relating to the evaluation and inpatient treatment of persons committed to it pursuant to any provisions of this chapter, and the logistical and supportive services pertaining thereto except as otherwise provided by law. Reimbursement may be obtained by the department pursuant to RCW 43.20B.330.

(2) Within amounts appropriated, the authority shall be responsible for all costs relating to outpatient competency restoration programs.

**NEW SECTION. Sec. 8.** A new section is added to chapter 10.77 RCW to read as follows:

No officer of a public or private agency, nor the superintendent, professional person in charge, his or her professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter, nor the state, a unit of local government, an evaluation and treatment facility, a secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program shall be civilly or criminally liable for performing duties pursuant to this chapter with regard to the decision of whether to detain a person for medical clearance or treatment, provided that such duties were performed in good faith and without gross negligence.

**NEW SECTION. Sec. 9.** A new section is added to chapter 10.77 RCW to read as follows:

The authority shall report annually to the governor and relevant committees of the legislature, beginning November 1, 2022, describing:

(1) How many individuals are being served by outpatient competency restoration programs and in what locations;

(2) The length of stay of individuals in outpatient competency restoration programs;

(3) The number of individuals who are revoked from an outpatient competency restoration program into inpatient treatment, and the outcomes of other individuals, if any, whose participation in an outpatient competency restoration program were terminated before the completion of the program; and

(4) For individuals who were revoked from an outpatient competency restoration program into an inpatient competency restoration program, how many days the individuals spent in outpatient competency restoration treatment and inpatient competency restoration treatment, and whether the restoration programs resulted in a finding of competent to stand trial or another outcome."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member and Jacobsen.

Referred to Committee on Rules for second reading.

February 28, 2022

2SSB 5695

Prime Sponsor, Committee on Ways & Means: Concerning a body scanner pilot program at the department of corrections. Reported by Committee on Appropriations

**MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Public Safety.**

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** This act may be known and cited as the drug free prisons act.

**NEW SECTION. Sec. 2.** The legislature recognizes that the department of corrections is responsible for enhancing public safety through the operation of safe and secure facilities. The legislature recognizes that safe and secure facilities improve safety and well-being for those experiencing incarceration, departmental employees, visitors, and volunteers. The legislature recognizes that one of the greatest risks to operating safe and secure facilities is the introduction and movement of contraband, including but not limited to alcohol and drugs. The legislature recognizes that undiagnosed, untreated, or unaddressed substance use disorder can lead to increased rates of recidivism. Therefore, the legislature intends to protect human dignity by reducing or eliminating strip searches, and to increase public safety by reducing access to drugs and alcohol in correctional facilities and to increase substance use disorder diagnosis, treatment, and services.

**NEW SECTION. Sec. 3.** A new section is added to chapter 72.09 RCW to read as follows:

(1)(a) The department shall establish a comprehensive body scanner program at the Washington corrections center for women and at a state correctional facility serving male incarcerated individuals as part of an expanded pilot program to create drug-free state correctional facilities. The scanner must be capable of detecting the presence of contraband contained under clothing and within body cavities, and must meet applicable federal and state radiation and safety standards.

(b) The department shall develop policies and procedures necessary to establish a comprehensive body scanner program that shall be utilized to conduct security screenings for employees, contractors, visitors, volunteers, incarcerated individuals, and other persons entering the secure perimeter of the correctional facility participating

in the pilot program under this section. Alternative search methods shall be used for persons who are minors, individuals who are health compromised, individuals with disabilities, individuals who may be pregnant, and individuals who may meet the maximum allowable monthly or annual radiation dosage limit specified by the department of health.

(2) The department shall provide appropriate custody and nursing staff levels for body scanners installed at a state correctional facility under this section. Staffing must be adequate to provide for subsequent searches and dry cell watches if a body scan indicates the presence of contraband.

(a) An incarcerated individual with a body scan indicating the presence of substance-related contraband shall undergo, if appropriate, a comprehensive assessment for substance use disorder and receive relevant substance use disorder treatment services, including medication-assisted treatment. The department shall prioritize substance use disorder treatment services for incarcerated individuals with cognitive, behavioral, and physiological symptoms indicating the incarcerated individual is experiencing a substance use disorder. The department shall distinguish between incarcerated individuals who have symptoms indicating a substance use disorder and incarcerated individuals who transport substances for other individuals and do not have symptoms indicating a substance use disorder.

(b) A department employee, contractor, visitor, or volunteer with a body scan indicating the presence of contraband shall be disciplined in accordance with department policies.

(3) The department shall provide appropriate radiation safety and body scanner operation training to all staff who will administer the body scan. Only staff who have completed all related trainings may be permitted to operate the body scanner and review body scans. The department shall develop policies, in consultation and collaboration with the department of health, on scanner use and screening procedures, including frequency and radiation exposure limits, to minimize harmful radiation exposure while safely and effectively utilizing the full body scanners to create drug-free correctional facilities. The department shall develop a method to track and maintain records on the

frequency of body scans conducted on any individual subject to the comprehensive body scanner program to comply with any maximum allowable monthly and annual radiation dosage limits that may be set by the department of health.

(4) The secretary shall adopt any rules and policies necessary to implement the requirements of this section.

(5) By December 1st each year, and in compliance with RCW 43.01.036, the department shall submit a report to the governor and the legislature on:

(a) The number and types of individuals, including visitors, employees, contractors, and volunteers, with positive body scans in the prior year and the disciplinary action taken;

(b) The types of contraband detected by the body scanner;

(c) The number of confiscated substances in the prior five years;

(d) The number of incarcerated individuals with positive body scans for substance-related contraband in the prior year who were assessed for substance use disorder and received substance use disorder treatment services while incarcerated; and

(e) The number and length of time incarcerated individuals with positive body scans were placed on dry cell watch in the prior year.

(6) For the purposes of this section:

(a) "Contraband" has the meaning as in RCW 9A.76.010;

(b) "Dry cell watch" means the placement of an incarcerated person in a secure room or cell for the safe recovery of internally concealed contraband; and

(c) "Substance use disorder treatment services" means services licensed by the department of health or provided as part of a substance use disorder treatment program that has been approved by the department of health.

(7) This section expires June 30, 2024.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

**2SSB 5720** Prime Sponsor, Committee on Ways & Means; Providing student financial literacy education. Reported by Committee on Appropriations

**MAJORITY recommendation:** Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the financial education public-private partnership shall establish a grant program to provide assistance to school districts for the purpose of integrating financial literacy education into professional development for certificated staff.

(2) Grants provided under this section shall be made available for the 2023-24, 2024-25, and 2025-26 school years, and shall be funded at the amount of \$7.50 per enrolled student in the school district, as determined by the annual average full-time equivalent student enrollment reported to the office of the superintendent of public instruction. A school district that receives a grant under this section may only receive a grant for one school year and is prohibited from receiving a grant in subsequent grant cycles.

(3) For a school district to qualify for a grant under this section, the grant proposal must provide that the grantee integrate financial literacy education into at least seven hours of its current in-person professional development schedule over the course of the entire

school year for which the school district receives the grant.

(4) Additional activities permitted for the use of these grants include, but are not limited to:

(a) Coordinating teachers from across a school district to develop new instructional strategies and to share successful strategies;

(b) Sharing successful practices across a group of school districts; and

(c) Facilitating coordination between educational service districts and school districts to provide training.

(5) The office of the superintendent of public instruction, in coordination with the financial education public-private partnership, may adopt rules for the effective implementation of this section.

(6) This section expires August 1, 2026.

**Sec. 2.** RCW 28A.300.460 and 2015 c 211 s 2 are each amended to read as follows:

(1) The task of the financial education public-private partnership is to seek out and determine the best methods of equipping students with the knowledge and skills they need, before they become self-supporting, in order for them to make critical decisions regarding their personal finances. The components of personal financial education shall include the achievement of skills and knowledge necessary to make informed judgments and effective decisions regarding earning, spending, and the management of money and credit.

(2) In carrying out its task, and to the extent funds are available, the partnership shall:

(a) Communicate to school districts the financial education standards adopted under RCW 28A.300.462, other important financial education skills and content knowledge, and strategies for expanding the provision and increasing the quality of financial education instruction;

(b) Review on an ongoing basis financial education curriculum that is available to school districts, including instructional materials and programs, online instructional materials and resources, and school-wide programs that

include the important financial skills and content knowledge;

(c) Develop evaluation standards and a procedure for endorsing financial education curriculum that the partnership determines should be recommended for use in school districts;

(d) Work with the office of the superintendent of public instruction to integrate financial education skills and content knowledge into the state learning standards;

(e) Monitor and provide guidance for professional development for educators regarding financial education, including ways that teachers at different grade levels may integrate financial skills and content knowledge into mathematics, social studies, and other course content areas;

(f) Work with the office of the superintendent of public instruction and the professional educator standards board to create professional development in financial education;

(g) Develop academic guidelines and standards-based protocols for use by classroom volunteers who participate in delivering financial education to students in the public schools; ~~(and)~~

(h) Provide an annual report beginning December 1, 2009, as provided in RCW 28A.300.464, to the governor, the superintendent of public instruction, and the committees of the legislature with oversight over K-12 education and higher education; and

(i) Administer grant programs including, but not limited to, the program established in section 1 of this act or related programs established in the omnibus operating appropriations act.

(3) In addition to the duties in subsection (2) of this section and subject to the availability of amounts appropriated for this specific purpose, the partnership may perform other tasks in support of financial literacy, including, but not limited to:

(a) Hiring support staff;

(b) Contracting with educational service districts;

(c) Facilitating the creation and implementation of professional development for certificated educational staff relating to financial literacy and

education, in particular the professional development utilized as part of the grant program created in section 1 of this act;

(d) Working to facilitate, and confirm receipt of, specific outreach for financial literacy training to foster students and homeless youth, students receiving special education services, and tribal communities; and

(e) Coordinating with providers in the early childhood education and assistance program established under chapter 43.216 RCW for the purpose of providing a curriculum on financial literacy that can be shared with the parents or legal guardians of participants in the early childhood education and assistance program.

(4) The partnership may seek federal and private funds to support the school districts in providing access to the materials listed pursuant to RCW 28A.300.468(1), as well as related professional development opportunities for certificated staff.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Each school district, by March 1, 2023, shall adopt one or more goals for expanding financial education instruction to students in their district. Examples of goals that school districts may adopt include:

(a) Increasing the number of financial education courses available to students in grades nine through 12;

(b) Increasing the number of grades, schools, or both that provide students with instruction in, or access to instruction in, financial education; and

(c) Expanding the amount financial education professional development training available to certificated staff.

(2) The financial education public-private partnership, by September 1, 2022, shall develop a nonexhaustive menu of model goals that school districts may consider when complying with this section. The model goals must be published on the website of the office of the superintendent of public instruction by September 10, 2022.

(3) Subsection (1) of this section governs school operation and management

under RCW 28A.710.040 and 28A.715.020, and applies to charter schools established under chapter 28A.710 RCW and state-tribal education compact schools established under chapter 28A.715 RCW to the same extent as it applies to school districts.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Calder; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

SSB 5722

Prime Sponsor, Committee on Environment, Energy & Technology: Reducing greenhouse gas emissions in buildings. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that in order to meet the statewide greenhouse gas emissions limits in RCW 70A.45.020, the state must require performance standards for existing buildings.

In order to have a comprehensive understanding of the need and potential for updating the state's building stock, including the "split incentive issue" in which tenants are responsible for energy costs and building owners are responsible for choices about energy systems and building maintenance, more robust benchmarking and reporting for building performance, operations, and maintenance is needed. While the state has adopted comprehensive reporting requirements for larger buildings, it currently lacks similar requirements for smaller



buildings. It is the intent of the legislature to extend existing building benchmarking, energy management, and operations and maintenance planning requirements to smaller commercial and multifamily residential buildings in order to assess the needs and opportunities for job creation and incentives and environmental and public health improvements.

The legislature further finds that in order to meet the statewide greenhouse gas emissions limits in the energy sectors of the economy, more resources must be directed toward achieving decarbonization of building heating and cooling loads, while continuing to relieve energy burdens that exist in overburdened communities. These resources must include comprehensive customer support, outreach, and technical assistance. These efforts must include notifying building owners of requirements through communications campaigns, providing resources to aid in compliance, and delivering training to equip building owners, and the industry, to be successful.

**Sec. 2.** RCW 19.27A.200 and 2019 c 285 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 19.27A.210, 19.27A.220, 19.27A.230, ~~((and))~~ 19.27A.240, and sections 3 and 4 of this act unless the context clearly requires otherwise.

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products, and that is not a place used by the public or a place of human habitation or employment where agricultural products are processed, treated, or packaged.

(2) "Baseline energy use intensity" means a building's weather normalized energy use intensity measured using the previous year to making an application for an incentive under RCW 19.27A.220.

(3)(a) "Building owner" means an individual or entity possessing title to a building.

(b) In the event of a land lease, "building owner" means the entity possessing title to the building on leased land.

(4) "Building tenant" means a person or entity occupying or holding possession

of a building or premises pursuant to a rental agreement.

(5) "Conditional compliance" means a temporary compliance method used by covered building owners that demonstrate the owner has implemented energy use reduction strategies required by the standard, but has not demonstrated full compliance with the energy use intensity target.

(6) "Consumer-owned utility" has the same meaning as defined in RCW 19.27A.140.

(7) "Covered ~~((commercial))~~ building" ~~((means))~~ includes a tier 2 covered building or a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds ~~((fifty thousand))~~ 50,000 gross square feet, excluding the parking garage area.

(8) "Department" means the department of commerce.

(9) "Director" means the director of the department of commerce or the director's designee.

(10) "Electric utility" means a consumer-owned utility or an investor-owned utility.

(11) "Eligible building owner" means:  
(a) The owner of a covered ~~((commercial))~~ building required to comply with the standard established in RCW 19.27A.210; or  
(b) the owner of a multifamily residential building where the floor area exceeds ~~((fifty thousand))~~ 50,000 gross square feet, excluding the parking garage area.

(12) "Energy" includes: Electricity, including electricity delivered through the electric grid and electricity generated at the building premises using solar or wind energy resources; natural gas, including natural gas derived from renewable sources, synthetic sources, and fossil fuel sources; district steam; district hot water; district chilled water; propane; fuel oil; wood; coal; or other fuels used to meet the energy loads of a building.

(13) "Energy use intensity" means a measurement that normalizes a building's site energy use relative to its size. A building's energy use intensity is calculated by dividing the total net energy consumed in one year by the gross floor area of the building, excluding the parking garage. "Energy use intensity" is

reported as a value of thousand British thermal units per square foot per year.

(14) "Energy use intensity target" means the net energy use intensity of a covered (~~commercial~~) building that has been established for the purposes of complying with the standard established under RCW 19.27A.210.

(15) "Gas company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receiver appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any gas plant within this state.

(16) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(17)(a) "Gross floor area" means the total number of square feet measured between the exterior surfaces of the enclosing fixed walls of a building, including all supporting functions such as offices, lobbies, restrooms, equipment storage areas, mechanical rooms, break rooms, and elevator shafts.

(b) "Gross floor area" does not include outside bays or docks.

(18) "Investor-owned utility" means a (~~company owned by investors, that meets one of the definitions of RCW 80.04.010, and that is engaged in distributing electricity~~) corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

(19) "Multifamily residential building" means a covered multifamily building containing sleeping units or more than (~~two~~) five dwelling units where occupants are primarily permanent in nature.

(20) "Net energy use" means the sum of metered and bulk fuel energy entering the building, minus the sum of metered energy leaving the building or campus. Renewable energy produced on a campus that is not attached to a covered building may be included.

(21) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than

(~~twenty five thousand~~) 25,000 customers in the state of Washington.

(22) "Savings-to-investment ratio" means the ratio of the total present value savings to the total present value costs of a bundle of an energy or water conservation measure estimated over the projected useful life of each measure. The numerator of the ratio is the present value of net savings in energy or water and nonfuel or nonwater operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

(23) "Standard" means the state energy performance standard for covered (~~commercial~~) buildings established under RCW 19.27A.210.

(24) "Thermal energy company" has the same meaning as defined in RCW 80.04.550.

(25) "Weather normalized" means a method for modifying the measured building energy use in a specific weather year to energy use under normal weather conditions.

(26) "Tier 1 covered building" means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas are equal to or exceed 50,000 gross square feet, excluding the parking garage area.

(27) "Tier 2 covered building" means a building where the sum of multifamily residential, nonresidential, hotel, motel, and dormitory floor areas exceeds 20,000 gross square feet, excluding the parking garage area, but does not exceed 50,000 gross square feet. Tier 2 covered buildings also include multifamily buildings where floor areas are equal to or exceed 50,000 gross square feet.

NEW SECTION. Sec. 3. A new section is added to chapter 19.27A RCW to read as follows:

(1)(a) By December 1, 2023, the department must adopt by rule a state energy management and benchmarking requirement for tier 2 covered buildings. The department shall include a small business economic impact statement pursuant to chapter 19.85 RCW as part of the rule making.

(b) In establishing the requirements under (a) of this subsection, the department must adopt requirements for building owner implementation consistent with the standard established pursuant to RCW 19.27A.210(1) and limited to energy management planning, operations and maintenance planning, and energy use analysis through benchmarking and associated reporting and administrative procedures. Administrative procedures must include exemptions for financial hardship and an appeals process for administrative determinations, including penalties imposed by the department.

(c) The department must provide a customer support program to building owners including, but not limited to, outreach and informational materials that connect building owners to utility resources, periodic training, phone and email support, and other technical assistance. The customer support program must include enhanced technical support, such as benchmarking assistance and assistance in developing energy management and operations and maintenance plans, for covered buildings whose owners typically do not employ dedicated building managers including, but not limited to, multifamily housing, child care facilities, and houses of worship. The department shall consider underresourced buildings with a high energy use per square foot, buildings in rural communities, buildings whose tenants are primarily small businesses, and those located in high-risk communities according to the department of health's environmental health disparities map.

(d) The department shall establish an incentive program. Incentive assistance must be directed to supplement the cost to the building owner or tenant for these activities, less utility incentives and annual utility savings resulting from these requirements.

(e) The department is authorized to implement a tiered incentive structure for upgrading multifamily buildings to provide an enhanced incentive payment to multifamily building owners willing to commit to antidisplacement provisions.

(f) (i) The department is authorized to adopt rules related to the imposition of an administrative penalty not to exceed 30 cents per square foot upon a building owner for failing to submit documentation demonstrating compliance with the requirements of this section.

(ii) Administrative penalties collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70A.35.030 and reinvested into the program, where feasible, to support compliance with the standard.

(2) By July 1, 2025, the department must provide the owners of tier 2 covered buildings with notification of the requirements the department has adopted pursuant to this section that apply to tier 2 covered buildings.

(3) The owner of a tier 2 covered building must report the building owner's compliance with the requirements adopted by the department to the department in accordance with the schedule established under subsection (4) of this section and every five years thereafter. For each reporting date, the building owner must submit documentation to demonstrate that the building owner has developed and implemented the procedures adopted by the department by rule, limited to energy management planning, operations and maintenance planning, and energy use analysis through benchmarking.

(4) By July 1, 2027, tier 2 covered building owners must submit reports to the department as required by the rules adopted in subsection (1) of this section.

(5) By July 1, 2029, the department must evaluate benchmarking data to determine energy use and greenhouse gas emissions averages by building type. The department must submit a report to the legislature and the governor by October 1, 2029, with recommendations for cost-effective building performance standards for tier 2 covered buildings. The report must contain information on estimated costs to building owners to implement the standard and anticipated implementation challenges. The department is authorized to adopt rules for inclusion of tier 2 covered buildings in the state energy performance standard, including greenhouse gas emissions, created in RCW 19.27A.210, beginning in 2030. In adopting performance standards, the department shall consider age of the building in setting targets for tier 2 buildings. The department is authorized to adopt performance standards for multifamily residential buildings on a longer timeline schedule than other tier 2 buildings. By December 31, 2030, the department shall adopt rules for

performance standards for tier 2 buildings. The rules may not take effect before the end of the 2031 regular legislative session.

(6) The department shall include a small business economic impact statement pursuant to chapter 19.85 RCW as part of the rule making.

**Sec. 4.** RCW 19.27A.220 and 2021 c 315 s 18 are each amended to read as follows:

(1) The department must establish a state energy performance standard early adoption incentive program consistent with the requirements of this section.

(2) The department must adopt application and reporting requirements for the incentive program. Building energy reporting for the incentive program must be consistent with the energy reporting requirements established under RCW 19.27A.210.

(3) Upon receiving documentation demonstrating that a building owner qualifies for an incentive under this section, the department must authorize each applicable entity administering incentive payments, as provided in RCW 19.27A.240, to make an incentive payment to the building owner. When a building is served by more than one entity offering incentives or more than one type of fuel, incentive payments must be proportional to the energy use intensity reduction of each specific fuel provided by each entity for tier 1 buildings. The department may authorize any participating utility, regardless of fuel specific savings, serving a tier 2 building to administer the incentive payment.

(4) ~~((Aa))~~ A tier 1 eligible building owner may receive an incentive payment in the amounts specified in subsection (6)(a) of this section only if the following requirements are met:

(a) The building is either: (i) A covered commercial building subject to the requirements of the standard established under RCW 19.27A.210; or (ii) a multifamily residential building where the floor area exceeds ~~((fifty thousand))~~ 50,000 gross square feet, excluding the parking garage area;

(b) The building's baseline energy use intensity exceeds its applicable energy use intensity target by at least ~~((fifteen))~~ 15 energy use intensity units;

(c) At least one electric utility, gas company, or thermal energy company providing or delivering energy to the covered commercial building is participating in the incentive program by administering incentive payments as provided in RCW 19.27A.240; and

(d) The building owner complies with any other requirements established by the department.

(5) ~~((a))~~ An eligible building owner who meets the requirements of subsection (4) of this section may submit an application to the department for an incentive payment in a form and manner prescribed by the department. The application must be submitted in accordance with the following schedule:

~~((i))~~ (a) For a building with more than ~~((two hundred twenty thousand))~~ 220,000 gross square feet, beginning July 1, 2021, through June 1, 2025;

~~((ii))~~ (b) For a building with more than ~~((ninety thousand))~~ 90,000 gross square feet but less than ~~((two hundred twenty thousand and one))~~ 220,001 gross square feet, beginning July 1, 2021, through June 1, 2026; and

~~((iii))~~ (c) For a building with more than ~~((fifty thousand))~~ 50,000 gross square feet but less than ~~((ninety thousand and one))~~ 90,001 gross square feet, beginning July 1, 2021, through June 1, 2027.

(6)(a) A tier 2 eligible building owner may receive an incentive payment in the amounts specified in (b) of this subsection only if all required benchmarking, energy management, and operations and maintenance planning documentation has been submitted to the department and an incentive application has been completed. An eligible tier 2 building owner may submit an application beginning July 1, 2024, through June 1, 2030.

(b) The department must review each application and determine whether the applicant is eligible for the incentive program and if funds are available for the incentive payment within the limitation established in RCW 19.27A.230. If the department certifies an application, it must provide verification to the building owner and each entity participating as provided in RCW 19.27A.240 and providing service to the building owner.

~~((6))~~ (7)(a) A tier 1 eligible building owner that demonstrates early compliance with the applicable energy use intensity target under the standard established under RCW 19.27A.210 may receive a base incentive payment of ~~((eighty-five))~~ 85 cents per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces.

~~((7))~~ (b) A tier 2 eligible building owner that demonstrates compliance with the applicable benchmarking, energy management, and operations and maintenance planning requirements may receive a base incentive payment of 30 cents per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces.

(8) The incentives provided in subsection ~~((6))~~ (7) of this section are subject to the limitations and requirements of this section, including any rules or procedures implementing this section.

~~((8))~~ (9) The department must establish requirements for the verification of energy consumption by the building owner and each participating electric utility, gas company, and thermal energy company.

~~((9))~~ (10) The department must provide an administrative process for an eligible building owner to appeal a determination of an incentive eligibility or amount.

~~((10))~~ (11) By September 30, 2025, and every two years thereafter, the department must report to the appropriate committees of the legislature on the results of the incentive program under this section and may provide recommendations to improve the effectiveness of the program. The 2025 report to the legislature must include recommendations for aligning the incentive program established under this section consistent with a goal of reducing greenhouse gas emissions from substitutes, as defined in RCW 70A.60.010.

~~((11))~~ (12) The department may adopt rules to implement this section.

**Sec. 5.** RCW 19.27A.230 and 2019 c 285 s 5 are each amended to read as follows:

(1) The department may not issue a certification for ~~((a))~~ a tier 1 incentive application under RCW

19.27A.220(6)(a) if doing so is likely to result in total incentive payments under RCW 19.27A.220 in excess of ~~((seventy-five million dollars))~~ \$75,000,000.

(2) The department may not issue certification for a tier 2 incentive application under RCW 19.27A.220(6)(b) if doing so is likely to result in total incentive payments under RCW 19.27A.220(6)(b) in excess of \$150,000,000.

**NEW SECTION. Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Dye; Harris; Hoff; Jacobsen; Rude; Schmick and Steele.

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5745**

Prime Sponsor, Committee on Ways & Means: Increasing the personal needs allowance for persons receiving state financed care. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

**SB 5750** Prime Sponsor, Senator Wilson, C.: Designating the Washington state leadership board a trustee of the state of Washington. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

**E2SSB 5764** Prime Sponsor, Committee on Ways & Means: Concerning apprenticeships and higher education. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.92.030 and 2019 c 406 s 21 are each amended to read as follows:

~~((As used in this chapter:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Council" means the student achievement council.

(2) "Financial aid" means either loans, grants, or both, to students who demonstrate financial need enrolled or accepted for enrollment as a student at institutions of higher education.

(3) "Financial need" means a demonstrated financial inability to bear the total cost of education as directed in rule by the office.

(4) "Institution" or "institutions of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond

the high school level that is a member institution of an accrediting association recognized by rule of the council for the purposes of this section and that agrees to and complies with program rules adopted pursuant to RCW 28B.92.150. However, any institution, branch, extension or facility operating within the state of Washington that is affiliated with an institution operating in another state must be:

(i) A separately accredited member institution of any such accrediting association;

(ii) A branch of a member institution of an accrediting association recognized by rule of the council for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students;

(iii) A nonprofit institution recognized by the state of Washington as provided in RCW 28B.77.240; or

(iv) An approved apprenticeship program under chapter 49.04 RCW.

(5) "Maximum Washington college grant":

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, is tuition and estimated fees for fifteen quarter credit hours or the equivalent, as determined by the office, including operating fees, building fees, and services and activities fees.

(b) For students attending private four-year not-for-profit institutions of higher education in Washington, in the 2019-20 academic year, is nine thousand seven hundred thirty-nine dollars and may increase each year afterwards by no more than the tuition growth factor.

(c) For students attending two-year private not-for-profit institutions of higher education in Washington, in the 2019-20 academic year, is three thousand six hundred ninety-four dollars and may increase each year afterwards by no more than the tuition growth factor.

(d) For students attending four-year private for-profit institutions of higher education in Washington, in the

2019-20 academic year, is eight thousand five hundred seventeen dollars and may increase each year afterwards by no more than the tuition growth factor.

(e) For students attending two-year private for-profit institutions of higher education in Washington, in the 2019-20 academic year, is two thousand eight hundred twenty-three dollars and may increase each year afterwards by no more than the tuition growth factor.

(f) For students attending Western Governors University-Washington, as established in RCW 28B.77.240, in the 2019-20 academic year, is five thousand six hundred nineteen dollars and may increase each year afterwards by no more than the tuition growth factor.

(g) For students attending approved apprenticeship programs, beginning in the 2022-23 academic year, is ((tuition and fees, as determined by the office, in addition to required program supplies and equipment)) the same amount as the maximum Washington college grant for students attending two-year institutions of higher education as defined in (a) of this subsection to be used for tuition and fees, program supplies and equipment, and other costs that facilitate educational endeavors.

(6) "Office" means the office of student financial assistance.

(7) "Tuition growth factor" means an increase of no more than the average annual percentage growth rate of the median hourly wage for Washington for the previous fourteen years as the wage is determined by the federal bureau of labor statistics.

**NEW SECTION. Sec. 2.** (1) It is the intent of the legislature to remove barriers for students enrolled in a state registered apprenticeship program under chapter 49.04 RCW to access the Washington college grant.

(2) It is the goal of the legislature that students enrolled in state registered apprenticeship programs and receiving related supplemental instruction at a community and technical college have access to the Washington college grant through the financial aid office at their college. The Washington student achievement council shall verify access to the Washington college grant for students enrolled in state registered apprenticeship programs receiving their related supplemental instruction other

than at a community and technical college.

(3) The state board for community and technical colleges must fully implement this goal by the beginning of the 2025-26 academic year.

(4) As part of the implementation process, the state board for community and technical colleges must collaborate with the office of student financial assistance, as defined in RCW 28B.92.030, to create a student information technology interface to simplify the application, verification of registration, eligibility, and award to students.

(5) The state board for community and technical colleges and the office of student financial assistance must establish data-sharing agreements with other state agencies to verify student data.

**NEW SECTION. Sec. 3.** (1) The student achievement council shall contract with the William D. Ruckelshaus Center to do the following:

(a) Evaluate paths to credentials for apprentices, including recommendations on the requirements and benefits of expanding the multioccupational trades degree, and exploration of other credentials that will support transfer to baccalaureate degrees or other advanced credentials for apprentices. This evaluation may include options for instructional modality and analysis of the opportunities and limitations for incorporating general education course requirements into degree pathways for apprentices. The evaluation may also include reviewing credit articulation within the college system, prior learning assessments, and competency-based models, as applicable;

(b) Examine national best practices in delivery and award of educational credentials to apprentices. This exploration may include assessment of the governance structures and operational models for delivery of apprenticeship degree pathways, including operational considerations and costs associated with those models, and make recommendations on the model or models best suited for implementation in Washington with consideration on sustainably funding and growing state registered apprenticeships in the future;

(c) Research apprentices' demand for degrees, for individuals in, or who have completed, a state registered apprenticeship program;

(d) Review the current funding model for apprentices within the community and technical college system, with consideration on the use of state funds for apprenticeships, and national funding structures for apprenticeship programs that could be applied within Washington state. The center must consult with the Washington state apprenticeship council established under chapter 49.04 RCW, the state board for community and technical colleges, the associated general contractors of Washington, the association of Washington business, and any other relevant or impacted parties as needed to provide recommendations to the legislature on a sustainable funding model for related supplemental instruction and credit for apprentices through the community and technical college system to ensure it fully covers institutional and apprenticeship program costs of related supplemental instruction. This funding model review may include institutional costs of developing, administering, delivering, hosting, instructing, and contracting. These recommendations must be included in the annual report established in subsection (2) of this section;

(e) Consult with the state board for community and technical colleges, an organization representing the presidents of the public four-year institutions of higher education, the office of the superintendent of public instruction, the joint transfer council of Washington, the department of labor and industries, the Washington state labor council, the associated general contractors of Washington, the association of Washington business, the Washington building trades council, the student achievement council, the independent colleges of Washington, private career colleges, an accrediting body, career connect, and other stakeholders with interests and expertise in apprenticeship training and higher education mobility;

(f) Identify and remove barriers for apprentices to access the Washington college grant program, established under RCW 28B.92.200, and all other student services and support programs and resources.

(2) The student achievement council shall report annually by December 1st, beginning in 2023, in compliance with RCW 43.01.036, the William D. Ruckelshaus Center's progress, findings, and recommendations to the appropriate higher education committees of the legislature on the evaluations in subsection (1) of this section. The annual report in 2026 shall provide viable policy options for degree pathways for individuals who complete state registered apprenticeship programs.

(3) The apprenticeship council, in consultation with the state board for community and technical colleges, the student achievement council, an organization representing the presidents of the public four-year institutions of higher education, and any other relevant or impacted parties as needed, shall explore whether the state should establish an institution, or centralized program, for apprentices to receive related supplemental instruction for credit towards a degree. A report on their findings, with a recommendation, must be included in the December 1, 2023, annual report established in subsection (2) of this section.

(4) This section expires July 1, 2028.

**NEW SECTION. Sec. 4.** All institutions of higher education, as defined in RCW 28B.10.016, must establish a policy for granting as many credits as possible and appropriate, for related supplemental instruction in active state apprenticeship programs, registered during or before July 1, 2022, by the 2028-29 school year. For all state registered apprenticeship programs approved after July 1, 2022, all institutions of higher education, as defined in RCW 28B.10.016, must establish a policy for granting as many credits, as possible and appropriate, for related supplemental instruction within six years of the program's registration. While establishing credits, institutions of higher education must consult with their faculty representatives. Credits are at the sole discretion of each institution of higher education and must be determined in consultation with their faculty representatives. Credits established by institutions of higher education are not intended to impact the possible revision of previously approved related supplemental instruction in a state registered apprenticeship program.



NEW SECTION. **Sec. 5.** Sections 2 through 4 of this act constitute a new chapter in Title 28B RCW.

NEW SECTION. **Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Hoff and Schmick.

Referred to Committee on Rules for second reading.

February 28, 2022

2SSB 5789 Prime Sponsor, Committee on Ways & Means: Creating the Washington career and college pathways innovation challenge program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on College & Workforce Development.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.120 RCW to read as follows:

(1) The Washington career and college pathways innovation challenge program is established. The purpose of the program is to meet statewide educational attainment goals established in RCW 28B.77.020 by developing local and regional partnerships that foster innovations to:

(a) Increase postsecondary enrollment and completion for students enrolling directly from high school and adults returning to education; and

(b) Eliminate educational opportunity gaps for students of color, English language learners, students with disabilities, and foster and homeless youth.

(2) (a) The student achievement council shall administer the program and award grants, based on a competitive grant process, to local and regional partnerships that represent cross-sector collaborations among education and higher education agencies and institutions, local education agencies, local government, community-based organizations, employers, and other local entities. The student achievement council must consult, in both the design of the grant program as well as in the administration of the grant program, with stakeholders including representatives of:

(i) The state board for community and technical colleges;

(ii) An organization representing the presidents of the public four-year institutions of higher education;

(iii) The workforce training and education coordinating board;

(iv) An organization representing the private, not-for-profit, four-year institutions of higher education;

(v) The commission on African American affairs;

(vi) The commission on Hispanic affairs;

(vii) The commission on Asian Pacific American affairs;

(viii) The Washington state LGBTQ commission;

(ix) The governor's office of Indian affairs; and

(x) The Washington state women's commission.

(b) In awarding the grants, the student achievement council shall consider applications that:

(i) Plan and pilot innovative initiatives to raise educational attainment and decrease opportunity gaps;

(ii) Engage community-based organizations and resources;

(iii) Expand the use of integrated work-based learning;

(iv) Provide financial support to cover expenses beyond educational tuition and fees, and other services and supports for students to enroll and complete education and training; and

(v) Include local matching funds.

(c) In administering the program the student achievement council may hire staff to support grant oversight and provide technical assistance to grantees.

(d) The student achievement council may solicit and receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the program and may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

(3) The student achievement council shall provide a report each year beginning September 1, 2022, to the governor and the education and higher education committees of the legislature in accordance with RCW 43.01.036. The report shall:

(a) Describe grants awarded;

(b) Report the progress of each local and regional partnership by reporting on high school graduation, postsecondary enrollment, and completion for each of the regions that partnerships serve; and

(c) Disaggregate data by income, race, ethnicity, and other demographic characteristics.

**Sec. 2.** RCW 28B.120.040 and 2012 c 229 s 575 are each amended to read as follows:

The ~~((student achievement council fund for innovation and quality))~~ Washington career and college pathways innovation challenge program account is hereby established in the custody of the state treasurer. The student achievement council shall deposit in the fund all moneys received ~~((under RCW 28B.120.030))~~ for the Washington career and college pathways innovation challenge program. Moneys in the fund may be spent only for the purposes of ~~((RCW 28B.120.010 and 28B.120.020))~~ awarding grants under the Washington career and college pathways innovation challenge program. Disbursements from the fund shall be on the authorization of the student achievement council. The fund is subject to the allotment procedure

provided under chapter 43.88 RCW, but ~~((no))~~ an appropriation is not required for disbursements.

**Sec. 3.** RCW 43.79A.040 and 2021 c 175 s 10 and 2021 c 108 s 5 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship ~~((account))~~ account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian

scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the

school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION. Sec. 4.** The following acts or parts of acts are each repealed:

(1) RCW 28B.120.005 (Findings) and 2010 c 245 s 6, 1999 c 169 s 2, & 1991 c 98 s 1;

(2) RCW 28B.120.010 (Washington fund for innovation and quality in higher education program-Incentive grants) and 2012 c 229 s 571, 2010 c 245 s 7, 1999 c 169 s 5, 1996 c 41 s 1, & 1991 c 98 s 2;

(3)RCW 28B.120.020 (Program administration—Powers and duties of student achievement council) and 2012 c 229 s 572, 2011 1st sp.s. c 11 s 235, 2010 c 245 s 8, 1999 c 169 s 3, 1996 c 41 s 2, & 1991 c 98 s 3;

(4)RCW 28B.120.025 (Program administration—Powers and duties of state board for community and technical colleges) and 2012 c 229 s 573 & 1999 c 169 s 4;

(5)RCW 28B.120.030 (Receipt of gifts, grants, and endowments) and 2012 c 229 s 574, 1999 c 169 s 6, & 1991 c 98 s 4; and

(6)RCW 28B.120.900 (Intent—1999 c 169) and 1999 c 169 s 1."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chambers, Assistant Ranking Minority Member; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Calder; Chandler; Dye and Schmick.

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

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5790** Prime Sponsor, Committee on Ways & Means: Strengthening critical community support services for individuals with intellectual and developmental disabilities. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.29.010 and 2010 c 94 s 26 are each reenacted and amended to read as follows:

(1) "Independence" means a reasonable degree of restoration from dependency upon others to self-direction and greater control over circumstances of one's life for personal needs and care and includes

but is not limited to the ability to live in one's home.

(2) "Individual with disabilities" means an individual:

(a) Who has a physical, mental, or sensory disability, which requires vocational rehabilitation services to prepare for, enter into, engage in, retain, or engage in and retain gainful employment consistent with his or her capacities and abilities; or

(b) Who has a physical, mental, or sensory impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of vocational rehabilitation or independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment.

(3) "Individual with severe disabilities" means an individual with disabilities:

(a) Who has a physical, mental, or sensory impairment that seriously limits one or more functional capacities, such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills, in terms of employment outcome, and/or independence and participation in family or community life;

(b) Whose rehabilitation can be expected to require multiple rehabilitation services over an extended period of time; and

(c) Who has one or more physical, mental, or sensory disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and rehabilitation needs to

cause comparable substantial functional limitation.

(4) "Job support services" means ongoing goods and services provided after vocational rehabilitation, subject to available funds, that support an individual with severe disabilities in employment. Such services include, but are not limited to, extraordinary supervision or job coaching.

(5) "Physical, mental, or sensory disability" means a physical, mental, or sensory condition which materially limits, contributes to limiting or, if not corrected or accommodated, will probably result in limiting an individual's activities or functioning.

(6) "Rehabilitation services" means goods or services provided to: (a) Determine eligibility and rehabilitation needs of individuals with disabilities, and/or (b) enable individuals with disabilities to attain or retain employment and/or independence, and/or (c) contribute substantially to the rehabilitation of a group of individuals with disabilities. To the extent federal funds are available, goods and services may include, but are not limited to, the establishment, construction, development, operation and maintenance of community rehabilitation programs and independent living centers, as well as special demonstration projects.

(7) "~~((State agency)) Department~~" means the department of social and health services.

**Sec. 2.** RCW 74.29.020 and 1993 c 213 s 3 are each amended to read as follows:

Subject to available funds, and consistent with federal law and regulations the ~~((state agency)) department~~ shall:

(1) Develop statewide rehabilitation programs;

(2) Provide vocational rehabilitation services, independent living services, and/or job support services to individuals with disabilities or severe disabilities;

(3) Disburse all funds provided by law and may receive, accept and disburse such gifts, grants, conveyances, devises and bequests of real and personal property from public or private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying

out rehabilitation services as specified by law and the regulations of the ~~((state agency)) department~~; and may sell, lease or exchange real or personal property according to the terms and conditions thereof. Any money so received shall be deposited in the state treasury for investment, reinvestment or expenditure in accordance with the conditions of its receipt and RCW 43.88.180;

(4) Appoint and fix the compensation and prescribe the duties, of the personnel necessary for the administration of this chapter, unless otherwise provided by law;

(5) Make exploratory studies, do reviews, and research relative to rehabilitation;

(6) Coordinate with the state rehabilitation advisory council and the state independent living advisory council on the administration of the programs;

(7) Report to the governor and to the legislature on the administration of this chapter, as requested; and

(8) Adopt rules, in accord with chapter 34.05 RCW, necessary to carry out the purposes of this chapter.

**Sec. 3.** RCW 74.29.037 and 1993 c 213 s 6 are each amended to read as follows:

The ~~((state agency)) department~~ may establish cooperative agreements with other state and local agencies.

**Sec. 4.** RCW 74.29.050 and 1969 ex.s. c 223 s 28A.10.050 are each amended to read as follows:

The state of Washington does hereby:

(1) Accept the provisions and maximum possible benefits resulting from any acts of congress which provide benefits for the purposes of this chapter;

(2) Designate the state treasurer as custodian of all moneys received by the state from appropriations made by the congress of the United States for purposes of this chapter, and authorize the state treasurer to make disbursements therefrom upon the order of the ~~((state agency)) department~~; and

(3) Empower and direct the ~~((state agency)) department~~ to cooperate with the federal government in carrying out the provisions of this chapter or of any federal law or regulation pertaining to vocational rehabilitation, and to comply

with such conditions as may be necessary to assure the maximum possible benefits resulting from any such federal law or regulation.

**Sec. 5.** RCW 74.29.080 and 1993 c 213 s 4 are each amended to read as follows:

(1) Determination of eligibility and need for rehabilitation services and determination of eligibility for job support services shall be made by the ~~((state agency))~~ department for each individual according to its established rules, policies, procedures, and standards.

(2) The ~~((state agency))~~ department may purchase, from any source, rehabilitation services and job support services for individuals with disabilities, subject to the individual's income or other resources that are available to contribute to the cost of such services.

(3) The ~~((state agency))~~ department shall maintain registers of individuals and organizations which meet required standards and qualify to provide rehabilitation services and job support services to individuals with disabilities. Eligibility of such individuals and organizations shall be based upon standards and criteria promulgated by the ~~((state agency))~~ department.

**NEW SECTION. Sec. 6.** A new section is added to chapter 74.29 RCW to read as follows:

The department of social and health services shall:

(1) Establish a school to work program in all counties in the state to work with all students with intellectual and developmental disabilities who are potentially eligible to receive adult support services from the developmental disabilities administration of the department and are receiving high school transition services in order to connect these students with supported employment services; and

(2) In collaboration with the office of the superintendent of public instruction, the counties administering supported employment services in collaboration with the developmental disabilities administration of the department, the department of services for the blind, and any other relevant state agency working with students who

are potentially eligible for adult support services from the developmental disabilities administration of the department shall:

(a) Create a statewide council to:

(i) Establish common guidelines and outcome goals across regional interagency transition networks to ensure equitable access through system navigation for individuals receiving high school transition services and connection to services after leaving the school system; and

(ii) Establish a referral and information system that helps students who are potentially eligible for adult support services from the developmental disabilities administration of the department who are transitioning from high school, and their families or guardians, connect to the necessary services and agencies that support the needs of adults with intellectual and developmental disabilities; and

(b) Establish regional interagency transition networks as proposed in the 2020 transition collaborative summative report. Each regional network shall include representation from schools, counties, the developmental disabilities administration of the department, the regional division of vocational rehabilitation, service providers, community members, and students and families. The regional networks shall identify improvement goals and report no less than annually on progress or barriers to achieving these goals to the statewide council.

**Sec. 7.** RCW 28A.155.220 and 2015 c 217 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction must establish interagency agreements with the department of social and health services, the department of services for the blind, and any other state agency that provides high school transition services for special education students. Such interagency agreements shall not interfere with existing individualized education programs, nor override any individualized education program team's decision-making power. The purpose of the interagency agreements is to foster effective collaboration among the multiple agencies providing transition services for individualized education program-eligible special education

students from the beginning of transition planning, as soon as educationally and developmentally appropriate, through age twenty-one, or through high school graduation, whichever occurs first. Interagency agreements are also intended to streamline services and programs, promote efficiencies, and establish a uniform focus on improved outcomes related to self-sufficiency.

(2) (a) When educationally and developmentally appropriate, the interagency responsibilities and linkages with transition services under subsection (1) of this section must be addressed in a transition plan to a postsecondary setting in the individualized education program of a student with disabilities.

(b) Transition planning shall be based upon educationally and developmentally appropriate transition assessments that outline the student's individual needs, strengths, preferences, and interests. Transition assessments may include observations, interviews, inventories, situational assessments, formal and informal assessments, as well as academic assessments.

(c) The transition services that the transition plan must address include activities needed to assist the student in reaching postsecondary goals and courses of study to support postsecondary goals.

(d) Transition activities that the transition plan may address include instruction, related services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.

(e) When educationally and developmentally appropriate, a discussion must take place with the student and parents, and others as needed, to determine the postsecondary goals or postschool vision for the student. This discussion may be included as part of an annual individualized education program review, high school and beyond plan meeting, or any other meeting that includes parents, students, and educators. The postsecondary goals included in the transition plan shall be goals that are measurable and must be based on appropriate transition assessments related to training, education, employment, and independent living skills, when necessary. The goals must also be based on the student's

needs, while considering the strengths, preferences, and interests of the student.

(f) As the student gets older, changes in the transition plan may be noted in the annual update of the student's individualized education program.

(g) A ~~((student with disabilities who has a high school and beyond plan may use the plan to comply with the))~~ transition plan required under this subsection (2) must be aligned with a student's high school and beyond plan.

(3) To the extent that data is available through data-sharing agreements established by the education data center under RCW 43.41.400, the education data center must monitor the following outcomes for individualized education program-eligible special education students after high school graduation:

(a) The number of students who, within one year of high school graduation:

(i) Enter integrated employment paid at the greater of minimum wage or competitive wage for the type of employment, with access to related employment and health benefits; or

(ii) Enter a postsecondary education or training program focused on leading to integrated employment;

(b) The wages and number of hours worked per pay period;

(c) The impact of employment on any state and federal benefits for individuals with disabilities;

(d) Indicators of the types of settings in which students who previously received transition services primarily reside;

(e) Indicators of improved economic status and self-sufficiency;

(f) Data on those students for whom a postsecondary or integrated employment outcome does not occur within one year of high school graduation, including:

(i) Information on the reasons that the desired outcome has not occurred;

(ii) The number of months the student has not achieved the desired outcome; and

(iii) The efforts made to ensure the student achieves the desired outcome.

(4) To the extent that the data elements in subsection (3) of this section are available to the education data center through data-sharing agreements, the office of the superintendent of public instruction must prepare an annual report using existing resources and submit the report to the legislature.

(5) To minimize gaps in services through the transition process, no later than three years before students receiving special education services leave the school system, the office of the superintendent of public instruction shall transmit a list of potentially eligible students to the department of social and health services, the counties, the department of services for the blind, and any other state agency working with individuals with intellectual and developmental disabilities. The office of the superintendent of public instruction shall ensure that consent be obtained prior to the release of this information as required in accordance with state and federal requirements.

**NEW SECTION. Sec. 8.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

2SSB 5793 Prime Sponsor, Committee on Ways & Means: Allowing compensation for lived experience on boards, commissions, councils, committees, and other similar groups. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on State Government & Tribal Relations.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that equitable public policy discussions should include individuals directly impacted by that policy. In order to do so, the legislature supports removing barriers to that participation. The legislature finds that asking community members with lower financial means to volunteer their time and expertise while state employees and representatives of advocacy organizations receive compensation from their respective agency or organization for their time and experience ultimately hinders full and open public participation. As a result, the legislature finds that removing financial barriers for those individuals fosters increased access to government and enriches public policy discussions and decisions, ultimately leading to more equitable and sustainable policy outcomes.

**Sec. 2.** RCW 43.03.220 and 2011 1st sp.s. c 21 s 55 and 2011 c 5 s 902 are each reenacted and amended to read as follows:

(1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group. Unless otherwise identified in law, all newly formed and existing groups are a class one group.

(2) ~~Absent any other provision of law to the contrary, ((no money beyond the customary reimbursement or allowance for expenses may be paid by or through the state to members of class one groups for attendance at meetings of such groups))~~ a stipend may be provided to a member of a class one group in accordance with this subsection.

(a) Subject to available funding, an agency may provide a stipend to individuals who are low income or have lived experience to support their participation in class one groups when the agency determines such participation is desirable in order to implement the principles of equity described in RCW 43.06D.020, provided that the individuals are not otherwise



compensated for their attendance at meetings.

(b) Stipends shall not exceed \$200 for each day during which the member attends an official meeting or performs statutorily prescribed duties approved by the chairperson of the group.

(c) Individuals eligible for stipends under this section are eligible for reasonable allowances for child and adult care reimbursement, lodging, and travel expenses as provided in RCW 43.03.050 and 43.03.060 in addition to stipend amounts.

(d) Nothing in this subsection creates an employment relationship, or any membership or qualification in any state or other publicly supported retirement system, for this or any other title due to the payment of a stipend, lodging and travel expenses, or child care expenses provided under this section where such a relationship, membership, or qualification did not already exist.

(e) As allowable by federal and state law, state agencies will minimize, to the greatest extent possible, the impact of stipends and reimbursements on public assistance eligibility and benefit amounts.

(3) ~~((a) No)~~ Except for members who qualify for a stipend under subsection (2) of this section, no person designated as a member of a class one board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under RCW 43.03.049. Class one groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law.

~~((b))~~ (4) Class one groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

(5) Agencies exercising their authority to provide stipends and allowances under this section must follow the guidelines established by the office

of equity pursuant to section 3 of this act.

(6) For purposes of this section:

(a) "Lived experience" means direct personal experience in the subject matter being addressed by the board, commission, council, committee, or other similar group.

(b) "Low income" means an individual whose income is not more than 400 percent of the federal poverty level, adjusted for family size.

NEW SECTION. Sec. 3. A new section is added to chapter 43.03 RCW to read as follows:

(1) By December 1, 2022, the office of equity shall develop uniform equity-driven guidelines for agencies on the issuance of stipends and allowances authorized under RCW 43.03.220 to provide for consistent application of the law. In developing the guidelines, the office of equity shall consult with stakeholders including, but not limited to, state agencies and impacted communities. The guidelines for providing allowances must include the reasonable allowances as prescribed by the office of financial management under RCW 43.03.050.

(2) Agencies exercising their authority under RCW 43.03.220 to provide stipends or allowances to members of class one groups shall adhere to the guidelines established under subsection (1) of this section.

Sec. 4. RCW 28A.300.802 and 2011 1st sp.s. c 21 s 53 are each amended to read as follows:

In addition to any board, commission, council, committee, or other similar group established by statute or executive order, the superintendent of public instruction may appoint advisory groups on subject matters within the superintendent's responsibilities or as may be required by any federal legislation as a condition to the receipt of federal funds by the federal department. The advisory groups shall be constituted as required by federal law or as the superintendent may determine.

Members of advisory groups under the authority of the superintendent may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Except as provided in this section or as authorized by RCW 43.03.220, members

of advisory groups under the authority of the superintendent are volunteering their services and are not eligible for compensation. A person is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group if the person (1) occupies a position, normally regarded as full-time in nature, as a certificated employee of a local school district; (2) is participating as part of their employment with the local school district; and (3) the meeting or duties are performed outside the period in which school days as defined by RCW 28A.150.030 are conducted. The superintendent may reimburse local school districts for substitute certificated employees to enable members to meet or perform duties on school days. A person is eligible to receive compensation from federal funds in an amount to be determined by personal service contract for groups required by federal law.

**Sec. 5.** RCW 43.03.050 and 2011 1st sp.s. c 21 s 61 are each amended to read as follows:

(1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed the rates set by the federal government for federal employees. However, during the 2003-05 fiscal biennium, the allowances for any county that is part of a metropolitan statistical area, the largest city of which is in another state, shall equal the allowances prescribed for that larger city.

(2) Those persons appointed to serve without compensation on any state board,

commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of financial management.

(3) The director of financial management may prescribe reasonable allowances to cover reasonable expenses for meals, coffee, and light refreshment served to elective and appointive officials and state employees regardless of travel status at a meeting where: (a) The purpose of the meeting is to conduct official state business or to provide formal training to state employees or state officials; (b) the meals, coffee, or light refreshment are an integral part of the meeting or training session; (c) the meeting or training session takes place away from the employee's or official's regular workplace; and (d) the agency head or authorized designee approves payments in advance for the meals, coffee, or light refreshment. In order to prevent abuse, the director may regulate such allowances and prescribe additional conditions for claiming the allowances.

(4) Upon approval of the agency head or authorized designee, an agency may serve coffee or light refreshments at a meeting where: (a) The purpose of the meeting is to conduct state business or to provide formal training that benefits the state; and (b) the coffee or light refreshment is an integral part of the meeting or training session. The director of financial management shall adopt requirements necessary to prohibit abuse of the authority authorized in this subsection.

(5) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary child and adult care expenses incurred by eligible members of a class one board, commission, council, committee, or similar group, who are authorized under RCW 43.03.220 to receive such allowances, while attending an official meeting or performing statutorily prescribed duties approved by the chairperson of the group.

(6) The schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than usual costs shall be reported to the ways and means committees of the house of

representatives and the senate at each regular session of the legislature.

~~((46))~~ (7) No person designated as a member of a class one through class three or class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund(~~(- Exceptions may be granted)~~), unless authorized under RCW 43.03.220 or granted an exception under RCW 43.03.049.

**Sec. 6.** RCW 43.03.060 and 2011 1st sp.s. c 21 s 62 are each amended to read as follows:

(1) Whenever it becomes necessary for elective or appointive officials or employees of the state to travel away from their designated posts of duty while engaged on official business, and it is found to be more advantageous or economical to the state that travel be by a privately-owned vehicle rather than a common carrier or a state-owned or operated vehicle, a mileage rate established by the director of financial management shall be allowed. The mileage rate established by the director shall not exceed any rate set by the United States treasury department above which the substantiation requirements specified in Treasury Department Regulations section 1.274-5T(a)(1), as now law or hereafter amended, will apply.

(2) The director of financial management may prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed. The reimbursement or other payment for transportation expenses of any employee or appointive official of the state shall be based on the method deemed most advantageous or economical to the state.

(3) The mileage rate established by the director of financial management pursuant to this section and any subsequent changes thereto shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

(4) No person designated as a member of a class one through class three or class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or

travel expenses if the allowance cost is funded by the state general fund(~~(- Exceptions may be granted)~~), unless authorized under RCW 43.03.220 or granted an exception under RCW 43.03.049.

**NEW SECTION. Sec. 7.** A new section is added to chapter 43.03 RCW to read as follows:

(1) An agency exercising its authority to provide stipends under RCW 43.03.220(2) must report to the Washington state office of equity by August 30, 2023, and August 30, 2024, for state fiscal years 2023 and 2024 respectively, the following information:

(a) A brief description of the groups for which stipends have been made available including:

(i) Number of members receiving a stipend or allowance; and

(ii) Aggregate demographic information of members of class one groups including race, ethnicity, income, and geographic representation by county;

(b) The amount of stipends distributed;

(c) The amount of allowances distributed;

(d) An analysis of whether and how the availability of stipends and allowances has reduced barriers to participation and increased the diversity of group participants; and

(e) An analysis of whether the provision of stipends and allowances resulted in more applications and willingness to participate.

(2) The Washington state office of equity shall:

(a) Compile and analyze the information received from agencies under this section; and

(b) Prepare a report, in compliance with RCW 43.01.036, to the governor and legislature by December 1, 2024. The report must include:

(i) An overall evaluation of the stipend process authorized in RCW 43.03.220(2);

(ii) Recommendations for improving the process; and

(iii) Recommendations to further decrease barriers to participation and

increase the diversity of group applicants.

**Sec. 8.** RCW 41.40.035 and 1987 c 146 s 1 are each amended to read as follows:

(1) No person appointed to membership on any committee, board, or commission on or after July 1, 1976, who is compensated for service on such committee, board, or commission for fewer than ten days or seventy hours in any month, whichever amount is less, shall receive service credit for such service for that month: PROVIDED, That on and after October 1, 1977, appointive and elective officials who receive monthly compensation earnable from an employer in an amount equal to or less than ninety times the state minimum hourly wage shall not receive any service credit for such employment.

(2) No person appointed on or after the effective date of this subsection to membership on any committee, board, or commission described in RCW 43.03.220 may receive service credit for service on such committee, board, or commission due to the payment of a stipend or allowance as authorized under RCW 43.03.220.

(3) This section does not apply to any person serving on a committee, board, or commission on June 30, 1976, who continued such service until subsequently appointed by the governor to a different committee, board, or commission."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Dye and Schmick.

Referred to Committee on Rules for second reading.

February 28, 2022

**E2SSB 5796** Prime Sponsor, Committee on Ways & Means: Restructuring cannabis revenue appropriations. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The joint legislative audit and review committee shall conduct a review of the appropriation and expenditure of cannabis revenues pursuant to RCW 69.50.540 and report to the appropriate legislative committees by July 1, 2023. The report shall include an examination on the appropriation and expenditure of these funds to evaluate: how these funds have been appropriated and expended; whether the appropriations and expenditures are consistent with the provisions of RCW 69.50.540; and whether information related to the appropriations and expenditures is readily available to the general public. The report shall include options for increasing the transparency and accountability related to the appropriation and expenditure of cannabis related revenues."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Boehnke; Caldier; Chandler and Dye.

Referred to Committee on Rules for second reading.

February 28, 2022

**E2SSB 5803** Prime Sponsor, Committee on Ways & Means: Mitigating the risk of wildfires caused by an electric utility's equipment. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Rural Development, Agriculture & Natural Resources.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) It is in the best interest of the state, our citizens, and our landscapes to identify the sources of wildland fires; identify and implement best practices to reduce the prevalence and intensity of those wildland fires; put those practices in place; and by putting those practices in place, reduce the risk of wildland fires and damage resulting from those fires.

(2) The legislature finds that electric utilities are partners with relevant state agencies, emergency responders, and public and private entities in identifying best practices to reduce the risk of and prevent wildland fires. Many electric utilities have developed and are implementing wildfire mitigation plans. The legislature further finds that electric utilities should adopt and implement wildfire mitigation plans, and that electric utilities should be informed by recognized best practices, as applicable to their geography, terrain, vegetation, and other characteristics specific in their service area, for reducing wildland fire risk and reducing damage from wildland fires as may be ignited by electric utility equipment.

(3) Therefore, the legislature intends to authorize the development of best practices guidelines and to require that electric utilities provide their wildfire mitigation plans to the state in order to promote public transparency and to obtain review of the plans for inclusion of applicable best practices guidelines.

**NEW SECTION. Sec. 2.** A new section is added to chapter 76.04 RCW to read as follows:

(1) The department shall contract with an independent consultant with experience in developing utility wildfire mitigation plans to recommend a format and a list of elements to be included in electric utility wildfire mitigation plans, including best practices guidance that may apply to each element as appropriate. In developing the format and list of elements, the department shall seek input from the utilities and transportation commission, the energy emergency management office of the department of commerce, the utility wildland fire prevention advisory committee, electric utilities, the state

fire marshal, the governor's office of Indian affairs, and the public. By July 1, 2023, the department shall make public a recommended format and list of elements for electric utility wildfire mitigation plans.

(2) The recommended elements must acknowledge that utilities serve areas that vary in topography, vegetation, population, and other characteristics, and that best practices guidelines within each element must recognize that a utility's wildfire mitigation plan will be designed to fit site-specific circumstances. The recommended elements must include, but are not limited to:

(a) Vegetation management along transmission and distribution lines and near associated equipment;

(b) Infrastructure inspection and maintenance repair activities, schedules, and recordkeeping;

(c) Modifications or upgrades to facilities and construction of new facilities to incorporate cost-effective measures to minimize fire risk;

(d) Preventative programs, including adoption of new technologies to harden utility infrastructure; and

(e) Operational procedures.

(3) The recommended format and list of elements developed by the department must be forwarded to the utilities and transportation commission, the energy emergency management office of the department of commerce, and all electric utilities in Washington state for a review period of three months prior to finalizing the format and list of elements that utilities will use to adopt or update their electric utility wildfire mitigation plan.

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

(a) "Consumer-owned utility" means a municipal electric utility, public utility district, irrigation district, cooperative, or mutual corporation association.

(b) "Electric utility" means: (i) An electrical company as defined in RCW 80.04.010 that is engaged in the business of distributing electricity to one or more electric customers in the state; or (ii) a consumer-owned utility that is engaged in the business of distributing

electricity to one or more electric customers in the state.

NEW SECTION. **Sec. 3.** A new section is added to chapter 80.28 RCW to read as follows:

(1) By October 31, 2023, and at a minimum every two years thereafter, each electrical company must review and revise, if appropriate, its wildfire mitigation plan and submit it to the commission. The plan should include a review of specific circumstances of that electrical company and incorporate as appropriate the recommendations developed pursuant to section 2 of this act. The electrical company must submit its plan to the commission and make the plan publicly available. Within six months of submission by the electrical company, the commission shall review the plan and confirm whether or not the plan contains the recommended elements. In reviewing the plan, the commission must consult with the department of natural resources and the energy emergency management office of the department of commerce. The commission's review of an electrical company's wildfire mitigation plan does not relieve an electrical company from proactively managing wildfire risk, including by monitoring emerging practices and technologies, and mitigating and responding to wildfires. The commission is not liable for an electrical company's performance implementing its wildfire mitigation plan. An electrical company may pursue recovery of reasonable costs and investments associated with a wildfire mitigation plan through a proceeding to set rates at the commission. Nothing in this section or sections 2, 4, and 6 of this act may be construed to preclude electrical companies from continuing to develop and implement wildfire mitigation measures. After the commission's review, the electrical company must provide a copy of the plan to the department of natural resources along with a list and description of wildland fires within its customer service area over the previous two years as reported by the department of natural resources. The plan must be posted as specified in section 6 of this act.

(2) For the purposes of this section, "electrical company" means a company owned by investors that meets the definition of "corporation" in RCW 80.04.010 and is engaged in distributing

electricity to more than one retail electric customer in the state.

NEW SECTION. **Sec. 4.** A new section is added to chapter 19.29A RCW to read as follows:

(1) By December 31, 2023, and every two years thereafter, each consumer-owned utility must review and revise, if appropriate, its wildfire mitigation plan. The plan should include a review of specific circumstances of that utility and incorporate as appropriate the recommendations developed pursuant to section 2 of this act.

(a) The governing board of each consumer-owned utility shall review the plan and confirm whether the plan contains the recommended elements. Local fire districts must be provided the opportunity to review and provide feedback during this period. After the governing board's review, the utility must provide a copy to the department of natural resources, along with a list and description of wildland fires within its customer service area over the previous two years as reported by the department of natural resources. The plan must be posted as specified in section 6 of this act.

(b) Each consumer-owned utility must also provide its plan to the energy emergency management office of the department of commerce for review, which must review the plans and provide feedback within six months for consideration for inclusion in the next plan revision.

(c) By December 31, 2022, each utility must provide a copy of their most recent plan to the department of natural resources and it must be posted on a website.

(d) By December 31, 2023, the energy emergency management office will be available to provide technical assistance to consumer-owned utilities to include the best practices guidelines in their revision of plans.

(2) Two or more abutting utilities may codevelop a wildfire mitigation plan. Wildfire mitigation plans that are codeveloped by more than one utility may identify areas of common implementation, including communication protocols, that will assist in implementing the recommended elements pursuant to section 2 of this act.

(3) Nothing in this section prohibits a utility from reviewing or updating its wildfire mitigation plan more often than every two years or requires that the utility submit their plan beyond the requirements of subsection (1) of this section.

**Sec. 5.** RCW 76.04.780 and 2021 c 183 s 1 are each amended to read as follows:

(1) The commissioner shall convene a utility wildland fire prevention advisory committee with electrical power distribution utilities by August 1, 2021. The duties of the advisory committee are to advise the department on issues including, but not limited to:

(a) Matters related to the ongoing implementation of the relevant recommendations of the electric utility wildland fire prevention task force established in chapter 77, Laws of 2019, and by August 1, 2021:

(i) Finalizing a model agreement for managing danger trees and other vegetation adjacent to utility rights-of-way on state uplands managed by the department;

(ii) Implementing recommendations of the task force related to communications and information exchanges between the department and utilities;

(iii) Implementing recommendations of the task force related to protocols and thresholds when implementing provisions of RCW 76.04.015; and

(iv) Implementing recommendations of the task force related to creating rosters of certified wildland fire investigator firms or persons, and qualified utility operations personnel who may be called upon as appropriate;

(b) Providing a forum for electric utilities, the department, and other fire suppression organizations of the state to identify and develop solutions to issues of ~~((wildfire))~~ wildland fire prevention and risk mitigation specifically related to electric utilities transmission and distribution networks, identification of best management practices, electric utility infrastructure protection, and wildland fire suppression and response;

(c) Establishing joint public communications protocols among members of the advisory committee, and other entities, to inform residents of the state of potential critical fire weather

events and the potential for power outages or disruptions;

(d) Providing comment to the wildland fire advisory committee established in RCW 76.04.179 through an annual presentation addressing policies and priorities of the utility wildland fire prevention advisory committee; and

(e) All other related issues deemed necessary by the commissioner.

(2) By August 1, 2021, the department must post on its website and update quarterly as necessary:

(a) Communication protocols and educational exchanges between the department and electric utilities;

(b) A voluntary model danger tree management agreement to utilities for their consideration for execution with the department;

(c) Protocols and thresholds that may be utilized when the department's investigation involves electric utility infrastructure or potential electric utility liability; and

(d) A roster of third-party certified wildland fire investigators and qualified utility personnel that may assist the department or utility in understanding and reducing risks and liabilities from wildland fire.

(3) Beginning July 1, 2022, and at the beginning of each subsequent biennium thereafter, the department must submit, in compliance with RCW 43.01.036, a report describing the prior biennium proceedings of the advisory committee, including identification of recommended legislation, if any, necessary to prevent wildfires related to electric utilities. In addition, by July 1, 2023, the department must submit to the appropriate committees of the senate and house of representatives:

(a) A compilation and summary of existing wildfire mitigation plans maintained by electric utilities;

(b) An analysis of the costs and benefits of preparing and maintaining a comprehensive statewide wildland fire risk map that identifies relative risk classes, with detail at a level to assist property owners, local governments, utilities, wildland management agencies, and fire response agencies in taking actions to minimize wildland fire starts and resulting damage. The analysis must

also address incorporating the boundaries of the wildland urban interface as mapped pursuant to RCW 19.27.031; and

(c) Recommendations for strengthening state agency coordination of wildland fire risk reduction, prevention, and suppression. In this work the utility wildland fire prevention advisory committee shall seek the views of the wildland fire advisory committee created under RCW 76.04.179, as well as the views of the department of commerce energy policy division and the emergency management division of the military department.

(4) The commissioner or the commissioner's designee must chair the advisory committee created in subsection (1) of this section and must appoint advisory committee members. The advisory committee must include a representative of the energy emergency management office of the department of commerce and a representative of the utilities and transportation commission. Advisory committee membership should also include:

(a) Entities providing retail electric service, including:

(i) One person representing each investor-owned utility;

(ii) Two persons representing municipal utilities;

(iii) Two persons representing public utility districts;

(iv) Two persons representing rural electric cooperatives;

(v) One person representing small forestland owners;

(vi) One person representing industrial forestland owners;

(b) Other persons with expertise in wildland fire risk reduction and prevention; and

(c) No more than two other persons designated by the commissioner.

(5) In addition to the advisory committee membership established in subsection (4) of this section, the commissioner shall designate two additional advisory committee members representing historically marginalized or underrepresented communities.

(6) The commissioner or the commissioner's designee shall convene the initial meeting of the advisory committee. The advisory committee chair must schedule and hold meetings on a regular basis in order to expeditiously accomplish the duties and make recommendations regarding the elements described in subsection (3) of this section.

(7) The members of the advisory committee, or individuals acting on their behalf, are immune from civil liability for official acts performed in the course of their duties specifically related to the advisory committee.

(8) Participation on the advisory committee created in subsection (1) of this section is strictly voluntary and without compensation.

(9) Any requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

NEW SECTION. Sec. 6. A new section is added to chapter 76.04 RCW to read as follows:

(1) The department must create a public website to host electric utility wildfire mitigation plans developed under sections 3 and 4 of this act.

(2) Nothing in this act may be construed to preclude electric utilities from continuing to develop and implement their wildfire mitigation plans. Electric utilities are encouraged to submit their 2022 plans to the department's energy emergency management office for inclusion on the website under subsection (1) of this section.

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

(a) "Consumer-owned utility" means a municipal electric utility, public utility district, irrigation district, cooperative, or mutual corporation association.

(b) "Electric utility" means: (i) An electrical company as defined in RCW 80.04.010 that is engaged in the business of distributing electricity to one or more electric customers in the state; or (ii) a consumer-owned utility that is engaged in the business of distributing electricity to one or more electric customers in the state."



Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5819** Prime Sponsor, Committee on Ways & Means: Concerning the developmental disabilities administration's no-paid services caseload. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 71A.10 RCW to read as follows:

(1) The department shall hire two permanent, full-time employees to regularly review and maintain the no-paid services caseload. This includes, but is not limited to, updating the no-paid services caseload to accurately reflect a current headcount of eligible individuals and identifying the number of individuals contacted who are currently interested in receiving a paid service from the developmental disabilities administration and if the individual would like services now or within the next year. Beginning December 1, 2022, the department shall annually report this information to the governor and the appropriate committees of the legislature.

(2) A client on the no-paid services caseload shall receive case resource management services. The case resource manager's duties include: (a) Contacting and responding to the client to discuss the client's service needs, and (b) explaining to the client the service options available through the department or other community resources.

**NEW SECTION. Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter

number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5838** Prime Sponsor, Committee on Human Services, Reentry & Rehabilitation: Providing a monthly diaper subsidy for parents or other caregivers receiving temporary assistance for needy families. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Harris; Jacobsen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Caldier; Hoff and Schmick.

MINORITY recommendation: Do not pass. Signed by Representatives MacEwen, Assistant Ranking Minority Member; Boehnke; Chandler; Dye and Rude.

Referred to Committee on Rules for second reading.

February 28, 2022

**ESSB 5847** Prime Sponsor, Committee on Higher Education & Workforce Development: Providing information to public service employees about the public service loan forgiveness program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on College & Workforce Development.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature recognizes that our country faces a student loan debt crisis. Nationally, Americans owe \$1.73 trillion in student loans. In Washington state, about 767,300 student loan borrowers owe nearly \$27.4 billion of outstanding debt, more than \$35,700 per borrower on average.

(2) Student loan debt is a multigenerational issue that affects borrowers of all ages and jeopardizes millions of families' long-term financial security. While student loan balances have risen for all age groups, older borrowers have seen the largest increase. Student loan defaults rise with the borrower's age, and parents and grandparents take on debt to help their children and grandchildren pay for their education. Borrowers are increasingly defaulting on their debts, resulting in income garnishment and deductions from federal tax refunds or social security payments.

(3) The legislature further recognizes that the federal government offers and provides loan forgiveness for individuals who have worked in a public service job full time and have made qualifying payments towards their student loans. Unfortunately, the eligibility criteria to qualify for this program has been complex, leading to low approval rates for individuals who would otherwise qualify. By providing more public awareness of this program, the legislature intends to help alleviate the student loan debt burden of those who have committed their lives to public service.

(4) It is the intent of the legislature to do the following:

(a) Develop materials to increase awareness of the federal public service loan forgiveness program;

(b) Create a program for state agencies to certify employment for the purpose of the public service loan forgiveness program;

(c) Have public service employers collaborate on a statewide initiative to improve access and remove barriers to the public service loan forgiveness program for all public service employees in the state; and

(d) Acknowledge the work done outside the classroom by part-time academic employees, allowing for those hours to be

counted towards the definition of full time for the public service loan forgiveness program as set forth in 34 C.F.R. Sec. 685.219.

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

(1) The student loan advocate, established in RCW 28B.77.007, shall develop, and update annually as necessary, materials designed to increase awareness of the public service loan forgiveness program. Materials include, at a minimum:

(a) A standardized letter for public service employers to send to their employees briefly summarizing the public service loan forgiveness program, information about what eligible employees are required to do in order to benefit from the program, and how an eligible employee may contact their student loan servicer for additional resources;

(b) A detailed fact sheet describing the public service loan forgiveness program, including the official website address maintained by the United States department of education for the program and contact information for the student loan advocate; and

(c) A document containing frequently asked questions about the public service loan forgiveness program.

(2) The student loan advocate shall coordinate with the office of financial management, the secretary of state, local governmental entities, and other relevant agencies and public service employer entities to ensure that public service employers receive materials developed in subsection (1) of this section.

(3) For purposes of this section, the definitions in this subsection apply:

(a) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(b) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.41 RCW to read as follows:

(1) The office shall:

(a) Develop a program for state agencies to certify employment for the purposes of the public service loan forgiveness program by July 1, 2023.

(b) Assist the student loan advocate in creating and distributing materials designed to increase awareness of the public service loan forgiveness program set forth in section 1 of this act.

(c) Collaborate with the student achievement council, the employment security department, the department of retirement systems, nonprofit entities, local government representatives, and other public service employers in developing a statewide initiative to improve access and remove barriers to the public service loan forgiveness program for all public service employees. The program established for state agencies in this section and the certification process in section 4 of this act may be considered in the development of the initiative. A plan for a statewide initiative must be developed and submitted to the higher education committees of the legislature by December 1, 2024, in compliance with RCW 43.01.036.

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

(a) "Certifying employment" means either completing the employer sections of the public service loan forgiveness form or sharing data directly with the United States department of education that corresponds to the information required for the public service loan forgiveness form, as allowed by the United States department of education.

(b) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(c) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

(d) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

**NEW SECTION. Sec. 4.** A new section is added to chapter 41.04 RCW to read as follows:

(1) As soon as available, a state agency shall provide the materials described in section 2 of this act in written or electronic form to:

(a) All employees annually;

(b) Newly hired employees within 30 days of the employee's first day of employment.

(2) A state agency must certify employment for the purposes of the public service loan forgiveness program in accordance with the program established in section 3 of this act beginning July 1, 2023.

(a) If a state agency does not directly certify employment with the United States department of education, the state agency must annually provide notice of renewal and a copy of the public service loan forgiveness form with employer information and employment certification sections of the form already completed reflecting at least the last 12 months of employment to:

(i) An employee who requests a public service loan forgiveness form;

(ii) Any current employee for whom the state agency has previously certified employment, unless the employee has opted out; and

(iii) An employee upon separation from service or employment, unless the employee has opted out. The notice of renewal and completed employer sections of the public service loan forgiveness form provided to a separated employee must be sent within 60 days of separation and are exempted from the annual requirement set forth in subsection (2)(a) of this section.

(b) A state agency shall not unreasonably delay in certifying employment.

(c) A state agency must seek permission from its employees prior to certifying their employment.

(d) Institutions of higher education must use the calculation established in section 5 of this act and may apply it retroactively to determine whether a part-time academic employee is considered full time for the public service loan forgiveness program.

(e) A state agency may send the information necessary for public service loan forgiveness employment certification to the United States department of education, or its agents, if the United States department of education permits public service employers to certify employment for past or present individual employees or groups of employees directly, notwithstanding other provisions of law.

(f) The office of financial management is authorized to adopt rules for the purpose of this section.

(3) An employee of a state agency may opt out of the employment certification process established in section 3 of this act at any time.

(4) For purposes of this section, the definitions in this subsection apply:

(a) "Certifying employment" means either completing the employer sections of the public service loan forgiveness form or sharing data directly with the United States department of education that corresponds to the information required for the public service loan forgiveness form.

(b) "Full time" has the same meaning as set forth in 34 C.F.R. Sec. 685.219.

(c) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(d) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

(e) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

NEW SECTION. **Sec. 5.** A new section is added to chapter 41.04 RCW to read as follows:

For the purpose of determining whether a part-time academic employee at an institution of higher education is considered full time for certifying employment for the public service loan forgiveness program, duties performed in support of, or in addition to, contractually assigned in-class teaching hours must be included. To calculate this, each hour of in-class teaching time shall be multiplied by 3.35 hours. This section shall not supersede any calculation or adjustment established by a collective bargaining agreement or employer policy for additional work done outside of in-class teaching. An institution of higher education shall not treat any adjusted total hours worked differently from hours worked without an adjustment when determining whether an employee is full time. "Institution of higher education" has the same meaning as

"institutions of higher education" in RCW 28B.10.016.

NEW SECTION. **Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Jacobsen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Caldwell and Rude.

MINORITY recommendation: Do not pass. Signed by Representatives Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Chandler; Dye; Harris; Hoff; Schmick and Steele.

Referred to Committee on Rules for second reading.

February 28, 2022

ESSB 5874 Prime Sponsor, Committee on Higher Education & Workforce Development: Concerning residency of students affiliated with the military. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on College & Workforce Development.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.15.012 and 2021 c 272 s 9 are each amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community or technical college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed and obtained a high school diploma, or a person who has received the equivalent of a diploma; who has continuously lived in the state of Washington for at least a year primarily for purposes other than postsecondary education before the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not

limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than ~~((educational))~~ postsecondary education, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15)(E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is on active military duty or a member of the Washington national guard who meets the following conditions:

(i) Entered service as a Washington resident;

(ii) Has maintained a Washington domicile; and

(iii) Is stationed out-of-state;

(i) A student who is on active military duty who is stationed out-of-state after having been stationed in Washington and is either:

(i) Admitted to an institution of higher education in Washington before the reassignment and enrolls in that institution for the term the student was admitted;

(ii) Enrolled in an institution of higher education in Washington and remains continuously enrolled at the institution; or

(iii) Enrolls in an institution of higher education in Washington within three years from the date of reassignment out-of-state;

(j) A student who is the spouse, state registered domestic partner, or a dependent as defined in Title 10 U.S.C. Sec. 1072(2) as it existed on January 18, 2022, or such subsequent date as the student achievement council may determine by rule of a person defined in (g) or (h) of this subsection. If the person defined in (g) of this subsection

is reassigned out-of-state, the student maintains the status as a resident student so long as the student is either:

(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; ~~((or))~~

(ii) Enrolled in an institution and remains continuously enrolled at the institution; or

(iii) Enrolled in an institution of higher education in Washington within three years from the date of reassignment out-of-state;

~~((j) A student who is the spouse or a dependent of a person defined in (h) of this subsection;~~

~~(k) A student who is eligible or entitled to transferred federal post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec. 3301 et seq.) benefits based on the student's relationship as a spouse, former spouse, or child to an individual who is on active duty in the uniformed services;~~

~~(l) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;~~

~~(m) A student who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service; is eligible for educational assistance benefits under Title 38 U.S.C.; and enters an institution of higher education in Washington within three years of the date of separation;~~

~~(n) A student who is on terminal, transition, or separation leave pending separation, or release from active duty, from the uniformed services with any period of honorable service after at least ninety days of active duty service and is eligible for educational assistance benefits under Title 38 U.S.C.;~~

~~(o) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship as a spouse, former spouse, or child to an individual who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service, and who enters an institution of higher education in~~

~~Washington within three years of the service member's date of separation;~~

~~(p))~~ (k) A student who is eligible for veterans administration educational assistance or rehabilitation benefits under Title 38 U.S.C. or educational assistance under Title 10 U.S.C. chapter 1606 as the titles existed on January 18, 2022, or such subsequent date as the student achievement council may determine by rule;

(l) A student who ~~((is the spouse or child to an individual who))~~ has separated or retired from the uniformed services with at least ~~((ten))~~ 10 years of honorable service and at least ~~((ninety))~~ 90 days of active duty service, and who enters an institution of higher education in Washington within three years of the ~~((service member's))~~ date of separation or retirement;

~~((q))~~ (m) A student who is the spouse, state registered domestic partner, or child under the age of 26 years of an individual who has separated or retired from the uniformed services with at least 10 years of honorable service and at least 90 days of active duty service, and who enters an institution of higher education in Washington within three years of the service member's date of separation or retirement;

(n) A student who has separated from the uniformed services who was discharged due to the student's sexual orientation or gender identity or expression;

~~((r) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship with a deceased member of the uniformed services who died in the line of duty;~~

~~(s) A student who is entitled to federal vocational rehabilitation and employment services for veterans with service-connected disabilities under 38 U.S.C. Sec. 3102(a);~~

~~(t))~~ (o) A student who is defined as a covered individual in 38 U.S.C. Sec. 3679(c)(2) as it existed on ~~((July 28, 2019))~~ January 18, 2022, or such subsequent date as the student achievement council may determine by rule;

~~((u))~~ (p) A student of an out-of-state institution of higher education who is attending a Washington state

institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;

~~((v))~~ (q) A student who meets the requirements of RCW 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;

~~((w))~~ (r) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

~~((x))~~ (s) A student who resides in Washington and is the spouse or a dependent of a person defined in ~~((w))~~ (r) of this subsection. If the person defined in ~~((w))~~ (r) of this subsection moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is either:

(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or

(ii) Enrolled in an institution and remains continuously enrolled at the institution.

(3)(a) A student who qualifies under subsection (2)(k), (l), (m), (n), or (o) ~~((p), (q), (r), (s), or (t))~~ of this section and who remains continuously enrolled at an institution of higher education shall retain resident student status.

(b) Nothing in subsection (2)(k), (l), (m), (n), or (o) ~~((p), (q), (r), (s), or (t))~~ of this section applies to students who have a dishonorable discharge from the uniformed services, or to students who are the spouse or child of an individual who has had a

dishonorable discharge from the uniformed services, unless the student is receiving veterans administration educational assistance benefits.

(4) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or ~~((+))~~ (p) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah, Clatsop, Clackamas, or Washington county, Oregon participating in the border county pilot project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.

(b) A person who is not a citizen of the United States of America, unless the person meets and complies with all applicable requirements in this section and RCW 28B.15.013 and is one of the following:

- (i) A lawful permanent resident;
- (ii) A temporary resident;
- (iii) A person who holds "refugee-parolee," "conditional entrant," or U or T nonimmigrant status with the United States citizenship and immigration services;
- (iv) A person who has been issued an employment authorization document by the United States citizenship and immigration services that is valid as of the date the person's residency status is determined;
- (v) A person who has been granted deferred action for childhood arrival status before, on, or after June 7, 2018, regardless of whether the person is no longer or will no longer be granted deferred action for childhood arrival status due to the termination, suspension, or modification of the deferred action for childhood arrival program; or
- (vi) A person who is otherwise permanently residing in the United States under color of law, including deferred action status.

(5) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(6) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules adopted by the student achievement council and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the council may require.

(7) The term "active military duty" means the person is serving on active duty in:

- (a) The armed forces of the United States government; or
- (b) The Washington national guard; or
- (c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

(8) The term "active duty service" means full-time duty, other than active duty for training, as a member of the uniformed services of the United States. Active duty service as a national guard member under Title 32 U.S.C. for the purpose of organizing, administering, recruiting, instructing, or training and active service under Title 32 U.S.C. Sec. 502(f) for the purpose of responding to a national emergency is recognized as active duty service.

(9) The term "uniformed services" is defined by Title 10 U.S.C.; subsequently structured and organized by Titles 14, 33, and 42 U.S.C.; consisting of the United States army, United States marine corps, United States navy, United States air force, United States coast guard, United States space force, United States public health service commissioned



corps, and the national oceanic and atmospheric administration commissioned officer corps.

(10) "Washington national guard" means that part of the military force of the state that is organized, equipped, and federally recognized under the provisions of the national defense act of the United States, and in the event the national guard is called into federal service or in the event the state guard or any part or individual member thereof is called into active state service by the commander-in-chief. National guard service includes being subject to call up for active duty under Title 32 U.S.C. or Title 10 U.S.C. status or when called to state active service by the governor under the provisions of RCW 38.08.040.

(11) "Child" includes, but is not limited to:

- (a) A legitimate child;
- (b) An adopted child;
- (c) A stepchild;
- (d) A foster child; and
- (e) A legal dependent."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5880** Prime Sponsor, Committee on Business, Financial Services & Trade: Concerning fire protection sprinkler system contractors. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.160.030 and 2003 c 74 s 1 are each amended to read as follows:

(1) This chapter shall be administered by the state director of fire protection.

(2) The state director of fire protection shall have the authority, and it shall be his or her duty to:

(a) Issue such administrative regulations as necessary for the administration of this chapter;

(b)(i) Set reasonable fees for licenses, certificates, testing, and other aspects of the administration of this chapter. However, the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-D fire protection sprinkler systems shall not exceed (~~one hundred dollars~~) \$125, and the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-R fire protection sprinkler systems shall not exceed (~~three hundred dollars~~) \$375;

(ii) Adopt rules establishing a special category restricted to contractors registered under chapter 18.27 RCW who install underground systems that service fire protection sprinkler systems. The rules shall be adopted within ninety days of March 31, 1992;

(iii) Subject to RCW 18.160.120, adopt rules defining infractions under this chapter and fines to be assessed for those infractions;

(c) Enforce the provisions of this chapter;

(d) Conduct investigations of complaints to determine if any infractions of this chapter or the regulations developed under this chapter have occurred;

(e) Assign a certificate number to each certificate of competency holder; and

(f) Adopt rules necessary to implement and administer a program which requires the affixation of a seal any time a fire protection sprinkler system is installed, which seal shall include the certificate number of any certificate of competency holder who installs, in whole or in part, the fire protection sprinkler system.

**Sec. 2.** RCW 18.160.050 and 2018 c 37 s 1 are each amended to read as follows:

(1)(a) All certificate of competency holders that desire to continue in the fire protection sprinkler business shall annually, prior to January 1st, secure from the state director of fire protection a renewal certificate of competency upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the certificate holder shall furnish the information required by the director.

(b) Failure of any certificate of competency holder to secure his or her renewal certificate of competency within (~~sixty~~) 60 days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the certificate of competency.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a certificate of competency that has been suspended for failure to pay the renewal fee.

(d) A certificate of competency holder may voluntarily surrender his or her certificate of competency to the state director of fire protection and be relieved of the annual renewal fee. After surrendering the certificate of competency, he or she shall not be known as a certificate of competency holder and shall desist from the practice thereof. Within two years from the time of surrender of the certificate of competency, he or she may again qualify for a certificate of competency, without examination, by the payment of the required fee. If two or more years have elapsed, he or she shall return to the status of a new applicant.

(2)(a) All licensed fire protection sprinkler system contractors desiring to continue to be licensed shall annually, prior to January 1st, secure from the state director of fire protection a renewal license upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the license holder shall furnish the information required by the director.

(b) Failure of any license holder to secure his or her renewal license within (~~sixty~~) 60 days after the due date shall constitute sufficient cause for the

state director of fire protection to suspend the license.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a license that has been suspended for failure to pay the renewal fee.

(3) The initial certificate of competency or license fee shall be prorated based upon the portion of the year such certificate of competency or license is in effect, prior to renewal on January 1st.

(4) The fire protection contractor license fund is created in the custody of the state treasurer. (~~All~~) Except for penalties received under RCW 18.160.120, all receipts from license and certificate fees and charges or from the money generated by the rules and regulations promulgated under this chapter shall be deposited into the fund. Expenditures from the fund may be used only for purposes authorized under this chapter and for providing assistance in identifying fire sprinkler system components that have been subject to either a recall or voluntary replacement program by a manufacturer of fire sprinkler products, a nationally recognized testing laboratory, or the federal consumer product safety commission; and for use in developing and publishing educational materials related to the effectiveness of residential fire sprinklers. Assistance shall include, but is not limited to, aiding in the identification of recalled components, information sharing strategies aimed at ensuring the consumer is made aware of recalls and voluntary replacement programs, and providing training and assistance to local fire authorities, the fire sprinkler industry, and the public. Only the state director of fire protection or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

**Sec. 3.** RCW 18.160.120 and 2003 c 74 s 2 are each amended to read as follows:

(1) A fire protection sprinkler system contractor found to have committed an infraction under this chapter as defined in rule under RCW 18.160.030(2)(b)(iii) shall be assessed a fine of not less than (~~two hundred dollars~~) \$300 and not more

than ~~((five thousand dollars))~~ \$7,500 for the first infraction, a fine of not less than \$400 and not more than \$10,000 for a second infraction by the same contractor, and a fine of not less than \$1,000 and not more than \$15,000 for the third and any subsequent infractions by the same contractor.

(2) A fire protection sprinkler system contractor who fails to obtain a certificate of competency under RCW 18.160.040 shall be assessed a fine of not less than ~~((one thousand dollars))~~ \$1,500 and not more than ~~((five thousand dollars))~~ \$7,500 for the first infraction, and a fine of not less than \$2,500 and not more than \$10,000 for a second infraction by the same contractor, and a fine of not less than \$5,000 and not more than \$25,000 for the third and any subsequent infractions by the same contractor.

(3) All fines collected under this section shall be deposited into the fire protection ~~((contractor license fund))~~ compliance account.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.160 RCW to read as follows:

The fire protection compliance account is created in the custody of the state treasurer. All fines collected under RCW 18.160.120 and the rules and regulations adopted under RCW 18.160.120 must be deposited into the account. Expenditures from the account may only be used for the purposes of enforcing this chapter. Only the state director of fire protection or their designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

**Sec. 5.** RCW 18.270.050 and 2007 c 435 s 6 are each amended to read as follows:

(1) A certificate expires on December 31st.

(2) The certificate shall be renewed every other year.

(3) Before the expiration date of the certificate, every applicant shall reapply to the director on an application form provided by the director and pay the application fee as provided by rule.

(4) If a certificate is not renewed before its expiration date, an applicant must:

(a) Apply to the director on an application form provided by the director;

(b) Pay an application fee to the director as provided by rule;

(c) Pay an examination fee as provided by rule; and

(d) Successfully pass the written examination required by this chapter.

(5) Upon approval of a certificate renewal, the director must provide the certificate holder with the renewal directly through certified mail.

**Sec. 6.** RCW 18.270.070 and 2007 c 435 s 8 are each amended to read as follows:

An authorized representative of the director ~~((may))~~ must investigate alleged violations of this chapter upon receipt of a complaint submitted to the director or an authorized representative of the director. The director must adopt rules providing the procedures and process for submitting a complaint, and must also provide a form for use in the submission of a complaint. Upon request of an authorized representative, a person performing fire protection sprinkler fitting or residential sprinkler fitting work must produce evidence of a certificate issued by the director in accordance with this chapter. Failure to produce such evidence is an infraction as provided by RCW 18.270.020."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Chandler; Dye; Harris; Hoff; Jacobsen; Rude; Schmick and Steele.

MINORITY recommendation: Without recommendation. Signed by Representative Caldwell.

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5892**

Prime Sponsor, Committee on Health & Long Term Care: Establishing pilot

projects for utilizing high school student nursing assistant-certified programs to address the nursing workforce shortage and promote nursing careers in rural hospitals. Reported by Committee on Appropriations

**MAJORITY recommendation:** Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

February 28, 2022

**SSB 5910** Prime Sponsor, Committee on Environment, Energy & Technology: Accelerating the availability and use of renewable hydrogen in Washington state. Reported by Committee on Appropriations

**MAJORITY recommendation:** Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. INTENT AND FINDINGS.** (1) The legislature finds that while hydrogen fuel has been used in a variety of applications in the state, the source of hydrogen has been derived from fossil fuel feedstocks, such as natural gas. Hydrogen is an essential building block and energy carrier molecule that is necessary in the production of conventional and renewable fuels and a valuable decarbonization tool when used in sectors such as marine, aviation, steel, aluminum, and cement, as well as surface transportation including heavy-duty vehicles, such as transit, trucking, and drayage equipment. Hydrogen can be a carbon-free fuel with an energy per unit mass that is three to four times greater than jet fuel, whose energy can be extracted either through thermochemical (combustion) or electrochemical (fuel cell) processes. In both cases, the only by-product is water, instead of the greenhouse gases and other conventional and toxic pollutants that are emitted from using fossil fuels.

(2) The legislature further finds that the use of renewable hydrogen and hydrogen produced from carbon-free feedstocks through electrolysis is an essential tool to a clean energy ecosystem and emissions reduction for challenging infrastructure needs. Clean hydrogen fuel can be produced or "charged" closer to the generation of the electricity when the electrical supply grid has surplus energy, at times of low electricity use, such as evenings, then made available at times of higher need and convenient locations, such as fueling stations, avoiding the need to build or upgrade larger electrical infrastructure, including distribution systems, to meet higher peak demand for electricity.

(3) Therefore, the legislature intends by this act to establish policies and a framework for the state to become a national and global leader in the production and use of these hydrogen fuels. This act will create an office of renewable fuels to: Promote partnerships among industrial, transportation, agriculture, and commercial interests as well as fuel producers, the technology research sector, and public sector agencies; identify barriers to and opportunities for market development; provide greater clarity and certainty in regulatory and siting standards; provide incentives and financial assistance in the deployment of hydrogen fuel infrastructure; support a clean and just energy transition; help create good quality, clean energy jobs; and improve air quality in degraded areas, particularly in communities that have borne disproportionate levels of air pollution from the combustion of fossil fuels.

#### **Part 1**

#### **OFFICE OF RENEWABLE FUELS**

**NEW SECTION. Sec. 101.** A new section is added to chapter 43.330 RCW to read as follows:

The definitions in this section apply throughout sections 102, 103, and 104 of this act unless the context clearly requires otherwise.

(1) "Department" means the department of commerce.

(2) "Green electrolytic hydrogen" means hydrogen produced through electrolysis and does not include hydrogen manufactured using steam

reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(3) "Office" means the statewide office of renewable fuels established in section 102 of this act.

(4) "Overburdened communities" has the same meaning as defined in RCW 70A.02.010.

(5) "Renewable fuel" means fuel produced using renewable resources and includes renewable hydrogen.

(6) "Renewable hydrogen" has the same meaning as defined in RCW 54.04.190.

(7) "Renewable resource" has the same meaning as defined in RCW 19.405.020.

NEW SECTION. **Sec. 102.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The statewide office of renewable fuels is established within the department. The office shall report to the director of the department. The office may employ staff as necessary to carry out the office's duties as prescribed by this act, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to leverage, support, and integrate with other state agencies to:

(a) Accelerate comprehensive market development with assistance along the entire life cycle of renewable fuel projects;

(b) Support research into and development and deployment of renewable fuel and the production, distribution, and use of renewable and green electrolytic hydrogen and their derivatives, as well as product engineering and manufacturing relating to the production and use of such hydrogen and its derivatives;

(c) Drive job creation, improve economic vitality, and support the transition to clean energy;

(d) Enhance resiliency by using renewable fuels and green electrolytic hydrogen to support climate change mitigation and adaptations; and

(e) Partner with overburdened communities to ensure communities equitably benefit from renewable and clean fuels efforts.

NEW SECTION. **Sec. 103.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The office shall:

(a) Coordinate with federally recognized tribes, local government, state agencies, federal agencies, private entities, the state's public four-year institutions of higher education, labor unions, and others to facilitate and promote multi-institution collaborations to drive research, development, and deployment efforts in the production, distribution, and use of renewable fuels including, but not limited to, green electrolytic hydrogen;

(b) Review existing renewable fuels and green electrolytic hydrogen initiatives, policies, and public and private investments;

(c) Consider funding opportunities that provide for the coordination of public and private funds for the purposes of developing and deploying renewable fuels and green electrolytic hydrogen;

(d) Assess opportunities for and barriers to deployment of renewable fuels and green electrolytic hydrogen in hard to decarbonize sectors of the state economy;

(e) Request recommendations from the Washington state association of fire marshals regarding fire and other safety standards adopted by the United States department of energy and recognized national and international fire and safety code development authorities regarding renewable fuels and green electrolytic hydrogen;

(f) By December 1, 2023, develop a plan and recommendations for consideration by the legislature and governor on renewable fuels and green electrolytic hydrogen policy and public funding including, but not limited to, project permitting, state procurement, and pilot projects; and

(g) Encourage new and support existing public-private partnerships to increase coordinated planning and deployment of renewable fuels and green electrolytic hydrogen.

(2) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the renewable fuels accelerator

account created in section 104 of this act.

(3) In carrying out its duties, the office must collaborate with the department, the department of ecology, the department of transportation, the utilities and transportation commission, electric utilities in Washington state, the Washington State University extension energy program, and all other relevant state agencies. The office must also consult with and seek to involve federally recognized tribes, project developers, labor and industry trade groups, and other interested parties, in the development of policy analysis and recommended programs or projects.

(4) The office may cooperate with other state agencies in compiling data regarding the use of renewable fuels and green electrolytic hydrogen in state operations, including motor vehicle fleets, the state ferry system, and nonroad equipment.

**NEW SECTION. Sec. 104.** A new section is added to chapter 43.330 RCW to read as follows:

The renewable fuels accelerator account is created in the state treasury. Revenues to the account consist of appropriations made by the legislature, federal funds, gifts or grants from the private sector or foundations, and other sources deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes designated in sections 102, 103, and 201 of this act. Only the director or the director's designee may authorize expenditures from the account.

## Part 2

### FEDERAL FUNDING

**NEW SECTION. Sec. 201.** (1) (a) The legislature finds that the federal infrastructure investment and jobs act, P.L. 117-58, provides \$8,000,000,000 over five years to support the development of regional clean hydrogen hubs. The federal infrastructure investment and jobs act requires the United States secretary of energy to establish a program to fund at least four regional hubs to aid in achieving a hydrogen fuel production carbon intensity standard provided in that legislation; to demonstrate the production, processing, delivery, storage, and end use of hydrogen; and

that can be developed into a national network to facilitate a clean hydrogen economy. The federal infrastructure investment and jobs act requires the secretary of energy to select regional hubs that demonstrate a diversity of feedstocks, a diversity of end uses, and a diversity of geographic regions of the country. The federal infrastructure investment and jobs act requires the secretary of energy to solicit proposals for regional hubs by May 15, 2022, and to make selections of the hubs within one year after the deadline for submission of proposals.

(b) The legislature further finds that Washington state is strongly positioned to develop a regional clean energy hub meeting the criteria of the federal infrastructure investment and jobs act because the state:

(i) Has adopted a state energy strategy that recognizes hydrogen as an integral part of the state's decarbonization pathway;

(ii) Has an abundance of low cost, low carbon, reliable electricity as the primary energy resource for production of clean hydrogen;

(iii) Already has under construction the nation's first renewable hydrogen electrolyzer and has several hydrogen fueling facilities as well as production facilities in planning and design phases;

(iv) Has multiple manufacturers designing, engineering, and manufacturing fuel cell electric engines and zero-emission vehicles, vessels, and airplanes;

(v) Has numerous industrial, maritime, and freight shipping concerns that are moving toward cleaner fuels and that would help provide demand for hydrogen, as well as state and local governments currently considering hydrogen uses;

(vi) Has a demonstrated track record of building partnerships across the public and private sector to advance clean energy technologies;

(vii) Has policies in place supporting and engaging overburdened communities, including the healthy environment for all act, which will facilitate alignment with the justice40 initiative; and

(viii) Has policies, including tax incentives, that support high labor standards in clean energy production.

(c) The legislature further finds that the state may help to promote and strengthen applications for regional hydrogen hub federal funding through state funding assistance to support a timely and competitive application to the United States department of energy by a public-private partnership entity that leverages private sector leadership and is composed of multiple interests, including public and private project developers, manufacturers and end users, research institutions, academia, government, and communities around the state.

(2) Subject to amounts appropriated for this specific purpose, the director of the department of commerce must provide support to a public-private partnership entity as described in subsection (1)(c) of this section, which may include department staff support and direct funding. The entity should:

(a) Agree to prepare a timely and responsive application for federal funding to develop a regional clean hydrogen hub in Washington state, consistent with the requirements of the federal application process and the policies and strategy of the state of Washington;

(b) Demonstrate meaningful engagement with a range of entities across the state, including federally recognized tribes, labor unions, and communities around the state including overburdened communities, in the development of a hydrogen hub;

(c) Include entities that provide training and expand employment opportunities for the hydrogen workforce, including labor organizations, institutions of higher education, community and technical colleges, and vocational institutions; and

(d) Include specific commitments, as required by the federal application, from industries, transportation agencies, utilities, and other public and private sector entities to assist in funding the application and to develop plans to either construct infrastructure for or to incorporate, or both, the production, distribution, and end use of renewable hydrogen and green electrolytic hydrogen fuels into their transition to cleaner energy.

(3) In addition to the assistance in applying for federal funding provided

through subsection (2) of this section, the legislature intends that the state fully support a regional clean energy hub in the state, including further direct financial assistance in developing the hub and the acquisition of hydrogen fuels for state agency and local government uses.

### Part 3

#### VALUATION OF PROPERTY RELATED TO RENEWABLE ENERGY

NEW SECTION. Sec. 301. A new section is added to chapter 84.40 RCW to read as follows:

(1) It is the policy of this state to promote the development of renewable energy projects to support the state's renewable energy goals.

(2) The department must publish guidance, in cooperation with industry stakeholders, to advise county assessors when appraising renewable energy facilities for determining true and fair value, in accordance with RCW 84.40.030. This guidance must include a cost-based appraisal method, and the development of industry-specific valuation tables for the following types of renewable energy property:

(a) A cost-based appraisal method and industry-specific valuation tables for equipment used to generate solar power must be published by January 1, 2023, for property taxes levied for collection in calendar year 2024;

(b) A cost-based appraisal method and industry-specific valuation tables for equipment used to generate wind power must be published by January 1, 2023, for property taxes levied for collection in calendar year 2024; and

(c) A cost-based appraisal method and industry-specific valuation tables for equipment used to store electricity must be published by January 1, 2024, for property taxes levied for collection in calendar year 2025.

(3) County assessors must refer to this guidance, including cost-based appraisal method and industry-specific valuation tables, when valuing renewable energy property but may also consider one or more additional valuation methods in determining the true and fair value of a property when there is a compelling reason to do so.

(4) For the purposes of this section, "renewable energy property" means property that uses solar or wind energy as the sole fuel source for the generation of at least one megawatt of nameplate capacity, alternating current, and all other equipment and materials that comprise the property, including equipment used to store electricity from the property to be released at a later time. "Renewable energy property" does not include any equipment or materials attached to a single-family residential building.

#### Part 4

#### EXPANDING THE PRODUCTION, DISTRIBUTION, AND USE OF HYDROGEN NOT PRODUCED FROM A FOSSIL FUEL FEEDSTOCK

**Sec. 401.** RCW 82.08.816 and 2019 c 287 s 11 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of batteries or fuel cells for electric vehicles, including batteries or fuel cells sold as a component of an electric bus at the time of the vehicle's sale;

(b) The sale of or charge made for labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries or fuel cells;

(c) The sale of or charge made for labor and services rendered in respect to installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure, including hydrogen fueling stations;

(d) The sale of tangible personal property that will become a component of battery or fuel cell electric vehicle infrastructure during the course of installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure; and

(e) The sale of zero emissions buses.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information

provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support a battery or fuel cell electric vehicle, including battery charging stations, rapid charging stations, battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, green electrolytic hydrogen production facilities, and renewable hydrogen production facilities.

(d) "Green electrolytic hydrogen" means hydrogen produced through electrolysis, and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(e) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set



forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

~~((e))~~ (f) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for the energy input into the production process.

~~((f))~~ (g) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

~~((g))~~ (h) "Zero emissions bus" means a bus that emits no exhaust gas from the onboard source of power, other than water vapor.

(5) This section expires July 1, 2025.

**Sec. 402.** RCW 82.12.816 and 2019 c 287 s 12 are each amended to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of:

(a) Electric vehicle batteries or fuel cells, including batteries or fuel cells sold as a component of an electric bus at the time of the vehicle's sale;

(b) Labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries or fuel cells;

(c) Tangible personal property that will become a component of battery or fuel cell electric vehicle infrastructure during the course of installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure; and

(d) Zero emissions buses.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable

an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support a battery or fuel cell electric vehicle, including battery charging stations, rapid charging stations, battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, green electrolytic hydrogen production facilities, and renewable hydrogen production facilities.

(d) "Green electrolytic hydrogen" means hydrogen produced through electrolysis, and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(e) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

~~((e))~~ (f) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for the energy input into the production process.

~~((f))~~ (g) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

~~((g))~~ (h) "Zero emissions bus" means a bus that emits no exhaust gas from the onboard source of power, other than water vapor.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal

to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) This section expires July 1, 2025.

**Sec. 403.** RCW 82.29A.125 and 2019 c 287 s 14 are each amended to read as follows:

(1) Leasehold excise tax may not be imposed on leases to tenants of public lands for purposes of installing, maintaining, and operating electric vehicle infrastructure.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, green electrolytic hydrogen production facilities, and renewable hydrogen production facilities.

(d) "Green electrolytic hydrogen" means hydrogen produced through electrolysis, and does not include hydrogen manufactured using steam reforming or any other conversion

technology that produces hydrogen from a fossil fuel feedstock.

(e) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

~~((e))~~ (f) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for energy input into the production process.

~~((f))~~ (g) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(3) This section expires July 1, 2025.

**Sec. 404.** RCW 54.04.190 and 2019 c 24 s 1 are each amended to read as follows:

(1) In addition to any other authority provided by law, public utility districts are authorized to produce and distribute biodiesel, ethanol, and ethanol blend fuels, including entering into crop purchase contracts for a dedicated energy crop for the purpose of generating electricity or producing biodiesel produced from Washington feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels for use in internal operations of the electric utility and for sale or distribution.

(2) In addition to any other authority provided by law:

(a) Public utility districts are authorized to produce renewable natural gas, green electrolytic hydrogen, and renewable hydrogen and utilize the renewable natural gas, green electrolytic hydrogen, or renewable hydrogen they produce for internal operations.

(b) Public utility districts may sell renewable natural gas, green electrolytic hydrogen, or renewable hydrogen that is delivered into a gas transmission pipeline located in the state of Washington or delivered in pressurized containers:

(i) At wholesale;

(ii) To an end-use customer; or

(iii) If delivered in a pressurized container, or if the end-use customer takes delivery of the renewable natural gas, green electrolytic hydrogen, or renewable hydrogen through a pipeline, and the end-use customer is an eligible purchaser of natural gas from sellers other than the gas company from which that end-use customer takes transportation service and:

(A) When the sale is made to an end-use customer in the state of Washington, the sale is made pursuant to a transportation tariff approved by the Washington utilities and transportation commission; or

(B) When the sale to an end-use customer is made outside of the state of Washington, the sale is made pursuant to a transportation tariff approved by the state agency which regulates retail sales of natural gas.

(c) Public utility districts may sell renewable natural gas, green electrolytic hydrogen, or renewable hydrogen at wholesale or to an end-use customer through a pipeline directly from renewable natural gas, green electrolytic hydrogen, or renewable hydrogen production facilities to facilities that compress, liquefy, or dispense compressed natural gas, liquefied natural gas, green electrolytic hydrogen, or renewable hydrogen fuel for end use as a transportation fuel.

(d) Public utility districts may sell green electrolytic hydrogen or renewable hydrogen at wholesale or to an end-use customer in pressurized containers directly from green electrolytic hydrogen or renewable hydrogen production facilities to facilities that utilize green electrolytic hydrogen or renewable hydrogen as a nonutility related input for a manufacturing process.

(3) Except as provided in subsection (2)(b)(iii) of this section, nothing in this section authorizes a public utility district to sell renewable natural gas, green electrolytic hydrogen, or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(4)(a) Except as provided in this subsection (4), nothing in this section

authorizes a public utility district to own or operate natural gas distribution pipeline systems used to serve retail customers.

(b) For the purposes of subsection (2)(b) of this section, public utility districts are authorized to own and operate interconnection pipelines that connect renewable natural gas, green electrolytic hydrogen, or renewable hydrogen production facilities to gas transmission pipelines.

(c) For the purposes of subsection (2)(c) of this section, public utility districts may own and/or operate pipelines to supply, and/or compressed natural gas, liquefied natural gas, green electrolytic hydrogen, or renewable hydrogen facilities to provide, renewable natural gas, green electrolytic hydrogen, or renewable hydrogen for end use as a transportation fuel if all such pipelines and facilities are located in the county in which the public utility district is authorized to provide utility service.

(5) Exercise of the authorities granted under this section to public utility districts does not subject them to the jurisdiction of the utilities and transportation commission, except that public utility districts are subject only to administration and enforcement by the commission of state and federal requirements related to pipeline safety and fees payable to the commission that are applicable to such administration and enforcement.

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

(a) "Green electrolytic hydrogen" means hydrogen produced through electrolysis, and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(b) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

~~(b)~~ (c) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

~~((e))~~ (d) "Renewable resource" means: (i) Water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

~~((d))~~ (e) "Gas company" has the same meaning as in RCW 80.04.010.

**Sec. 405.** RCW 35.92.050 and 2002 c 102 s 3 are each amended to read as follows:

A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate works, plants, facilities for the purpose of furnishing the city or town and its inhabitants, and any other persons, with gas, electricity, green electrolytic hydrogen as defined in RCW 54.04.190, renewable hydrogen as defined in RCW 54.04.190, and other means of power and facilities for lighting, including streetlights as an integral utility service incorporated within general rates, heating, fuel, and power purposes, public and private, with full authority to regulate and control the use, distribution, and price thereof, together with the right to handle and sell or lease, any meters, lamps, motors, transformers, and equipment or accessories of any kind, necessary and convenient for the use, distribution, and sale thereof; authorize the construction of such plant or plants by others for the same purpose, and purchase gas, electricity, or power from either within or without the city or town for its own use and for the purpose of selling to its inhabitants and to other persons doing business within the city or town and regulate and control the use and price thereof.

#### Part 5

#### MISCELLANEOUS

NEW SECTION. **Sec. 501.** Sections 104 and 201 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec. 502.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the

application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 503.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Chopp; Cody; Dolan; Dye; Fitzgibbon; Frame; Hansen; Harris; Hoff; Jacobsen; Johnson, J.; Lekanoff; Pollet; Rude; Ryu; Schmick; Senn; Springer; Steele; Stonier; Sullivan and Tharinger.

Referred to Committee on Rules for second reading.

There being no objection, the bills listed on the day's committee, supplemental committee and 2<sup>nd</sup> supplemental committee reports under the fifth order of business were referred to the committees so designated with the exception of HOUSE BILL NO. 2124 which was placed on the second reading calendar.

There being no objection, the House adjourned until 9:00 a.m., March 1, 2022, the 51st Legislative Day of the Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk

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