FIFTIETH DAY

House Chamber, Olympia, Monday, February 26, 2024

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

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

RESOLUTION

HOUSE RESOLUTION NO. 2024-4678, by Representatives Farivar, Waters, Fitzgibbon, Taylor, Pollet, Leavitt, Thai, Ryu, Berry, Duerr, Fosse, Ortiz-Self, Morgan, Walen, Bateman, Gregerson, Bronoske, Kloba, Senn, Goodman, Reeves, Orwall, Simmons, Robertson, Springer, Street, Peterson, Chapman, Mena, Callan, Doglio, Stonier, Ramel, Santos, Hutchins, Macri, Cortes, Paul, and Slatter

WHEREAS, The Persian New Year, or Nowruz, originated in the Iranian plateau more than 3,000 years ago and is celebrated annually marking the Spring Equinox in the northern hemisphere, which this year will fall on March 19th at 8:06 p.m.; and

WHEREAS, Nowruz is a significant cultural holiday for individuals in Iran, Afghanistan, Tajikistan, Uzbekistan, and many other countries which is celebrated by nearly 300 million people across the globe of different faiths and cultures, particularly in and by more than 1 million Americans, including tens of thousands in Washington state; and

WHEREAS, Nowruz welcomes spring and regrowth after winter and periods of cold and dormancy and it celebrates nature, life, and opportunity for regrowth and blossoming; and

WHEREAS, In this time where mistrust and fear often threaten to divide us, the spirit of Nowruz inspires us to realize our commonalities and strive for new levels of compassion, understanding, and love for our fellow human beings irrespective of religion or ethnicity; and

WHEREAS, Many Middle Eastern and Central Asian individuals immigrate to Washington to flee persecution for their beliefs, seeking personal and religious freedoms in the United States; and

WHEREAS, Middle Eastern and Central Asians are an important part of our communities and continue to make noteworthy and lasting contributions to Washington state through their leadership in business, government, higher education, medicine, military service, law, social justice, and many other arenas; and

WHEREAS, Nowruz presents a fitting opportunity to recognize these contributions and the resilience of the Middle Eastern and Central Asian communities who continue to advocate for their communities; and

WHEREAS, Nowruz is a time for all of us to come together to reflect on the year that has passed and celebrate the universal values of generosity, compassion, selflessness, and community stewardship in the year ahead;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives celebrate the honored holiday of Nowruz; recognize the historical and cultural significance thereof; stand with the communities that celebrate Nowruz in times of crisis and in times of celebration; and wish a happy and prosperous new year to all.

With the consent of the House, HOUSE RESOLUTION NO. 4678 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4683, by Representatives Taylor, Connors, Orwall, Christian, Bronoske, Duerr, Berg, Stearns, Simmons, Senn, Pollet, Ryu, Barnard, Mosbrucker, Robertson, Ortiz-Self, Kloba, Fosse, Eslick, and Goodman

WHEREAS, 111 years ago, Juliette Gordon Low organized the first Girl Scout troop in Savannah, Georgia. At a time in which women in the United States were not allowed to vote, this gathering of 18 women all believed that they could do anything; and

WHEREAS, Over 50 million women in the United States today were Girl Scouts during their childhood; and

WHEREAS, 58 percent of women serving in the United States House of Representatives and 72 percent of female United States Senators are Girl Scout Alumni; and

WHEREAS, Girl Scouts of Western Washington, Girl Scouts of Eastern Washington and Northern Idaho, and Girl Scouts of Oregon and Southwest Washington councils are proud to provide a safe learning environment for scouts of all backgrounds through the end of high school; and

WHEREAS, Girl Scouts is known for its cookies. Cookie season is a time for scouts to develop business ethics, money management, and people skills. From confidence-building and goal-setting, to understanding profit margins and digital marketing, cookie season is a hands-on educational experience unlike any other; and

WHEREAS, Girl Scouts is about so much more than cookies, it allows scouts to learn about leadership, civic engagement, volunteerism, business, outdoors, environmental stewardship, planning, financial literacy, travel, STEM, and many other skills. There is something tailored to each scout's interests; and

WHEREAS, Girl Scouting provides opportunities to girls to develop skills essential to effective leadership including developing a strong sense of self, displaying positive values, seeking challenges, forming healthy relationships, and engaging in community problem solving; and

WHEREAS, Girl Scouts is a place where girls can make friends, have fun, find adventure, and give back to their communities; and

WHEREAS, Girl Scouting builds girls of courage, confidence, and character, who make the world a better place;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize the Girl Scouts for its services to the youth of the state and the development of the next generation of leaders.

With the consent of the House, HOUSE RESOLUTION NO. 4683 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4684, by Representative Schmidt

WHEREAS, The Washington State House of Representatives recognizes excellence in every field of endeavor; and

WHEREAS, Sydney Frost, an 11th grade student at Mount Spokane High School, is a 2024 Poetry Out Loud Regional Champion; and

WHEREAS, Poetry Out Loud is a national program that encourages high school students to learn about poetry through memorization, performance, and competition; and

WHEREAS, Over 9,000 students participated at the classroom level at 42 high schools statewide; and

WHEREAS, Sydney is one of nine regional champions who will progress to the Poetry Out Loud Final; and

WHEREAS, The State Final Champion will represent Washington at the National Poetry Out Loud competition;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives congratulate Sydney Frost on her stellar performance at the Poetry Out Loud Regional Championship; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Sydney Frost.

With the consent of the House, HOUSE RESOLUTION NO. 4684 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4685, by Representatives Goehner and Steele

WHEREAS, The Washington State House of Representatives recognize excellence in all fields and endeavors; and

WHEREAS, The Manson High School Girls Cross Country team has won the Washington Interscholastic Activities Association 2023 Fall Academic State Champions award; and

WHEREAS, This award is given to teams with the highest average grade point average for their activity and classification; and

WHEREAS, Manson High School's team of five girls have achieved an average grade point average of 3.970; and

WHEREAS, This award is a testament to the hard work, dedication, and determination these athletes put towards their academic studies; and

WHEREAS, These athletes all have standout talent on and off the field, shown by their outstanding performance in their sports while maintaining a high grade point average; and

WHEREAS, A great team must have a great staff around it; Head Coach Jeffrey England, the assistant coaching staff, Principal Kamie Kronbauer, teachers, and all the other staff at Manson High School that help these girls are crucial to their successes;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives congratulate the Manson High School Girls Cross Country team on their academic state championship; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the Superintendent of Manson Public Schools, Principal of Manson High School, and the Cross Country Coaching Staff.

With the consent of the House, HOUSE RESOLUTION NO. 4685 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4686, by Representative McClintock

WHEREAS, Faith Tarrant, a junior at Prairie High School, demonstrated exceptional skill and determination by winning her third girls 235-pound wrestling state championship in the 3A/4A class at the Tacoma Dome on Saturday, February 17th; and

WHEREAS, Faith Tarrant achieved a remarkable victory by pinning Katherine Petersen from Tahoma High School in the second round, securing her third championship match win in her junior year and completing her second-straight undefeated season with a record of 38-0 by pinning every opponent; and

WHEREAS, Her championship match, which notably extended into the second round for the first time, showcased her strategic prowess and confidence, with Faith successfully leveraging her superior positioning to secure the win; and

WHEREAS, Faith Tarrant's journey to her third state title was marked by increased confidence and a focused determination, attributes that she credited to her experiences and rigorous preparation in practice; and

WHEREAS, Since the inclusion of girls wrestling at the Mat Classic in 2004, Faith Tarrant has distinguished herself as the 15th girl to earn at least three state titles, joining an elite group of athletes and contributing to the growth and visibility of girls wrestling in Washington State; and

WHEREAS, Faith Tarrant has been a vocal advocate for the camaraderie and community within girls wrestling, emphasizing the unique and supportive relationships formed among competitors, thereby enriching the sport's culture; and

WHEREAS, Faith Tarrant has acknowledged the unwavering support and inspiration provided by her mother, Nicole Tarrant, her number one fan, as well as the invaluable guidance and encouragement from teammates Seth Blick and Aaliyah Young, all of whom have played pivotal roles in her success; and

WHEREAS, Faith Tarrant's ambition extends beyond her current achievements, with sights set on capturing a fourth state title in her senior year, a feat accomplished by only four girls before her, demonstrating her commitment to excellence and her contribution to the legacy of girls wrestling in Washington;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize and honor Faith Tarrant for her outstanding accomplishments in girls wrestling, her significant contribution to the sport's growth and inclusivity, and her role as an exemplary model of dedication, perseverance, and sportsmanship for young athletes in Washington State and beyond; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Faith Tarrant of Prairie High School.

With the consent of the House, HOUSE RESOLUTION NO. 4686 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4687, by Representatives Dent, Christian, Taylor, Bronoske, Mosbrucker, Jacobsen, Ryu, Callan, Pollet, Peterson, Schmick, Goehner, Orwall, Chopp, Chapman, Sandlin, Springer, Graham, Robertson, Orcutt, Davis, Ortiz-Self, Kloba, Walsh, Fosse, Rule, Eslick, Slatter, Corry, Barkis, and Caldier

WHEREAS, 2024 marks the centennial of the first around the world flight which originated from Washington state, departing from Seattle's Sand Point Park; and

WHEREAS, On April 6, 1924, four Douglas World Cruisers, the Seattle, New Orleans, Chicago, and Boston, embarked on a grueling six-month journey to complete the first around the world flight; and

WHEREAS, Two crewmen operated each pontoon equipped biplane, without radios, parachutes, life preservers, or rafts due to weight restraints. Fortunately, the biplanes were flanked by ground and sea support from the United States Navy, Coast Guard, and Bureau of Fisheries; and

WHEREAS, The airmen covered 26,345 miles, touched down in 29 countries in over 76 flights, and survived five forced landings. In the end, two of the four Douglas World Cruisers completed the entire journey; and

WHEREAS, On September 28, 1924, the Chicago and the New Orleans arrived at Seattle's Sand Point Park before 50,000 enthusiastic fans 175 days after the flight had departed; and

WHEREAS, To commemorate the depth and breadth of Washington state's aeronautical history, Friends of Magnuson Park will host a multiday event leading up to September 28, 2024;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize and honor the many contributions made to our state by the aeronautics and aviation community, and the Friends of Magnuson Park for bringing this important piece of history to our attention; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the 2024 Planning Committee of the Friends of Magnuson Park.

With the consent of the House, HOUSE RESOLUTION NO. 4687 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4688, by Representative Schmidt

WHEREAS, Libby Roberts, a junior at University High School in Spokane Valley, demonstrated exceptional skill and determination by winning her third girls 105-pound wrestling state championship in the 3A/4A class at the Tacoma Dome on Saturday, February 17th; and

WHEREAS, Libby achieved a remarkable victory by pinning her opponent from Sumner High School in the first round at the 50 second mark, securing a third championship match win; and

WHEREAS, Libby's championship match showcased strategic prowess and confidence, with Libby successfully leveraging superior positioning to secure the win; and

WHEREAS, Since the inclusion of girls' wrestling at the Mat Classic in 2004, Libby has joined an elite group of athletes and contributing to the growth and visibility of girls' wrestling in Washington State; and

WHEREAS, Libby has three state titles, a USA Wrestling All-American, and is undefeated against Washington state girls; and

WHEREAS, Libby Roberts earned an impressive 3.88 grade point average assisting her team in winning the 2024 Washington Interscholastic Activities Association Academic State Championship; and

WHEREAS, Libby attributes a lot of her success to her coach and father, Kevin Roberts, who has taught her focus, work ethic, and strength in both athletics and academics; and

WHEREAS, Libby's ambition extends beyond her current achievements, with sights set on capturing a fourth state title in her senior year, a feat accomplished by only four girls before her, demonstrating her commitment to excellence and her contribution to the legacy of girls wrestling in Washington;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize and honor Libby Roberts for her outstanding accomplishments in girls wrestling, her significant contribution to the sport's growth and inclusivity, and her role as an exemplary model of dedication, perseverance, and sportsmanship for young athletes in Washington State and beyond; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Libby Roberts and Coach Kevin Roberts of University High School.

With the consent of the House, HOUSE RESOLUTION NO. 4688 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4689, by Representative Schmidt

WHEREAS, The Washington State House of Representatives recognize excellence in every field of endeavor; and

WHEREAS, The Liberty Lake Falcons Ridgeline High School Volleyball Team demonstrated focus and discipline, overcoming adversity with hard work in the classroom throughout the year while demonstrating exemplary athleticism throughout the duration of their season; and

WHEREAS, The Falcons have won the 2023 3A Washington Interscholastic Activities Association Academic State Championship, which honors the team with the highest grade point average in the state; and

WHEREAS, As one, the Falcons achieved an impressive cumulative grade point average of 3.894; and

WHEREAS, The team consisted of thirteen players, three sophomores, nine juniors, and two seniors, of which, nine were returning varsity athletes; and

WHEREAS, The team total of advanced placement classes taken during the championship is 23; and

WHEREAS, No team can be successful without all the teachers, administrators, and coaching staff at Ridgeline High School, who all played a pivotal role in their athletes' success;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives honor the tremendous achievement by the Ridgeline Volleyball Team of winning the 2023 3A Washington Interscholastic Activities Association academic championship; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the Ridgeline High School Volleyball Team, Principal Jesse Hardt, and Coach Whitney Abell.

With the consent of the House, HOUSE RESOLUTION NO. 4689 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4690, by Representatives Goehner and Steele

WHEREAS, The Washington state House of Representatives recognize excellence in all fields and endeavors; and

WHEREAS, The Manson High School volleyball team has made history by not only winning the 2023 2B state volleyball championships for the first time, but also winning the school's first ever state championship of any sport in school history; and

WHEREAS, The team had a perfect season as they ended the year unbeaten with a record of 24 to 0; and

WHEREAS, After a slow start in the opening of the final four, the Manson Trojans were able to bounce back and defeat the Colfax Bulldogs, earning them the opportunity to play for the state title, which they ended up winning after defeating Lind-Ritzville-Sprague in a 3 to 0 match; and

WHEREAS, These athletes all have standout talent on the court; and

WHEREAS, A great team must have a great staff around it, and Head Coach Hayli Thompson, the assistant coaching staff, Principal Kami Kronbauer, and all the other staff at Manson High School that help these girls are crucial to their successes;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives congratulate the Manson High School volleyball team on their state championship, and their fans, supportive alumni, and the entire community for this phenomenal achievement.

With the consent of the House, HOUSE RESOLUTION NO. 4690 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4691, by Representative Maycumber

WHEREAS, Congresswoman Cathy McMorris Rodgers brought her dedication and an unwavering sense of duty to the United States House of Representatives and the Washington State Legislature; and

WHEREAS, Growing up on an orchard and fruit stand in Kettle Falls, McMorris Rodgers developed a lifelong interest in boosting rural economies and creating better futures for our children; and

WHEREAS, McMorris Rodgers was appointed to the House of Representatives in 1994 to serve an unexpired term and went on to serve five terms; and

WHEREAS, Since first being elected to the United States House of Representatives, in 2004, McMorris Rodgers has earned the trust of her constituents and praise on Capitol Hill for her hard work, conservative principles, bipartisan outreach, and leadership to get results for Eastern Washington; and

WHEREAS, In 2006, Cathy married Brian Rodgers, a Spokane native and retired 26-year Navy Commander; and

WHEREAS, In 2007, she gave birth to Cole Rodgers, who was born with an extra 21st chromosome and inspired McMorris Rodgers to become a leader in the disabilities community; and

WHEREAS, McMorris Rodgers has since welcomed two daughters into the world: Grace, in December 2010; and Brynn, in November 2013; and

WHEREAS, McMorris Rodgers faithfully represented Washington in the United States Congress, serving 10 terms in the United States House of Representatives, including as the Chair of the House Energy and Commerce Committee, which has broad

jurisdiction over the issues that matter most to the people of Eastern Washington; and

WHEREAS, McMorris Rodgers served as Chair of the House Republican Conference from 2012 to 2018; and

WHEREAS, McMorris Rodgers was the 200th woman ever elected to serve in the United States House of Representatives and the first woman to give birth three times while in office; and

WHEREAS, McMorris Rodgers' top priority has always been to get results for the people of Eastern Washington that she has the honor of representing;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives recognize and honor Cathy McMorris Rodgers for her service to our state and to our nation.

With the consent of the House, HOUSE RESOLUTION NO. 4691 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4692, by Representative Schmidt

WHEREAS, The University High School Titans Girls Wrestling Team of Spokane Valley demonstrated focus and discipline, overcoming adversity with hard work in the classroom throughout the year while demonstrating exemplary athleticism both before and during the state tournament; and

WHEREAS, The Titans have won the 2024 Washington Interscholastic Activities Association Academic State Championship, which honors the team with the highest grade point average in the state; and

WHEREAS, The Titans achieved an impressive cumulative grade point average of 3.868; and

WHEREAS, Libby Roberts, a 3-time state champion, earned a 3.88 grade point average; and

WHEREAS, Samara Weinstock, a state participant, earned a 3.95 grade point average; and

WHEREAS, Olivia Vignere, a state alternate, earned a 3.772 grade point average; and

WHEREAS, No team can be successful without a great staff behind them: Coach Kevin Roberts, Principal Rob Bartlett, and all the teachers and administrators at University High School who played a pivotal role in their athletes' success;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives honor the tremendous achievement by the University High School Girls Wrestling Team of winning the 2024 Academic State Championship; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the University High School Girls Wrestling Team, Principal Rob Bartlett, and Coach Kevin Roberts.

With the consent of the House, HOUSE RESOLUTION NO. 4692 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4693, by Representative Schmidt

WHEREAS, The Washington State House of Representatives seek to recognize excellence in every field of endeavor; and

WHEREAS, The Spokane Valley University High School Titans Slowpitch Team demonstrated focus and discipline, overcoming adversity with hard work throughout the year while demonstrating exemplary athleticism throughout the duration of their season; and

WHEREAS, The Titans won the 2023 Greater Spokane League Championship, placing second in state; and

WHEREAS, The 2023 University High School Titans Slowpitch Team were the two time defending 2A/3A State Champions; and

WHEREAS, The 2023 Titans, with a record of 21 to 3, had five All Greater Spokane League First Team Selections: Seniors Haley Walker, Jordan Bailey, Natalie Singer, Maliyah Mann, and unanimous Greater Spokane League most valuable player Abby Watkins; and

WHEREAS, In three seasons the Titans Slowpitch Team is 61 to 7; with 19 All Greater Spokane League 1st Team Selections: Autumn Hibbs, Macie Connor, Jenna Williamson, Bethany Ray, Jordan Bailey, Kaidyn Howard, Natalie Singer, Tayla Eliason, Haley Walker, 2022 most valuable player Maliyah Mann, 2023 most valuable player Abby Watkins, and 2022 Coach of the Year Matt Connor;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives honor the tremendous achievement by the University High School Titans Slowpitch Team of winning the 2023 Greater Spokane League championship; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to University High School Titans Slowpitch Team Principal Rob Bartlett and Coach Matt Connor.

With the consent of the House, HOUSE RESOLUTION NO. 4693 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4694, by Representatives Thai, Ramos, Slatter, Bergquist, Ryu, Walen, Kloba, Santos, Gregerson, Paul, and Dent

WHEREAS, The United States census bureau estimates that 949,560 individuals of diverse Asian, Native Hawaiian, and Pacific Islander ethnic identities reside in Washington, the fastest-growing demographic population in the state, who among them speak more than 100 different languages and dialects; and

WHEREAS, The history of Asians, Native Hawaiians, and Pacific Islanders is inextricably tied to the rich history of Washington state, contributing since territorial times to the development of our heritage industries including forestry, fishing, and farming as well as to the leadership of our state in a variety of educational, economic, political, and social endeavors; and

WHEREAS, In 1972, Governor Daniel J. Evans created a State Asian American Advisory Council "to examine and define issues pertaining to the rights and needs of Asian Americans in contemporary America, and to make recommendations to the Governor and state agencies with respect to desirable changes in program and law," ultimately leading the 43rd Washington state legislature to establish the Commission on Asian Pacific American Affairs (CAPAA) as a stand-alone cabinet-level agency on February 26, 1974; and

WHEREAS, Pursuant to Chapter 43.117 RCW, CAPAA is charged with improving the lives of Asians, Native Hawaiians, and Pacific Islanders in Washington state by ensuring their access to full and equal participation in the fields of government, business, education, and other areas, working in partnership with communities and state leaders to respond to and rectify institutional bias and discrimination; and by ushering forward long-term solutions for positive change; and

WHEREAS, With incidents of anti-Asian hate and xenophobia on the rise, the work of CAPAA is more urgent and relevant than ever before in protecting and preserving the rights of Asian, Native Hawaiian, and Pacific Islander people to access resources and to enjoy representation in Washington state government and society; and

WHEREAS, A testament to the dedication, resilience, and accomplishments of the Asian, Native Hawaiian, and Pacific Islander communities throughout Washington and to the many volunteer commissioners and agency staff since its founding, CAPAA will celebrate the 50th anniversary of its establishment in 2024 with a golden gala;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives encourage all Washington residents to recognize and celebrate the pioneering contributions of the Washington state Commission on Asian Pacific American Affairs in elevating the strength of our diversity by advancing policies of equity and inclusion; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of

Representatives to the Washington state Commission on Asian Pacific American Affairs.

With the consent of the House, HOUSE RESOLUTION NO. 4694 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2024-4695, by Representatives Goehner and Steele

WHEREAS, The Washington state House of Representatives recognize excellence in all fields and endeavors; and

WHEREAS, The Chelan High School volleyball team has won the 2023 1A volleyball state championship, making them 4-time back-to-back volleyball state champions; and

WHEREAS, The team had an exceptional season with only two losses; and

WHEREAS, They were the number one seed headed into the tournament after winning the league and district titles and defeating their opponent in a regional crossover match; and

WHEREAS, These athletes all have standout talent on the court; and

WHEREAS, A great team must have a great staff around it, and Head Coach Abby Lewellen, the assistant coaching staff, Principal Jamie Pancho, and all the other staff at Chelan High School that help these girls are crucial to their successes;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives congratulate the Chelan High School volleyball team on their state championship, and their fans, supportive alumni, and the entire community for this phenomenal achievement.

With the consent of the House, HOUSE RESOLUTION NO. 4695 was adopted.

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

REPORTS OF STANDING COMMITTEES

February 23, 2024

HB 2089 Prime Sponsor, Representative Tharinger: Concerning the capital budget. Reported by Committee on Capital Budget

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Abbarno, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Alvarado; Bateman; Cheney; Christian; Dye; Eslick; Farivar; Fosse; Kloba; Kretz; Leavitt; Maycumber; Morgan; Mosbrucker; Orwall; Peterson; Reed; Rule; Sandlin; Shavers; Stearns and Waters.

Referred to Committee on Rules for second reading

February 23, 2024

HB 2276 Prime Sponsor, Representative Berg: Increasing the supply of affordable and workforce housing. Reported by Committee on Finance

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Chopp; Ramel; Santos; Thai and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Springer; Walen; and Wilcox.

Referred to Committee on Rules for second reading

February 23, 2024

SB 5897 Prime Sponsor, Senator Mullet: Modifying provisions of the business licensing service program. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Thai; Walen; Wilcox and Wylie.

Referred to Committee on Rules for second reading

February 23, 2024

SB 6013 Prime Sponsor, Senator Shewmake: Expanding the homeownership development property tax exemption to include real property sold to low-income households for building residences using mutual self-help housing construction. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Thai; Walen; Wilcox and Wylie.

Referred to Committee on Rules for second reading

February 23, 2024

SB 6030 Prime Sponsor, Senator Braun: Amending the county population threshold for counties that may exempt from taxation the value of accessory dwelling units to incentivize rental to low-income households. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Jacobsen, Assistant Ranking Minority Member; Ramel; Santos; Springer; Thai; Walen; Wilcox and Wylie.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Barnard; and Chopp.

Referred to Committee on Rules for second reading

February 22, 2024

SB 6080 Prime Sponsor, Senator Boehnke: Simplifying the funding provisions of the statewide tourism marketing account. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Dye; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 23, 2024

SB 6215 Prime Sponsor, Senator Schoesler: Improving tax and revenue laws. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Thai; Walen; Wilcox and Wylie.

Referred to Committee on Rules for second reading

February 23, 2024

SB 6238 Prime Sponsor, Senator Dozier: Updating thresholds for the property tax exemption for widows and widowers of honorably discharged veterans. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 84.39.010 and 2015 c 86 s 314 are each amended to read as follows:

A person is entitled to a property tax exemption in the form of a grant as provided in this chapter. The person is entitled to assistance for the payment of all or a portion of the amount of excess and regular real property taxes imposed on the person's residence in the year in which a claim is filed in accordance with the following:

(1) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381((~~, other than the income limits under RCW 84.36.381~~)).

(2)(a) The person making the claim must be:

(i) ((~~Sixty-two~~))62 years of age or older on December 31st of the year in which the claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability; and

(ii) A widow or widower of a veteran who:

(A) Died as a result of a service-connected disability;

(B) Was rated as ((~~one hundred~~))100 percent disabled by the United States veterans' administration for the ((~~ten~~))10 years prior to his or her death;

(C) Was a former prisoner of war as substantiated by the United States veterans' administration and was rated as ((~~one hundred~~))100 percent disabled by the United States veterans' administration for one or more years prior to his or her death; or

(D) Died on active duty or in active training status as a member of the United States uniformed services, reserves, or national guard; and

(b) The person making the claim must not have remarried.

(3) The claimant must have a combined disposable income of ((~~forty thousand dollars or less~~))equal to or less than income threshold 3.

(4) The claimant must have owned, at the time of filing, the residence on which the real property taxes have been imposed. For purposes of this subsection, a residence owned by cotenants is deemed to be owned by each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(5) A person who otherwise qualifies under this section is entitled to assistance in an amount equal to regular and excess property taxes imposed on the difference between the value of the residence eligible for exemption under RCW 84.36.381(5) and:

(a) The first ((~~one hundred thousand dollars~~))$200,000 of assessed value of the residence for a person who has a combined disposable income of ((~~thirty thousand dollars or less~~))equal to or less than income threshold 1;

(b) The first ((~~seventy-five thousand dollars~~))$150,000 of assessed value of the residence for a person who has a combined disposable income ((~~of thirty-five thousand dollars or less but greater than thirty thousand dollars~~))equal to or less than income threshold 2 but greater than income threshold 1; or

(c) The first ((~~fifty thousand dollars~~))$100,000 of assessed value of the residence for a person who has a combined disposable income ((~~of forty thousand dollars or less but greater than thirty-five thousand dollars~~))equal to or less than income threshold 3 but greater than income threshold 2.

(6) As used in this section:

(a) "Veteran" has the same meaning as provided under RCW 41.04.005.

(b) The meanings attributed in RCW 84.36.383 to the terms "residence," "combined disposable income," "disposable income," ((~~and~~)) "disability," "income threshold 1," "income threshold 2," and "income threshold 3" apply ((~~equally to~~))throughout this section.

NEW SECTION. **Sec. 2.** This act applies to taxes levied for collection in 2025 and thereafter.

NEW SECTION. **Sec. 3.** RCW 82.32.805 and 82.32.808 do not apply to this act. The legislature intends for this tax preference and its expansion to be permanent."

Correct the title.

Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Thai; Walen; Wilcox and Wylie.

Referred to Committee on Rules for second reading

February 23, 2024

SSJM 8009 Prime Sponsor, Business, Financial Services, Gaming & Trade: Concerning the federal harbor maintenance tax. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Thai; Walen; Wilcox and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representative Orcutt, Ranking Minority Member.

Referred to Committee on Rules for second reading

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

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

FIRST SUPPLEMENTAL REPORT OF STANDING COMMITTEES

February 26, 2024

ESSB 5334 Prime Sponsor, Local Government, Land Use & Tribal Affairs: Providing a local government option for the funding of essential affordable housing programs. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended by Committee on Local Government. Signed by Representatives Berg, Chair; Street, Vice Chair; Chopp; Ramel; Santos; Thai; Walen and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Springer; and Wilcox.

Referred to Committee on Rules for second reading

February 22, 2024

SB 5881 Prime Sponsor, Senator MacEwen: Concerning membership in the public employees' retirement system for certain part-time bus drivers employed full-time by the federal government. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 5955 Prime Sponsor, Ways & Means: Mitigating harm and improving equity in large port districts. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass. Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Alvarado; Bateman; Farivar; Fosse; Kloba; Leavitt; Morgan; Orwall; Peterson; Reed; Rule; Shavers and Stearns.

MINORITY recommendation: Do not pass. Signed by Representatives Steele, Assistant Ranking Minority Member; Christian; Eslick; Kretz; Sandlin; and Waters.

MINORITY recommendation: Without recommendation. Signed by Representatives Abbarno, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Maycumber; and Mosbrucker.

Referred to Committee on Rules for second reading

February 26, 2024

ESSB 6038 Prime Sponsor, Ways & Means: Reducing the costs associated with providing child care. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Thai; Walen; Wilcox and Wylie.

Referred to Committee on Rules for second reading

February 26, 2024

ESSB 6039 Prime Sponsor, Environment, Energy & Technology: Promoting the development of geothermal energy resources. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass as amended by Committee on Environment & Energy. Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Abbarno, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Alvarado; Bateman; Christian; Eslick; Farivar; Fosse; Kloba; Kretz; Leavitt; Maycumber; Morgan; Mosbrucker; Orwall; Peterson; Reed; Rule; Sandlin; Shavers; Stearns and Waters.

Referred to Committee on Rules for second reading

February 26, 2024

ESSB 6040 Prime Sponsor, State Government & Elections: Concerning prompt payment in public works. Reported by Committee on Capital Budget

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 prompt pay requirements address the acceptable amount of time that payments must be made to contractors and subcontractors, and under what circumstances exceptions can be made. Washington state has prompt pay statutes that apply to public works commissioned by the state or local public entities such as counties, cities, towns, port districts, school districts, and other public entities in the state. These statutes intend to promote efficient implementation of public works projects by, among other things, requiring timely payment to assist contractors and subcontractors in operating their businesses and meet working capital and cash flow needs, while enabling public entities to address such things as disagreements over amounts owed, unsatisfactory performance, and noncompliance with the terms of the contract.

(2) The legislature intends to review how well prompt pay provisions are working for

small businesses, particularly women and minority-owned businesses, potential improvements that could be considered, and the potential impacts on the industry any recommendations might have.

NEW SECTION. **Sec. 2.** (1)(a) The capital projects advisory review board created in chapter 39.10 RCW shall review the extent to which prompt pay statutes meet the needs of small businesses, as defined in RCW 39.26.010, particularly women and minority-owned businesses as certified under chapter 39.19 RCW or as officially recognized as such by a local public entity. These statutes include RCW 39.04.250, 39.76.011, and 39.76.020.

(b) The capital projects advisory review board must present findings and any recommendations the board develops to the appropriate committees of the legislature on or before November 1, 2024.

(2) In carrying out the review and considering possible recommendations under subsection (1) of this section, the board shall engage with a broad range of stakeholders.

NEW SECTION. **Sec. 3.** In considering possible recommendations under section 2(1)(b) of this act, at a minimum the capital projects advisory review board shall consider:

(1) Requiring the state and local entities to pay the prime contractor within 30 days for work satisfactorily completed or materials delivered by a subcontractor of any tier that is a small business certified with the office of minority and women's business enterprises under chapter 39.19 RCW, or is recognized as a women or minority-owned business enterprise in a state of Washington port, county, or municipal small business or women or minority-owned business enterprise program;

(2) Requiring that, within 10 days of receipt of payment, the prime contractor and each higher tier subcontractor must make payment to its subcontractor until the subcontractor that is a certified small business or recognized women or minority-owned business has received payment.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Abbarno, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Alvarado; Bateman; Christian; Eslick; Farivar; Fosse; Kloba; Kretz; Leavitt; Maycumber; Morgan; Mosbrucker; Orwall; Peterson; Reed; Rule; Sandlin; Shavers; Stearns and Waters.

Referred to Committee on Rules for second reading

February 22, 2024

SB 6094 Prime Sponsor, Senator Robinson: Aligning statutory language concerning the retired state employee and retired or disabled school employee health insurance subsidy with the historical interpretation and implementation of the relevant subsidy language in the operating budget. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Dye; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SB 6173 Prime Sponsor, Senator Nobles: Encouraging investments in affordable homeownership unit development. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Thai; Walen; Wilcox and Wylie.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 6175 Prime Sponsor, Ways & Means: Providing a sales and use tax incentive for existing structures. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended by Committee on Housing. Signed by Representatives Berg, Chair; Street, Vice Chair; Jacobsen, Assistant Ranking Minority Member; Barnard; Ramel; Santos; Springer; Thai; Walen; Wilcox and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representatives Orcutt, Ranking Minority Member; and Chopp.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6192 Prime Sponsor, Labor & Commerce: Addressing additional work and change orders on public and private construction projects. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass. Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Abbarno, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Alvarado; Bateman; Christian; Eslick; Farivar; Fosse; Kloba; Kretz; Leavitt; Maycumber; Morgan; Mosbrucker; Orwall; Peterson; Reed; Rule; Sandlin; Shavers; Stearns and Waters.

Referred to Committee on Rules for second reading

February 26, 2024

SB 6229 Prime Sponsor, Senator Shewmake: Modifying match requirements for the green transportation capital grant program. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Hackney; Klicker; Mena; Nance; Orcutt; Ramel; Ramos; Schmidt and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Goehner; Griffey; Volz; and Walsh.

Referred to Committee on Rules for second reading

February 22, 2024

SB 6308 Prime Sponsor, Senator Dhingra: Extending timelines for implementation of the 988 system. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.24.890 and 2023 c 454 s 5 and 2023 c 433 s 16 are each reenacted and amended to read as follows:

(1) Establishing the state designated 988 contact hubs and enhancing the crisis response system will require collaborative work between the department and the authority within their respective roles. The department shall have primary responsibility for establishing and designating the designated 988 contact hubs. The authority shall have primary responsibility for developing and implementing the crisis response system and services to support the work of the designated 988 contact hubs. In any instance in which one agency is identified as the lead, the expectation is that agency will be communicating and collaborating with the other to ensure seamless, continuous, and effective service delivery within the statewide crisis response system.

(2) The department shall provide adequate funding for the state's crisis call centers to meet an expected increase in the use of the call centers based on the implementation of the 988 crisis hotline. The funding level shall be established at a level anticipated to achieve an in-state call response rate of at least 90 percent by July 22, 2022. The funding level shall be determined by considering standards and cost per call predictions provided by the administrator of the national suicide prevention lifeline, call volume predictions, guidance on crisis call center performance metrics, and necessary technology upgrades. In contracting with the crisis call centers, the department:

(a) May provide funding to support crisis call centers and designated 988 contact hubs to enter into limited on-site partnerships with the public safety answering point to increase the coordination and transfer of behavioral health calls received by certified public safety telecommunicators that are better addressed by clinic interventions provided by the 988 system. Tax revenue may be used to support on-site partnerships;

(b) Shall require that crisis call centers enter into data-sharing agreements, when appropriate, with the department, the authority, and applicable regional behavioral health administrative services organizations to provide reports and client level data regarding 988 crisis hotline calls, as allowed by and in compliance with existing federal and state law governing the sharing and use of protected health information, including dispatch time, arrival time, and disposition of the outreach for each call referred for outreach by each region. The department and the authority shall establish requirements that the crisis call centers report the data identified in this subsection (2)(b) to regional behavioral health administrative services organizations for the purposes of maximizing medicaid reimbursement, as appropriate, and implementing this chapter and chapters 71.05 and 71.34 RCW including, but not limited to, administering crisis services for the assigned regional service area, contracting with a sufficient number of licensed or certified providers for crisis services, establishing and maintaining quality assurance processes, maintaining patient tracking, and developing and implementing strategies to coordinate care for individuals with a history of frequent crisis system utilization.

(3) The department shall adopt rules by January 1, 2025, to establish standards for designation of crisis call centers as designated 988 contact hubs. The department shall collaborate with the authority and other agencies to assure coordination and availability of services, and shall consider national guidelines for behavioral health crisis care as determined by the federal substance abuse and mental health services administration, national behavioral health accrediting bodies, and national behavioral health provider associations to the extent they are appropriate, and recommendations from the crisis response improvement strategy committee created in RCW 71.24.892.

(4) The department shall designate designated 988 contact hubs by January 1, 2026. The designated 988 contact hubs shall provide crisis intervention services, triage, care coordination, referrals, and connections to individuals contacting the 988 crisis hotline from any jurisdiction within Washington 24 hours a day, seven days a week, using the system platform developed under subsection (5) of this section.

(a) To be designated as a designated 988 contact hub, the applicant must demonstrate to the department the ability to comply with the requirements of this section and to contract to provide designated 988 contact hub services. The department may revoke the designation of any designated 988 contact hub that fails to substantially comply with the contract.

(b) The contracts entered shall require designated 988 contact hubs to:

(i) Have an active agreement with the administrator of the national suicide prevention lifeline for participation within its network;

(ii) Meet the requirements for operational and clinical standards established by the department and based upon the national suicide prevention lifeline best practices guidelines and other recognized best practices;

(iii) Employ highly qualified, skilled, and trained clinical staff who have sufficient training and resources to provide empathy to callers in acute distress, de-escalate crises, assess behavioral health disorders and suicide risk, triage to system partners for callers that need additional clinical interventions, and provide case management and documentation. Call center staff shall be trained to make every effort to resolve cases in the least restrictive environment and without law enforcement involvement whenever possible. Call center staff shall coordinate with certified peer counselors to provide follow-up and outreach to callers in distress as available. It is intended for transition planning to include a pathway for continued employment and skill advancement as needed for experienced crisis call center employees;

(iv) Train employees on agricultural community cultural competencies for suicide prevention, which may include sharing resources with callers that are specific to members from the agricultural community. The training must prepare staff to provide appropriate assessments, interventions, and resources to members of the agricultural community. Employees may make warm transfers and referrals to a crisis hotline that specializes in working with members from the agricultural community, provided that no person contacting 988 shall be transferred or referred to another service if they are currently in crisis and in need of emotional support;

(v) Prominently display 988 crisis hotline information on their websites and social media, including a description of what the caller should expect when contacting the crisis call center and a description of the various options available to the caller, including call lines specialized in the behavioral health needs of veterans, American Indian and Alaska Native persons, Spanish-speaking persons, and LGBTQ populations. The website may also include resources for programs and services related to suicide prevention for the agricultural community;

(vi) Collaborate with the authority, the national suicide prevention lifeline, and veterans crisis line networks to assure consistency of public messaging about the 988 crisis hotline;

(vii) Develop and submit to the department protocols between the designated 988 contact hub and 911 call centers within the region in which the designated crisis call center operates and receive approval of the protocols by the department and the state 911 coordination office;

(viii) Develop, in collaboration with the region's behavioral health administrative services organizations, and jointly submit to the authority protocols related to the dispatching of mobile rapid response crisis teams and community-based crisis teams endorsed under RCW 71.24.903 and receive approval of the protocols by the authority;

(ix) Provide data and reports and participate in evaluations and related quality improvement activities, according to standards established by the department in collaboration with the authority; and

(x) Enter into data-sharing agreements with the department, the authority, and applicable regional behavioral health administrative services organizations to provide reports and client level data regarding 988 crisis hotline calls, as allowed by and in compliance with existing federal and state law governing the sharing and use of protected health information, including dispatch time, arrival time, and disposition of the outreach for each call referred for outreach by each region. The department and the authority shall establish requirements that the designated 988 contact hubs report the data identified in this subsection (4)(b)(x) to regional behavioral health administrative services organizations for the purposes of maximizing medicaid reimbursement, as appropriate, and implementing this chapter and chapters 71.05 and 71.34 RCW including, but not limited to, administering crisis services for the assigned regional service area, contracting with a sufficient number or licensed or certified providers for crisis services, establishing and maintaining quality assurance processes, maintaining patient tracking, and developing and implementing strategies to coordinate care for individuals with a history of frequent crisis system utilization.

(c) The department and the authority shall incorporate recommendations from the crisis response improvement strategy committee created under RCW 71.24.892 in its agreements with designated 988 contact hubs, as appropriate.

(5) The department and authority must coordinate to develop the technology and platforms necessary to manage and operate the behavioral health crisis response and suicide prevention system. The department and the authority must include the crisis call centers and designated 988 contact hubs in the decision-making process for selecting any technology platforms that will be used to operate the system. No decisions made by the department or the authority shall interfere with the routing of the 988 crisis hotline calls, texts, or chat as part of Washington's active agreement with the administrator of the national suicide prevention lifeline or 988 administrator that routes 988 contacts into Washington's system. The technologies developed must include:

(a) A new technologically advanced behavioral health and suicide prevention crisis call center system platform for use in designated 988 contact hubs designated by the department under subsection (4) of this section. This platform, which shall be fully funded by ((~~July 1, 2024~~))January 1, 2026, shall be developed by the department and must include the capacity to receive crisis assistance requests through phone calls, texts, chats, and other similar methods of

communication that may be developed in the future that promote access to the behavioral health crisis system; and

(b) A behavioral health integrated client referral system capable of providing system coordination information to designated 988 contact hubs and the other entities involved in behavioral health care. This system shall be developed by the authority.

(6) In developing the new technologies under subsection (5) of this section, the department and the authority must coordinate to designate a primary technology system to provide each of the following:

(a) Access to real-time information relevant to the coordination of behavioral health crisis response and suicide prevention services, including:

(i) Real-time bed availability for all behavioral health bed types and recliner chairs, including but not limited to crisis stabilization services, 23-hour crisis relief centers, psychiatric inpatient, substance use disorder inpatient, withdrawal management, peer-run respite centers, and crisis respite services, inclusive of both voluntary and involuntary beds, for use by crisis response workers, first responders, health care providers, emergency departments, and individuals in crisis; and

(ii) Real-time information relevant to the coordination of behavioral health crisis response and suicide prevention services for a person, including the means to access:

(A) Information about any less restrictive alternative treatment orders or mental health advance directives related to the person; and

(B) Information necessary to enable the designated 988 contact hub to actively collaborate with emergency departments, primary care providers and behavioral health providers within managed care organizations, behavioral health administrative services organizations, and other health care payers to establish a safety plan for the person in accordance with best practices and provide the next steps for the person's transition to follow-up noncrisis care. To establish information-sharing guidelines that fulfill the intent of this section the authority shall consider input from the confidential information compliance and coordination subcommittee established under RCW 71.24.892;

((~~[(b)]~~))(b) The means to track the outcome of the 988 call to enable appropriate follow-up, cross-system coordination, and accountability, including as appropriate: (i) Any immediate services dispatched and reports generated from the encounter; (ii) the validation of a safety plan established for the caller in accordance with best practices; (iii) the next steps for the caller to follow in transition to noncrisis follow-up care, including a next-day appointment for callers experiencing urgent, symptomatic behavioral health care needs; and (iv) the means to verify and document whether the caller was successful in making the transition to appropriate noncrisis follow-up care indicated in the safety plan for the person, to be completed either by the care coordinator provided through the person's managed care organization, health plan, or behavioral health administrative services organization, or if such a care coordinator is not available or does not follow through, by the staff of the designated 988 contact hub;

(c) A means to facilitate actions to verify and document whether the person's transition to follow-up noncrisis care was completed and services offered, to be performed by a care coordinator provided through the person's managed care organization, health plan, or behavioral health administrative services organization, or if such a care coordinator is not available or does not follow through, by the staff of the designated 988 contact hub;

(d) The means to provide geographically, culturally, and linguistically appropriate services to persons who are part of high-risk populations or otherwise have need of specialized services or accommodations, and to document these services or accommodations; and

(e) When appropriate, consultation with tribal governments to ensure coordinated care in government-to-government relationships, and access to dedicated services to tribal members.

(7) The authority shall:

(a) Collaborate with county authorities and behavioral health administrative services organizations to develop procedures to dispatch behavioral health crisis services in coordination with designated 988 contact hubs to effectuate the intent of this section;

(b) Establish formal agreements with managed care organizations and behavioral health administrative services organizations by January 1, 2023, to provide for the services, capacities, and coordination necessary to effectuate the intent of this section, which shall include a requirement to arrange next-day appointments for persons contacting the 988 crisis hotline experiencing urgent, symptomatic behavioral health care needs with geographically, culturally, and linguistically appropriate primary care or behavioral health providers within the person's provider network, or, if uninsured, through the person's behavioral health administrative services organization;

(c) Create best practices guidelines by July 1, 2023, for deployment of appropriate and available crisis response services by designated 988 contact hubs to assist 988 hotline callers to minimize nonessential reliance on emergency room services and the use of law enforcement, considering input from relevant stakeholders and recommendations made by the crisis response improvement strategy committee created under RCW 71.24.892;

(d) Develop procedures to allow appropriate information sharing and communication between and across crisis and emergency response systems for the purpose of real-time crisis care coordination including, but not limited to, deployment of crisis and outgoing services, follow-up care, and linked, flexible services specific to crisis response; and

(e) Establish guidelines to appropriately serve high-risk populations who request crisis services. The authority shall design these guidelines to promote behavioral

health equity for all populations with attention to circumstances of race, ethnicity, gender, socioeconomic status, sexual orientation, and geographic location, and include components such as training requirements for call response workers, policies for transferring such callers to an appropriate specialized center or subnetwork within or external to the national suicide prevention lifeline network, and procedures for referring persons who access the 988 crisis hotline to linguistically and culturally competent care.

(8) The department shall monitor trends in 988 crisis hotline caller data, as reported by designated 988 contact hubs under subsection (4)(b)(x) of this section, and submit an annual report to the governor and the appropriate committees of the legislature summarizing the data and trends beginning December 1, 2027.

Sec. 2. RCW 71.24.892 and 2023 c 454 s 6 are each amended to read as follows:

(1) The crisis response improvement strategy committee is established for the purpose of providing advice in developing an integrated behavioral health crisis response and suicide prevention system containing the elements described in this section. The work of the committee shall be received and reviewed by a steering committee, which shall in turn form subcommittees to provide the technical analysis and input needed to formulate system change recommendations.

(2) The behavioral health institute at Harborview medical center shall facilitate and provide staff support to the steering committee and to the crisis response improvement strategy committee. The behavioral health institute may contract for the provision of these services.

(3) The steering committee shall consist of the five members specified as serving on the steering committee in this subsection and one additional member who has been appointed to serve pursuant to the criteria in either (j), (k), (l), or (m) of this subsection. The steering committee shall select three cochairs from among its members to lead the crisis response improvement strategy committee. The crisis response improvement strategy committee shall consist of the following members, who shall be appointed or requested by the authority, unless otherwise noted:

(a) The director of the authority, or his or her designee, who shall also serve on the steering committee;

(b) The secretary of the department, or his or her designee, who shall also serve on the steering committee;

(c) A member representing the office of the governor, who shall also serve on the steering committee;

(d) The Washington state insurance commissioner, or his or her designee;

(e) Up to two members representing federally recognized tribes, one from eastern Washington and one from western Washington, who have expertise in behavioral health needs of their communities;

(f) One member from each of the two largest caucuses of the senate, one of whom shall also be designated to participate on the steering committee, to be appointed by the president of the senate;

(g) One member from each of the two largest caucuses of the house of representatives, one of whom shall also be designated to participate on the steering committee, to be appointed by the speaker of the house of representatives;

(h) The director of the Washington state department of veterans affairs, or his or her designee;

(i) The state 911 coordinator, or his or her designee;

(j) A member with lived experience of a suicide attempt;

(k) A member with lived experience of a suicide loss;

(l) A member with experience of participation in the crisis system related to lived experience of a mental health disorder;

(m) A member with experience of participation in the crisis system related to lived experience with a substance use disorder;

(n) A member representing each crisis call center in Washington that is contracted with the national suicide prevention lifeline;

(o) Up to two members representing behavioral health administrative services organizations, one from an urban region and one from a rural region;

(p) A member representing the Washington council for behavioral health;

(q) A member representing the association of alcoholism and addiction programs of Washington state;

(r) A member representing the Washington state hospital association;

(s) A member representing the national alliance on mental illness Washington;

(t) A member representing the behavioral health interests of persons of color recommended by Sea Mar community health centers;

(u) A member representing the behavioral health interests of persons of color recommended by Asian counseling and referral service;

(v) A member representing law enforcement;

(w) A member representing a university-based suicide prevention center of excellence;

(x) A member representing an emergency medical services department with a CARES program;

(y) A member representing medicaid managed care organizations, as recommended by the association of Washington healthcare plans;

(z) A member representing commercial health insurance, as recommended by the association of Washington healthcare plans;

(aa) A member representing the Washington association of designated crisis responders;

(bb) A member representing the children and youth behavioral health work group;

(cc) A member representing a social justice organization addressing police accountability and the use of deadly force; and

(dd) A member representing an organization specializing in facilitating

behavioral health services for LGBTQ populations.

(4) The crisis response improvement strategy committee shall assist the steering committee to identify potential barriers and make recommendations necessary to implement and effectively monitor the progress of the 988 crisis hotline in Washington and make recommendations for the statewide improvement of behavioral health crisis response and suicide prevention services.

(5) The steering committee must develop a comprehensive assessment of the behavioral health crisis response and suicide prevention services system by January 1, 2022, including an inventory of existing statewide and regional behavioral health crisis response, suicide prevention, and crisis stabilization services and resources, and taking into account capital projects which are planned and funded. The comprehensive assessment shall identify:

(a) Statewide and regional insufficiencies and gaps in behavioral health crisis response and suicide prevention services and resources needed to meet population needs;

(b) Quantifiable goals for the provision of statewide and regional behavioral health crisis services and targeted deployment of resources, which consider factors such as reported rates of involuntary commitment detentions, single-bed certifications, suicide attempts and deaths, substance use disorder-related overdoses, overdose or withdrawal-related deaths, and incarcerations due to a behavioral health incident;

(c) A process for establishing outcome measures, benchmarks, and improvement targets, for the crisis response system; and

(d) Potential funding sources to provide statewide and regional behavioral health crisis services and resources.

(6) The steering committee, taking into account the comprehensive assessment work under subsection (5) of this section as it becomes available, after discussion with the crisis response improvement strategy committee and hearing reports from the subcommittees, shall report on the following:

(a) A recommended vision for an integrated crisis network in Washington that includes, but is not limited to: An integrated 988 crisis hotline and designated 988 contact hubs; mobile rapid response crisis teams and community-based crisis teams endorsed under RCW 71.24.903; mobile crisis response units for youth, adult, and geriatric population; a range of crisis stabilization services; an integrated involuntary treatment system; access to peer-run services, including peer-run respite centers; adequate crisis respite services; and data resources;

(b) Recommendations to promote equity in services for individuals of diverse circumstances of culture, race, ethnicity, gender, socioeconomic status, sexual orientation, and for individuals in tribal, urban, and rural communities;

(c) Recommendations for a work plan with timelines to implement appropriate local responses to calls to the 988 crisis hotline within Washington in accordance with the time frames required by the national suicide hotline designation act of 2020;

(d) The necessary components of each of the new technologically advanced behavioral health crisis call center system platform and the new behavioral health integrated client referral system, as provided under RCW 71.24.890, for assigning and tracking response to behavioral health crisis calls and providing real-time bed and outpatient appointment availability to 988 operators, emergency departments, designated crisis responders, and other behavioral health crisis responders, which shall include but not be limited to:

(i) Identification of the components that designated 988 contact hub staff need to effectively coordinate crisis response services and find available beds and available primary care and behavioral health outpatient appointments;

(ii) Evaluation of existing bed tracking models currently utilized by other states and identifying the model most suitable to Washington's crisis behavioral health system;

(iii) Evaluation of whether bed tracking will improve access to all behavioral health bed types and other impacts and benefits; and

(iv) Exploration of how the bed tracking and outpatient appointment availability platform can facilitate more timely access to care and other impacts and benefits;

(e) The necessary systems and capabilities that licensed or certified behavioral health agencies, behavioral health providers, and any other relevant parties will require to report, maintain, and update inpatient and residential bed and outpatient service availability in real time to correspond with the crisis call center system platform or behavioral health integrated client referral system identified in RCW 71.24.890, as appropriate;

(f) A work plan to establish the capacity for the designated 988 contact hubs to integrate Spanish language interpreters and Spanish-speaking call center staff into their operations, and to ensure the availability of resources to meet the unique needs of persons in the agricultural community who are experiencing mental health stresses, which explicitly addresses concerns regarding confidentiality;

(g) A work plan with timelines to enhance and expand the availability of mobile rapid response crisis teams and community-based crisis teams endorsed under RCW 71.24.903 based in each region, including specialized teams as appropriate to respond to the unique needs of youth, including American Indian and Alaska Native youth and LGBTQ youth, and geriatric populations, including older adults of color and older adults with comorbid dementia;

(h) The identification of other personal and systemic behavioral health challenges which implementation of the 988 crisis hotline has the potential to address in addition to suicide response and behavioral health crises;

(i) The development of a plan for the statewide equitable distribution of crisis stabilization services, behavioral health beds, and peer-run respite services;

(j) Recommendations concerning how health plans, managed care organizations, and behavioral health administrative services organizations shall fulfill requirements to provide assignment of a care coordinator and to provide next-day appointments for enrollees who contact the behavioral health crisis system;

(k) Appropriate allocation of crisis system funding responsibilities among medicaid managed care organizations, commercial insurers, and behavioral health administrative services organizations;

(l) Recommendations for constituting a statewide behavioral health crisis response and suicide prevention oversight board or similar structure for ongoing monitoring of the behavioral health crisis system and where this should be established; and

(m) Cost estimates for each of the components of the integrated behavioral health crisis response and suicide prevention system.

(7) The steering committee shall consist only of members appointed to the steering committee under this section. The steering committee shall convene the committee, form subcommittees, assign tasks to the subcommittees, and establish a schedule of meetings and their agendas.

(8) The subcommittees of the crisis response improvement strategy committee shall focus on discrete topics. The subcommittees may include participants who are not members of the crisis response improvement strategy committee, as needed to provide professional expertise and community perspectives. Each subcommittee shall have at least one member representing the interests of stakeholders in a rural community, at least one member representing the interests of stakeholders in an urban community, and at least one member representing the interests of youth stakeholders. The steering committee shall form the following subcommittees:

(a) A Washington tribal 988 subcommittee, which shall examine and make recommendations with respect to the needs of tribes related to the 988 system, and which shall include representation from the American Indian health commission;

(b) A credentialing and training subcommittee, to recommend workforce needs and requirements necessary to implement chapter 302, Laws of 2021, including minimum education requirements such as whether it would be appropriate to allow designated 988 contact hubs to employ clinical staff without a bachelor's degree or master's degree based on the person's skills and life or work experience;

(c) A technology subcommittee, to examine issues and requirements related to the technology needed to implement chapter 302, Laws of 2021;

(d) A cross-system crisis response collaboration subcommittee, to examine and define the complementary roles and interactions between mobile rapid response crisis teams and community-based crisis teams endorsed under RCW 71.24.903, designated crisis responders, law enforcement, emergency medical services teams, 911 and 988 operators, public and private health plans, behavioral health crisis response agencies, nonbehavioral health crisis response agencies, and others needed to implement chapter 302, Laws of 2021;

(e) A confidential information compliance and coordination subcommittee, to examine issues relating to sharing and protection of health information needed to implement chapter 302, Laws of 2021;

(f) A 988 geolocation subcommittee, to examine privacy issues related to federal planning efforts to route 988 crisis hotline calls based on the person's location, rather than area code, including ways to implement the federal efforts in a manner that maintains public and clinical confidence in the 988 crisis hotline. The 988 geolocation subcommittee must include persons with lived experience with behavioral health conditions as well as representatives of crisis call centers, the behavioral health interests of persons of color, and behavioral health providers; and

(g) Any other subcommittee needed to facilitate the work of the committee, at the discretion of the steering committee.

(9) The proceedings of the crisis response improvement strategy committee must be open to the public and invite testimony from a broad range of perspectives. The committee shall seek input from tribes, veterans, the LGBTQ community, and communities of color to help discern how well the crisis response system is currently working and recommend ways to improve the crisis response system.

(10) Legislative members of the crisis response improvement strategy committee shall be 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.

(11) The steering committee, with the advice of the crisis response improvement strategy committee, shall provide a progress report and the result of its comprehensive assessment under subsection (5) of this section to the governor and appropriate policy and fiscal committee of the legislature by January 1, 2022. The steering committee shall report the crisis response improvement strategy committee's further progress and the steering committee's recommendations related to designated 988 contact hubs to the governor and appropriate policy and fiscal committees of the legislature by January 1, 2023, and January 1, 2024. The steering committee shall provide its final report to the governor and the appropriate policy and fiscal committees of the legislature by ((~~January 1, 2025~~))July 1, 2026.

(12) This section expires ((~~June 30, 2025~~))December 31, 2026."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority

Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Dye; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

SECOND SUPPLEMENTAL REPORT OF STANDING COMMITTEES

February 26, 2024

2ESSB 5150 Prime Sponsor, Agriculture, Water, Natural Resources & Parks: Concerning the beef commission's levied assessment. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Agriculture & Natural Resources. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 5213 Prime Sponsor, Ways & Means: Concerning pharmacy benefit managers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

ESB 5241 Prime Sponsor, Senator Randall: Concerning material changes to the operations and governance structure of participants in the health care marketplace. 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:

"NEW SECTION. **Sec. 1.** The legislature finds and declares that:

(1) The existence of accessible and affordable health care services that are responsive to the needs of the community is an important public policy goal.

(2) The COVID-19 pandemic laid bare both the crucial importance of our health care systems and the inequities that exist and exacerbate harm to marginalized communities, including in access to and delivery of affordable, quality care.

(3) Health entity mergers, acquisitions, and contracting affiliations impact cost, quality, and access to health care, and affect working conditions and employee benefits.

(4) Health entity mergers, acquisitions, and contracting affiliations have been shown to result in anticompetitive consequences, including higher prices and a lack of any meaningful choice among health care providers within a community or geographic region. These negative outcomes are exacerbated for those in rural areas with few health care providers.

(5) The legislature is committed to ensuring that Washingtonians have access to the full range of reproductive, end-of-life, and gender affirming health care services. Yet, Washingtonians continue to experience difficulty accessing gender affirming care, and health entity mergers and acquisitions in Washington state have resulted in material reductions in reproductive and end-of-life health care services, to the detriment of communities and patients.

(6) Health entity mergers, acquisitions, and contracting affiliations must improve rather than harm access to affordable quality health care.

Sec. 2. RCW 19.390.010 and 2019 c 267 s 1 are each amended to read as follows:

(1) It is the intent of the legislature to ensure that competition beneficial to consumers in health care markets across Washington remains vigorous and robust and that health care be affordable and accessible. The legislature supports ((~~that intent~~))these intents through this chapter, which provides the attorney general with notice of all material health care transactions in this state so that the attorney general has the information necessary to determine whether an investigation under the consumer protection act is

warranted for potential anticompetitive conduct and consumer harm. This chapter is intended to supplement the federal Hart-Scott-Rodino antitrust improvements act, Title 15 U.S.C. Sec. 18a, by requiring notice of transactions not reportable under Hart-Scott-Rodino reporting thresholds and by providing the attorney general with a copy of any filings made pursuant to the Hart-Scott-Rodino act. In addition to ensuring vigorous and robust competition in health care markets, this chapter is also intended to ensure material change transactions result in the affected communities having the same or greater access to quality, affordable care, including emergency care, primary care, reproductive care, end-of-life care including services provided in accordance with chapter 70.245 RCW, and gender affirming care.

(2) Notwithstanding the language in this chapter regarding the attorney general's authority to determine the effect of a material change transaction on access to care, nothing in this chapter is intended to derogate from or otherwise affect in any way the attorney general's authority to conduct an investigation, or the process of any investigation, under chapter 19.86 RCW. Nothing in this section is intended to change or affect in any way any substantive law regarding the antitrust analysis of a material change transaction.

Sec. 3. RCW 19.390.020 and 2019 c 267 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) "Acquisition" means an agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes the acquisition of voting securities and noncorporate interests, such as assets, capital stock, membership interests, or equity interests.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or has ownership of, is controlled or owned by, or is under common control or ownership of a person. A provider organization that is not otherwise affiliated with a hospital or hospital system is not considered an affiliate of a hospital or hospital system solely on the basis that it contracts with the hospital or hospital system to provide facility-based services including, but not limited to, emergency, anesthesiology, pathology, radiology, or hospital services.

(3) "Carrier" means the same as in RCW 48.43.005.

((~~(3)~~))(4) "Contracting affiliation" means the formation of a relationship between two or more entities that permits the entities to negotiate jointly with carriers or third-party administrators over rates for professional medical services, or for one entity to negotiate on behalf of the other entity with carriers or third-party administrators over rates for professional medical services. "Contracting affiliation" does not include arrangements among entities under common ownership or arrangements where at least one entity in the arrangement is owned or operated by a state entity.

((~~(4)~~))(5) "Gender affirming care" means a service or product that a health care provider, as defined in RCW 70.02.010, prescribes to an individual to treat any condition related to the individual's gender identity and is prescribed in accordance with generally accepted standards of care. Gender affirming care must be covered in a manner compliant with the federal mental health parity and addiction equity act of 2008 and the federal patient protection and affordable care act of 2010. Gender affirming care can be prescribed to two spirit, transgender, nonbinary, intersex, and other gender diverse individuals.

(6) "Health care revenue" means combined Washington-derived revenue from health care services or administration from a party and all of its affiliates including, but not limited to, patient revenue and premiums paid to carriers, as applicable.

(7) "Health care services" means medical, surgical, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, mental health, substance use disorder, therapeutic, preventative, diagnostic, curative, rehabilitative, palliative, custodial, and any other services relating to the prevention, cure, or treatment of illness, injury, or disease. Health care services may be provided virtually, on-demand, or in brick and mortar settings.

((~~(5) "Health care services revenue" means the total revenue received for health care services in the previous twelve months.~~

~~(6)~~))(8) "Health maintenance organization" means an organization receiving a certificate of registration pursuant to chapter 48.46 RCW which provides comprehensive health care services to enrolled participants of such organization on a group practice per capita prepayment basis or on a prepaid individual practice plan, except for an enrolled participant's responsibility for copayments and deductibles, either directly or through contractual or other arrangements with other institutions, entities, or persons, and which qualifies as a health maintenance organization pursuant to RCW 48.46.030 and 48.46.040.

((~~(7)~~))(9) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW.

((~~(8)~~))(10) "Hospital system" means:

(a) A parent corporation of one or more hospitals and any entity affiliated with such parent corporation ((~~through ownership or control~~)); or

(b) A hospital and any entity affiliated with such hospital ((~~through ownership~~)).

((~~(9)~~))(11) "Merger" means a consolidation of two or more organizations, including two or more organizations joining through a common parent organization or two or more organizations forming a new organization, but does not include a corporate reorganization.

((~~(10)~~))(12) "Person" means, where applicable, natural persons, corporations, trusts, and partnerships.

((~~(11)~~))(13) "Provider" means a natural person who practices a profession identified in RCW 18.130.040.

((~~(12)~~))(14) "Provider organization" means a corporation, partnership, business trust, association, or organized group of persons, whether incorporated or not, which is in the business of health care delivery or management and that represents seven or more health care providers in contracting with carriers or third-party administrators for the payments of health care services. A "provider organization" includes physician organizations, physician-hospital organizations, independent practice associations, provider networks, and accountable care organizations.

((~~(13)~~))(15) "Reproductive health care" means any medical services or treatments, including pharmaceutical and preventive care services or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life.

(16) "Successor persons" means persons formed by, resulting from, or surviving any material change transaction under this chapter.

(17) "Third-party administrator" means an entity that administers payments for health care services on behalf of a client in exchange for an administrative fee.

Sec. 4. RCW 19.390.030 and 2019 c 267 s 3 are each amended to read as follows:

(1) Not less than ((~~sixty~~))120 days prior to the effective date of any transaction that results in a material change, the parties to the transaction shall submit written notice to the attorney general of such material change transaction.

(2) For the purposes of this ((~~section~~))chapter, a material change transaction includes a merger, acquisition, or contracting affiliation ((~~between~~)):

(a) Between two or more ((~~entities~~)) of the following ((~~types~~))entities:

((~~(a)~~))(i) Hospitals;

((~~(b)~~))(ii) Hospital systems; or

((~~(c)~~))(iii) Provider organizations; or

(b) Between the following entities:

(i) An entity described in (a) of this subsection and a carrier or an insurance holding company system, as defined in RCW 48.31B.005; or

(ii) An entity described in (a) of this subsection and any other person or entity that has as its primary function the provision of health care services or that is a parent organization of, has control over, or governance of, an entity that has as its primary function the provision of health care services.

(3) A material change transaction includes proposed changes identified in subsection (2) of this section between ((~~a Washington entity and an out-of-state entity where the out-of-state entity generates ten million dollars or more in health care services revenue from patients residing in Washington state, and the entities are of the types identified in subsection (2) of this section~~))Washington entities. A material change transaction also includes transactions between Washington entities described in subsection (2)(a) of this section and out-of-state entities if the transaction will impact health care in Washington. Any party to a material change transaction that is licensed or operating in Washington state shall submit a notice as required under this section.

(4) For purposes of subsection (2) of this section, a merger, acquisition, or contracting affiliation between two or more ((~~hospitals, hospital systems, or provider organizations~~))entities only qualifies as a material change transaction if the ((~~hospitals, hospital systems, or provider organizations~~))entities did not previously have common ownership or a contracting affiliation.

(5)(a) In a case of an extraordinary emergency situation that threatens access to health care services and has the potential to immediately harm consumers, the attorney general may allow parties to a transaction to submit notice less than 120 days before the effective date of any transaction.

(b) If the parties to a material change transaction seek to submit notice less than 120 days before the effective date of a transaction, the parties shall provide documentation to the attorney general's office demonstrating the existence of an extraordinary emergency situation, including a complete statement of facts, circumstances, and conditions which demonstrate the extraordinary emergency situation.

(c) No later than 45 days after receiving notice under (b) of this subsection, the attorney general's office must notify the parties whether the material change transaction is subject to emergency review or is subject to preliminary review requiring parties to provide documentation pursuant to RCW 19.390.040. If the material change transaction is accepted for emergency review, the attorney general's office must approve or deny the transaction within 90 days. If the attorney general denies emergency review, the transaction shall be subject to preliminary review.

Sec. 5. RCW 19.390.040 and 2019 c 267 s 4 are each amended to read as follows:

(1) ((~~The~~))For material change transactions where none of the parties have generated $25,000,000 or more in health care revenue in any of their preceding three fiscal years, or if any of the parties is a federally qualified health center or rural health clinic as those terms are defined by 42 U.S.C. Sec. 1395x(aa), the written notice provided by the parties, as required by RCW 19.390.030, must include:

(a) The names of the parties and their current business addresses;

(b) Identification of all locations where health care services are currently provided by each party and its affiliates;

(c) A brief description of the nature and purpose of the proposed material change transaction; and

(d) The anticipated effective date of the proposed material change transaction.

(2) For material change transactions where none of the parties are hospitals or hospital systems or an affiliate of a hospital or hospital system and all of the parties serve predominantly low-income, medically underserved individuals, and all of the parties had for each of their preceding three fiscal years at least 50 percent of their total patient revenue come from medicaid or local, state, or federal funding to provide care to uninsured or underinsured individuals, and the material change transaction would not result in materially lowering the overall level of care the successor persons' provide to individuals on medicaid or who are uninsured or underinsured, or cause, for the successor persons, the percentage of total patient revenue that comes from medicaid or local, state, or federal funding to provide care to uninsured or underinsured individuals to drop below 50 percent, the written notice provided by the parties, as required by RCW 19.390.030, must include:

(a) The information and documentation required under subsection (1)(a) through (d) of this section; and

(b) Documentation demonstrating that all the parties to the material change transaction had for each of their preceding three fiscal years at least 50 percent of their total patient revenue come from medicaid or local, state, or federal funding to provide care to uninsured or underinsured individuals, and a statement from the parties describing how the material change transaction will result in the successor persons complying with the requirements under this subsection.

(3)(a) For all material change transactions other than those specified under subsections (1) and (2) of this section, and except for transactions that fall under subsection (4) of this section, the written notice provided by the parties, as required by RCW 19.390.030, must include the following information, unless the attorney general agrees to narrow the scope of information needed relevant to the material change transaction:

(i) The information and documentation required under subsection (1)(a) through (d) of this section; and

(ii) Additional documentation established by rule making, including, but not limited to, information about the parties' organizational structure, finances, and the potential impact of the transaction on health care services, patient access and affordability, policies and procedures, community benefit, and staffing.

(b) When documents are readily available from a publicly available source for state or federal agencies, the parties may indicate the public availability to the attorney general with information on how to access the documents rather than providing the documents directly.

(4)(a) In cases of an extraordinary emergency situation that threatens access to health care services and has the potential to immediately harm consumers, the attorney general may limit the information otherwise required by subsection (3) of this section for the sole purpose of expediting the review process.

(b) If the parties to a material change transaction seek expedited review under (a) of this subsection, the parties shall provide documentation to the attorney general's office demonstrating the existence of an extraordinary emergency situation including a complete statement of facts, circumstances, and conditions which demonstrate the extraordinary emergency situation.

(c) The attorney general shall respond within 10 days to advise the parties as to whether any information otherwise required by subsection (3) of this section may be waived.

(d) Nothing in this subsection alters the preliminary or comprehensive review and oversight required under RCW 19.390.050, 19.390.070, and 19.390.080 and sections 7, 9 through 17, and 19 through 21 of this act.

(e) Nothing in this subsection alters the information collection requirements in other sections of this chapter including the requirement of a public hearing under section 12 of this act.

(5) The attorney general shall charge an applicant fee sufficient to cover the costs of implementing this chapter. Fees for a specific material change transaction review must be set relative to whether the review is preliminary or comprehensive.

(6) The attorney general may request and the parties shall provide additional information that is necessary to implement the goals of this chapter.

(7) Nothing in this section prohibits the parties to a material change transaction from voluntarily providing additional information to the attorney general.

Sec. 6. RCW 19.390.050 and 2019 c 267 s 5 are each amended to read as follows:

((~~The~~))For the purpose of conducting an investigation under chapter 19.86 RCW or federal antitrust laws, the attorney general shall make any requests for additional information from the parties under RCW 19.86.110 within ((~~thirty~~))30 days of the date notice is received under RCW 19.390.030 and 19.390.040. ((~~Nothing~~))Regardless of whether the attorney general requests additional information from the parties, nothing in this section precludes the attorney general from conducting an investigation or enforcing any state or federal ((~~antitrust~~)) laws at a later date.

NEW SECTION. **Sec. 7.** (1) The attorney general shall determine if the notice required under RCW 19.390.030 and 19.390.040 is complete for the purposes of review. If the attorney general determines that a notice is incomplete, it shall notify the parties within 15 working days after the date the notice was received stating the reasons for its determination of incompleteness.

(2) A completed notice shall be deemed received on the date when all the information required by RCW 19.390.040 has been submitted to the attorney general's office.

(3) For all material change transactions included under RCW 19.390.040(3), the attorney general shall, within five working days after receipt of a completed notice, include information about the notice on the attorney general's website and in a newspaper of general circulation in the county or counties where communities impacted by the material change transaction are located. In addition, the attorney general shall notify by first-class United States mail, email, or facsimile transmission, any person who has requested notice of the filing of such notices. The information must state that a notice has been received, state the names of the parties to the material change transaction, describe the contents of the written notice in clear and simple terms, and state the date and process by which a person may submit written comments about the notice to the attorney general's office.

(4) The attorney general is not required to make public any information submitted pursuant to its investigative authority under chapter 19.86 RCW, or any information or analysis associated with an investigation under chapter 19.86 RCW.

Sec. 8. RCW 19.390.080 and 2019 c 267 s 8 are each amended to read as follows:

Any person who fails to comply with ((~~any provision of this chapter~~))RCW 19.390.030 or 19.390.040 is liable to the state for a civil penalty of ((~~not more than two hundred dollars per day for each day during which such person is in violation of this chapter~~))up to 15 percent of the value of the material change transaction, in the discretion of the attorney general.

NEW SECTION. **Sec. 9.** (1) No material change transaction under this chapter may take place if it would detrimentally affect the continued existence of accessible, affordable health care in Washington state. To this end the material change transaction must result in the affected communities having the same or greater access to quality, affordable care, including but not limited to emergency care, primary care, reproductive health care, gender affirming care, and end-of-life care including services provided in accordance with chapter 70.245 RCW, and essential health benefit categories as that term is defined in RCW 48.43.005.

(2) In determining whether a material change transaction fulfills the requirements of subsection (1) of this section, the attorney general shall take into consideration whether the material change transaction:

(a) Will reduce or maintain the growth in patient and health plan sponsor costs;

(b) Will increase or maintain access to services, especially in medically underserved areas;

(c) Will rectify historical and contemporary factors contributing to a lack of health equities or access to services;

(d) Will improve or maintain health outcomes for residents of this state;

(e) Will lower wages, reduce jobs, slow wage growth, or worsen benefits or other working conditions. However, nothing in this section prevents a health entity from revoking privileges due to quality of care or patient safety concerns;

(f) Will result in a reduction in staffing capacity for the provision of medically necessary services to the extent such reductions would diminish patients' access to quality care;

(g) Is necessary to maintain the solvency of an entity involved in the transaction. However, the attorney general may not determine that a material change transaction is necessary to maintain the solvency of an entity without first having an independent contractor prepare a financial assessment of the entity. Such assessment must include possible alternatives to the material change transaction and the likely impact of those alternatives, if implemented, on the entity's solvency.

(3) Nothing in this chapter is intended to derogate from or otherwise affect in any way the attorney general's authority to conduct an investigation, or the process of any investigation, under chapter 19.86 RCW. Nothing in this section is intended to change or affect in any way any substantive law regarding the antitrust analysis of a material change transaction.

NEW SECTION. **Sec. 10.** (1) For all material change transactions included under RCW 19.390.040(3), the attorney general shall conduct a preliminary review of the completed notice to determine if the material change transaction will fulfill the requirements under section 9 of this act. The review must include, but is not limited to, an analysis of the information and documentation provided under RCW 19.390.040 and one public hearing.

(2) After conducting the preliminary review, if the attorney general determines that the material change transaction is likely to fulfill the requirements under section 9 of this act, the attorney general may not conduct a comprehensive review of the material change transaction as provided under sections 11, 13, and 14 of this act.

(3) The attorney general shall, within 60 days of receiving a completed notice, inform parties to a material change transaction as to whether a comprehensive review of the material change transaction is required as provided under sections 11, 13, and 14 of this act.

(4) Nothing in this chapter is intended to derogate from or otherwise affect in any way the attorney general's authority to conduct an investigation, or the process of any investigation, under chapter 19.86 RCW. Nothing in this section is intended to change or affect in any way any substantive law regarding the antitrust analysis of a material change transaction.

NEW SECTION. **Sec. 11.** (1) For all material change transactions included under RCW 19.390.040(3) that are not limited to the preliminary review under section 10 of this act, the attorney general shall review the completed notice and conduct a comprehensive review. After conducting a comprehensive review, the attorney general shall within 120 days of receiving the completed notice:

(a) Approve the material change transaction in writing. The approval of a material change transaction pursuant to this chapter does not constitute approval for the purpose of RCW 19.86.170, or any other provision of state or federal consumer protection or antitrust law. Such approval pursuant to this chapter does not preclude the attorney general from taking any action to enforce state or federal consumer protection or antitrust law;

(b) Impose conditions or modifications on the material change transaction to ensure the requirements of section 9 of this act are met and that sufficient safeguards are in place to ensure communities have continued or improved access to affordable quality care. The imposition of such conditions or modifications shall be in writing and constitute a final decision subject to all appellate rights contained within this chapter; or

(c) Disapprove the material change transaction in writing with written justification, which shall constitute a final decision subject to all appellate rights contained within this act.

(2) Within 30 days after a final decision of the attorney general either denying or approving with modifications a material change transaction, any party to the material change transaction may appeal the decision to the superior court for review. The court may grant relief from the attorney general's final decision, but only upon a basis for relief recognized in RCW 34.05.570(3). An appeal to the superior court shall be to the superior court of a county in which the material change transaction is to have occurred or to the superior court for Thurston county. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail, or personally, on the attorney general or their appointed designee. The attorney general shall, in all cases within 15 days after the receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed at issue. The attorney general shall serve upon the appealing party and file with the clerk of the court within 30 days of the filing of the appeal, a certified copy of the attorney general's official record which shall include the final decision, and all accompanying documents, subject to the same confidentiality protections provided to such documents in the underlying act. These shall become the record in the case subject to leave of the court. The superior court shall review the final decision of the attorney general, subject to the statutory requirements of the underlying act and chapter 34.05 RCW.

(3) The attorney general may not make its decision to disapprove the material change transaction subject to any condition not directly and rationally related to the requirements under section 9 of this act and any condition or modification must bear a direct and rational relationship to the notice under review and the requirements under section 9 of this act.

(4) Nothing in this chapter is intended to derogate from or otherwise affect in any way the attorney general's authority to conduct an investigation, or the process of any investigation, under chapter 19.86 RCW. Nothing in this section is intended to change or affect in any way any substantive law regarding the antitrust analysis of a material change transaction.

NEW SECTION. **Sec. 12.** During the course of the preliminary review of notices of material change transactions under RCW 19.390.040(3), as provided under section 10 of this act, the attorney general shall conduct one or more in person or remote public hearings. If a public hearing is conducted in person, it must be in a county where one of the communities impacted by the material change transaction is located and the attorney general must allow individuals to participate remotely in the hearing. If a material change transaction undergoes the comprehensive review process as provided for under sections 11, 13, and 14 of this act, the attorney general may conduct additional public hearings. At the hearings, anyone may file written comments and exhibits or appear and make a statement.

(1) The first public hearing must be held no later than 30 days after the attorney general receives a completed notice.

(2) At least 15 days prior to the public hearing, the attorney general shall provide notice of the time and place of the hearing on its website and to any person who has requested notice of the hearing in writing.

(3)(a) At least 15 days prior to the public hearing, the parties to the material change transaction shall provide notice of the time and place of the hearing. The notice must be provided:

(i) Through publication in a newspaper of general circulation in the communities that will be impacted by the material change transaction;

(ii) At the public entrance and on the bulletin board designated for legal or public notices of any hospital, hospital system, provider organization, and other health care facility that is the subject of the material change transaction;

(iii) Prominently on the website available to the public of any hospital, hospital system, provider organization, and other health care facility that is the subject of the material change transaction; and

(iv) On the website available to the employees of any hospital, hospital system, provider organization, and other health care facility that is the subject of the material change transaction. The notice of the time and place of the meeting must be provided in English and in the languages spoken by more than 10 percent of the population in the county or counties

in which the hospitals, hospital systems, provider organizations, or other health care facilities that are the subject of the material change transaction are located.

(b) For purposes of this section, "health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(4) Within 15 business days of the last hearing, the attorney general shall compile a summary report of each public hearing proceeding and post the summary report on its website.

(5) If during the course of the preliminary or comprehensive review, there is any change in the terms of the material change transaction that materially alters any of the information that the parties to the material change transaction provided under RCW 19.390.040(3), the attorney general shall conduct an additional public hearing to ensure adequate public comment regarding the proposed change.

(6) Nothing in this chapter is intended to derogate from or otherwise affect in any way the attorney general's authority to conduct an investigation, or the process of any investigation, under chapter 19.86 RCW. Nothing in this section is intended to change or affect in any way any substantive law regarding the antitrust analysis of a material change transaction.

NEW SECTION. **Sec. 13.** (1) For any material change transactions included under RCW 19.390.040(3), which are not limited to the preliminary review under section 10 of this act, the attorney general must hire an independent contractor to prepare a health equity assessment. The independent contractor shall be screened for any conflicts of interest in advance, agree to maintain confidentiality of information pursuant to this chapter, agree to charge a reasonable market-rate fee, and have necessary experience and expertise. In creating a health equity assessment, the independent contractor must engage with and provide input in the assessment from the department of health, local public health jurisdictions, emergency health care coalitions, health care entities, public health experts, organizations representing employees of the applicant, health care advocates, community members who reside in the service areas of the parties to the material change transaction, the parties to the material change transaction, and other individuals or organizations the attorney general, secretary of health, or independent contractor determine should be consulted. Any assessment conducted under this section must be completed 30 days prior to the attorney general's deadline to complete a review under section 10 of this act.

(2) The health equity assessment must contain information and data, including health services data, to better inform the attorney general as to whether the parties meet the requirements for a material change transaction under section 9 of this act.

(3) The health equity assessment must include, but is not limited to, the following information:

(a) An assessment of whether the material change transaction will improve or reduce access to health services in the communities impacted by the material change transaction including, but not limited to, emergency care services, primary care services, specialty services, reproductive health care services, gender affirming health care, and end-of-life services including services provided in accordance with chapter 70.245 RCW;

(b) An assessment of whether the material change transaction will reduce health disparities with particular reference to members of medically underserved groups in the parties' service areas;

(c) An assessment of the effect of the material change transaction on the affordability and provision of health care services to individuals eligible for medical assistance under chapter 74.09 RCW or medicare, indigent individuals, individuals with disabilities, women, racial and ethnic minorities, lesbian, gay, bisexual, transgender, gender diverse, or queer individuals, terminally ill individuals, and other underserved or marginalized populations;

(d) An assessment of the effect of the material change transaction on the level and type of charity care the parties to the material change transaction will provide;

(e) An assessment of the effect of the material change transaction on any community benefit program that the parties to the material change transaction have historically funded or operated;

(f) An assessment of the effect of the material change transaction on staffing for patient care and areas of patient care within facilities as it may affect availability of care, on the likely retention of employees as it may affect continuity of care, and on the rights of employees to provide input on health quality and staffing issues;

(g) An assessment of the effect of the material change transaction on the cost of patient care;

(h) An assessment of the prior performance of the parties to the material change transaction in meeting state and federal requirements to provide uncompensated care, community services, and access by minorities and people with disabilities to programs receiving federal financial assistance, including the existence of any civil rights access complaints against any of the parties, and how the material change transaction will impact the fulfillment of these requirements;

(i) An assessment of whether the material change transaction will have a positive or negative impact on effective communication between the hospitals, hospital systems, or provider organizations and people with limited English-speaking ability and those with speech, hearing, or visual impairments;

(j) An assessment of whether the material change transaction will reduce architectural barriers for people with mobility impairments with specific input from the department of health;

(k) A review of how the parties to the material change transaction will maintain or improve the quality of health services including a review of:

(i) Demographics of the parties' service areas;

(ii) Economic status of the population of the parties' services area;

(iii) Physician and professional staffing issues related to the material change transaction;

(iv) Availability of similar services at other institutions in or near the parties' services area; and

(v) Historical and projected market shares of hospitals, hospital systems, and provider organizations in the parties' service area;

(l) A financial and economic assessment that includes a description of current costs and competition in the relevant geographic and product market and any anticipated changes in such costs and competition as a result of the material change transaction; and

(m) A discussion of alternatives, and anticipated impacts of alternatives, to the material change transaction, including: (i) Closure of any of the health facilities that are the subject of the material change transaction; and (ii) recommendations for additional feasible mitigation measures that would reduce or eliminate any significant adverse effect on health care services and affordability identified in the health equity assessment.

(4) The information contained in the independent heath equity assessment must be used by the attorney general's office in determining under section 11 of this act whether to impose conditions or modifications or disapprove the material change transaction.

(5) The health equity assessment must be posted on the attorney general's website.

NEW SECTION. **Sec. 14.** (1) The attorney general may at its discretion appoint a review board of stakeholders to conduct a comprehensive review and make recommendations as to whether a material change transaction under RCW 19.390.040(3), other than material change transactions limited to the preliminary review under section 10 of this act, fulfills the requirements under section 9 of this act.

(2) A review board convened by the attorney general under this section must consist of members of the communities affected by the material change transaction, consumer advocates, and health care experts.

(3) No more than one-third of the members of the review board may be representatives of institutional health care providers. The attorney general may not appoint to a review board an individual who is employed by or has a contract with a party to the material change transaction or is employed by a competitor that is of a similar size to a party to the material change transaction.

(4) A member of a review board shall file a notice of conflict of interest and the notice shall be made public.

NEW SECTION. **Sec. 15.** (1) The secretary of state may not accept any forms or documents in connection with any material change transaction if the attorney general, in accordance with section 11 of this act, disapproved the material change transaction or the parties to the material change transaction have not agreed to any conditions or modifications imposed by the attorney general in accordance with section 11 of this act.

(2) The attorney general may seek an injunction to prevent any material change transaction that has been disapproved by the attorney general in accordance with section 11 of this act or that does not incorporate any conditions or modifications imposed by the attorney general in accordance with section 11 of this act.

NEW SECTION. **Sec. 16.** For any material change transaction included under RCW 19.390.040(3), the following apply:

(1) Once a material change transaction is finalized the parties shall inform the attorney general in the form and manner prescribed by the attorney general.

(2) For at least 10 years, the attorney general shall monitor the parties' and any successor persons' ongoing compliance with this chapter.

(3) The attorney general shall, for 10 years, require biennial reports from the parties to the material change transaction or any successor persons to ensure compliance with section 9 of this act and any conditions or modifications the attorney general imposed on the material change transaction. The attorney general may request information and documents and conduct on-site compliance audits.

(4) To effectively monitor ongoing compliance, the attorney general shall regularly provide the opportunity for the public to submit written comments, and may, in its discretion, contract with experts and consultants. Contract costs must not exceed an amount that is reasonable and necessary to conduct the review and evaluation.

(5) If the attorney general has reason to believe that the parties or successor persons' of a material change transaction no longer satisfy the requirements of section 9 of this act, or are not complying with any conditions or modifications imposed by the attorney general under section 11 of this act, the attorney general shall conduct an investigation. As part of the investigation the attorney general will provide public notice of the investigation and obtain input from community members impacted by the material change transaction. Following the investigation, the attorney general shall publish a report of its findings.

(6) If after the investigation, the attorney general determines that the parties or successor persons no longer satisfy the requirements of section 9 of this act, or are not complying with conditions or modifications imposed under section 11 of this act, the attorney

general shall issue an order directing the parties or successor persons to come into compliance with this chapter and a timeline by which the parties must enter into compliance.

(7) If the parties or successor persons do not enter into compliance with the attorney general's order, the attorney general may impose civil fines of no less than $10,000 per day until the parties or successor persons comply with the order, and may take legal action under section 17 of this act.

(8) The cost of the investigation and any on-site reviews related to determining the validity of the information will be borne by the parties to the material change transaction or successor persons.

(9) The attorney general may bill the parties or successor persons and the parties or successor persons billed by the attorney general shall promptly pay. If the parties or successor persons fail to pay within 30 days, the attorney general may assess a civil fine of five percent of the billed amount for each day the party does not pay.

NEW SECTION. **Sec. 17.** The attorney general has the authority to ensure compliance with commitments that inure to the public interest. The attorney general may take legal action to enforce this chapter, any conditions or modifications the attorney general imposes on a material change transaction, or any order the attorney general issues under section 16 of this act. The attorney general may obtain restitution, injunctive relief, civil penalties, disgorgement of profits, attorneys' fees, and such other relief as the court deems necessary to ensure compliance. The remedies provided under this chapter are in addition to any other remedy that may be available under any other provision of law.

Sec. 18. RCW 19.390.070 and 2019 c 267 s 7 are each amended to read as follows:

(1) Information submitted to the attorney general ((~~pursuant to this chapter~~))under RCW 19.390.050 shall be maintained and used by the attorney general in the same manner and under the same protections as provided in RCW 19.86.110. The information, including documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand or copies, must not, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying pursuant to chapter 42.56 RCW by the person who produced the material, answered written interrogatories or gave oral testimony.

(2)(a) The parties to a material change transaction may designate portions of documents submitted pursuant to RCW 19.390.040 and any documents thereafter submitted by the parties as confidential if the information is sensitive financial, commercial, or proprietary information or is protected from disclosure by state or federal law. The applicant shall provide two versions of any document designated as confidential. One shall be marked as "CONFIDENTIAL" and shall contain the full unredacted version of the document and shall be maintained as such by the attorney general, the entity providing the financial assessment pursuant to section 9 of this act, and the entity providing the health equity assessment pursuant to section 13 of this act. The second shall be marked as "PUBLIC" and shall contain a redacted version of the materials from which the confidential portions have been removed or obscured and shall be made available by the attorney general to the public and the review board of stakeholders pursuant to section 14 of this act. An applicant claiming confidentiality in respect to documents shall include a redaction log that provides a reasonably detailed statement of the grounds on which confidentiality is claimed, citing the applicable basis for confidentiality of each portion.

(b) Confidential materials provided by a party to a material change transaction that is subject to review by the attorney general shall be maintained as confidential materials and not subject to disclosure under chapter 42.56 RCW.

(3) All materials provided during public hearings are considered public records for purposes of chapter 42.56 RCW.

(4) Nothing in this chapter limits the attorney general's authority under RCW 19.86.110 or 19.86.115. Nothing in this chapter expands the attorney general's authority under chapter 19.86 RCW, federal or state antitrust law, or any other law. Failure to comply with this chapter does not provide a private cause of action.

NEW SECTION. **Sec. 19.** No provision of chapter 19.390 RCW derogates from the common law or statutory authority of the attorney general.

NEW SECTION. **Sec. 20.** The attorney general may adopt rules necessary to implement chapter 19.390 RCW and may contract with and provide reasonable reimbursement to qualified persons to assist in determining whether parties or successor persons are in compliance with the requirements under this chapter.

NEW SECTION. **Sec. 21.** If a material change transaction is also subject to review under chapter 70.38 or 70.45 RCW, the review under those chapters shall be concurrent with the review under this chapter, to the extent practicable.

NEW SECTION. **Sec. 22.** Every four years, the attorney general shall commission a study of the impact of material change transactions in Washington state. The study must review material change transactions occurring during the previous four-year period and include an analysis of:

(1) The impact on costs to consumers and health sponsors for health care; and

(2) Any increases or decreases in the quality of care, including:
(a) Improvement or reductions in morbidity;
(b) Improvement or reductions in the management of population health;
(c) Improvement or reductions in access to emergency care services, primary care services, reproductive health care services, gender affirming care services, and end-of-life care services including services provided in accordance with chapter 70.245 RCW; and
(d) Changes to health and patient outcomes, particularly for underserved and uninsured individuals, recipients of medical assistance and other low-income individuals, and individuals living in rural areas, as measured by nationally recognized measures of the quality of health care, such as measures used or endorsed by the national committee for quality assurance, the national quality forum, the physician consortium for performance improvement, or the agency for health care research and quality.
(3) The attorney general shall commission the first study under this section no later than January 1, 2028.

NEW SECTION. **Sec. 23.** (1) By January, 2026, the attorney general shall complete a study on the impact of health care mergers and acquisitions in Washington state between health carriers as defined in RCW 48.43.005 and hospitals, hospital systems, or provider organizations. The study shall include:
(a) The impact on costs to consumers and health sponsors for health care; and
(b) Any increases or decreases in the quality of care, including:
(i) Improvement or reductions in morbidity;
(ii) Improvement or reductions in the management of population health;
(iii) Improvement or reductions in access to emergency care services, primary care services, reproductive health care services, gender affirming care services, and end-of-life care services including services provided in accordance with chapter 70.245 RCW; and
(iv) Changes to health and patient outcomes, particularly for underserved and uninsured individuals, recipients of medical assistance and other low-income individuals, and individuals living in rural areas, as measured by nationally recognized measures of the quality of health care, such as measures used or endorsed by the national committee for quality assurance, the national quality forum, the physician consortium for performance improvement, or the agency for health care research and quality.
(2) This section expires July 1, 2026.

NEW SECTION. **Sec. 24.** This act does not apply to any pending material change transaction with a letter of intent signed in 2023.

NEW SECTION. **Sec. 25.** This act may be known and cited as the keep our care act.

NEW SECTION. **Sec. 26.** The attorney general may take the necessary steps to ensure that this act is implemented on July 1, 2025.

NEW SECTION. **Sec. 27.** Sections 7, 9 through 17, and 19 through 25 of this act are each added to chapter 19.390 RCW.

NEW SECTION. **Sec. 28.** This act takes effect July 1, 2025.

NEW SECTION. **Sec. 29.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; Rude; Sandlin; Schmick; Stokesbary; and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representative Springer.

Referred to Committee on Rules for second reading

February 26, 2024

ESSB 5271 Prime Sponsor, Health & Long Term Care: Protecting patients in facilities regulated by the department of health by establishing uniform enforcement tools. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; Rude; Sandlin; Schmick; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5376 Prime Sponsor, Labor & Commerce: Allowing the sale of cannabis waste. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Regulated Substances & Gaming. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

ESSB 5424 Prime Sponsor, Labor & Commerce: Concerning flexible work for general and limited authority Washington peace officers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Community Safety, Justice, & Reentry. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5427 Prime Sponsor, Ways & Means: Supporting people who have been targeted or affected by hate crimes and bias incidents by establishing a reporting hotline and tracking hate crimes and bias incidents. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; Rude; Sandlin; Schmick; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

ESB 5462 Prime Sponsor, Senator Liias: Promoting inclusive learning standards and instructional materials in public schools. 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.** (1) The legislature recognizes that Washington state law prohibits discrimination in public schools for certain protected classes. The legislature also acknowledges that school districts are required to adopt a policy related to the selection or removal of instructional materials. Under state rule, the instructional materials policy of each school district must establish and use appropriate screening criteria to identify and eliminate bias pertaining to protected classes.

(2) The legislature intends to expand these requirements by requiring school districts to adopt policies and procedures that incorporate adopting inclusive curricula and selecting inclusive instructional materials that include the histories, contributions, and perspectives of historically marginalized and underrepresented groups. The legislature recognizes that inclusive curricula have been shown to often improve the mental health, academic performance, attendance rates, and graduation rates of marginalized communities. Research on students' sense of belonging and community in the school setting confirms that inclusive curricula and learning environments contribute to increased school motivation, participation, and achievement.

(3) The legislature intends to promote culturally and experientially representative learning opportunities for all students by directing the office of the superintendent of

public instruction, when revising or developing state learning standards, to screen for inappropriate bias in the proposed state learning standards and to ensure that the histories, contributions, and perspectives of underrepresented peoples and communities are included in the standards.

(4) The legislature believes that promoting inclusive learning standards, curricula, and instructional materials will improve student achievement, attendance, parent and family engagement, and other dimensions that contribute to student success.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.345 RCW to read as follows:

(1) By June 1, 2025, the Washington state school directors' association, with the assistance of the office of the superintendent of public instruction, must review and update a model policy and procedure regarding course design, selection, and adoption of instructional materials.

(2) The model policy and procedure must require that school district boards of directors, within available materials, adopt inclusive curricula and select diverse, equitable, inclusive, age-appropriate instructional materials that include the histories, contributions, and perspectives of historically marginalized and underrepresented groups including, but not limited to, people from various racial, ethnic, and religious backgrounds, people with differing learning needs, people with disabilities, LGBTQ people as the term is defined in RCW 43.114.010, and people with various socioeconomic and immigration backgrounds.

(3) The model policy and procedure must require that, in adopting curricula and selecting instructional materials in accordance with this section, school district boards of directors must seek curricula and instructional materials that are as culturally and experientially diverse as possible, recognizing that the availability of materials that include the histories, contributions, and perspectives of historically marginalized groups may vary.

(4) By October 1, 2025, school district boards of directors must amend the policy and procedures required under RCW 28A.320.230 to conform with the model policy and procedure required by this section. Additionally, by October 1, 2025, charter school boards and schools subject to state-tribal education compacts must adopt or amend their policies and procedures governing curricula adoption and the selection of instructional materials to conform with the model policy and procedure required by this section. For the purpose of documenting compliance with this section and assisting school districts in accordance with section 6 of this act, school district boards of directors, within 10 days of completing the policy and procedure updates required by this subsection (4), shall provide notice of the completed actions and electronic copies of the applicable policies and procedures to the office of the superintendent of public instruction.

(5) 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 subject to chapter 28A.715 RCW to the same extent as it applies to school districts.

Sec. 3. RCW 28A.320.230 and 1989 c 371 s 1 are each amended to read as follows:

Every board of directors, unless otherwise specifically provided by law, shall:

(1) ((~~Prepare~~))In accordance with section 2 of this act, prepare, negotiate, set forth in writing and adopt, policy relative to the selection or deletion of instructional materials. Such policy shall:

(a) State the school district's goals and principles relative to instructional materials;

(b) Delegate responsibility for the preparation and recommendation of teachers' reading lists and specify the procedures to be followed in the selection of all instructional materials including text books;

(c) Establish an instructional materials committee to be appointed, with the approval of the school board, by the school district's chief administrative officer. This committee shall consist of representative members of the district's professional staff, including representation from the district's curriculum development committees, and, in the case of districts which operate elementary school(s) only, the educational service district superintendent, one of whose responsibilities shall be to assure the correlation of those elementary district adoptions with those of the high school district(s) which serve their children. The committee may include parents at the school board's discretion: PROVIDED, That parent members shall make up less than one-half of the total membership of the committee;

(d) Provide for reasonable notice to parents of the opportunity to serve on the committee and for terms of office for members of the instructional materials committee;

(e) Provide a system for receiving, considering and acting upon written complaints regarding instructional materials used by the school district;

(f) Provide free text books, supplies and other instructional materials to be loaned to the pupils of the school, when, in its judgment, the best interests of the district will be subserved thereby and prescribe rules and regulations to preserve such books, supplies and other instructional materials from unnecessary damage.

Recommendation of instructional materials shall be by the district's instructional materials committee in accordance with district policy. Approval or disapproval shall be by the local school district's board of directors.

Districts may pay the necessary travel and subsistence expenses for expert counsel from outside the district. In addition, the committee's expenses incidental to visits to observe other districts' selection procedures may be reimbursed by the school district.

Districts may, within limitations stated in board policy, use and experiment with instructional materials for a period of time before general adoption is formalized.

Within the limitations of board policy, a school district's chief administrator may purchase instructional materials to meet deviant needs or rapidly changing circumstances.

(2) Establish a depreciation scale for determining the value of texts which students wish to purchase.

Sec. 4. RCW 28A.655.070 and 2019 c 252 s 119 are each amended to read as follows:

(1) The superintendent of public instruction shall develop state learning standards that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability recommendations and requests regarding assistance, rewards, and recognition of the state board of education.

(2) The superintendent of public instruction shall:

(a) Periodically revise the state learning standards, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the state learning standards; ((~~and~~))

(b) Include a screening for biased content in each development or revision of a state learning standard and ensure that the concepts of diversity, equity, and inclusion, as those terms are defined in RCW 28A.415.443, are incorporated into each new or revised state learning standard. In meeting the requirements of this subsection (2)(b), the superintendent of public instruction shall consult with the applicable commissions established in Title 43 RCW and other persons and organizations with relevant expertise; and

(c) Review and prioritize the state learning standards and identify, with clear and concise descriptions, the grade level content expectations to be assessed on the statewide student assessment and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical, build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its website any grade level content expectations provided to an assessment vendor for use in constructing the statewide student assessment.

(3)(a) In consultation with the state board of education, the superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of reading, writing, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the state learning standards identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system may include a variety of assessment methods, including criterion-referenced and performance-based measures.

(b) Effective with the 2009 administration of the Washington assessment of student learning and continuing with the statewide student assessment, the superintendent shall redesign the assessment in the content areas of reading, mathematics, and science in all grades except high school by shortening test administration and reducing the number of short answer and extended response questions.

(c) By the 2014-15 school year, the superintendent of public instruction, in consultation with the state board of education, shall modify the statewide student assessment system to transition to assessments developed with a multistate consortium, as provided in this subsection:

(i) The assessments developed with a multistate consortium to assess student proficiency in English language arts and mathematics shall be administered beginning in the 2014-15 school year, and beginning with the graduating class of 2020, the assessments must be administered to students in the tenth grade. The reading and writing assessments shall not be administered by the superintendent of public instruction or schools after the 2013-14 school year.

(ii) The high school assessments in English language arts and mathematics in (c)(i) of this subsection shall be used for the purposes of federal and state accountability and for assessing student career and college readiness.

(d) The statewide academic assessment system must also include the Washington access to instruction and measurement assessment for students with significant cognitive challenges.

(4) If the superintendent proposes any modification to the state learning standards or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the state learning standards before the modifications are adopted.

(5) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the state learning standards at the appropriate periods in the student's educational development.

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the state learning standards and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the state learning standards, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall review available and appropriate options for competency-based assessments that meet the state learning standards. In accordance with the review required by this subsection, the superintendent shall provide a report and recommendations to the education committees of the house of representatives and the senate by November 1, 2019.

(12) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(13) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(14) The superintendent shall post on the superintendent's website lists of resources and model assessments in social studies, the arts, and health and fitness.

(15) The superintendent shall integrate financial education skills and content knowledge into the state learning standards pursuant to RCW 28A.300.460(2)(d).

(16)(a) The superintendent shall notify the state board of education in writing before initiating the development or revision of the state learning standards under subsections (1) and (2) of this section. The notification must be provided to the state board of education in advance for review at a regularly scheduled or special board meeting and must include the following information:

(i) The subject matter of the state learning standards;

(ii) The reason or reasons the superintendent is initiating the development or revision; and

(iii) The process and timeline that the superintendent intends to follow for the development or revision.

(b) The state board of education may provide a response to the superintendent's notification for consideration in the development or revision process in (a) of this subsection.

(c) Prior to adoption by the superintendent of any new or revised state learning standards, the superintendent shall submit the proposed new or revised state learning standards to the state board of education in advance in writing for review at a regularly scheduled or special board meeting. The state board of education may provide a response to the superintendent's proposal for consideration prior to final adoption.

(17) The state board of education may propose new or revised state learning standards to the superintendent. The superintendent must respond to the state board of education's proposal in writing.

(18) The superintendent shall produce and post on its website a schedule for the revision of state learning standards under subsection (2) of this section by September 1, 2025. In addition to notifying parents, schools, and the public of the revision schedules and timelines, the website posting must be updated as necessary to inform persons of the status of any pending revisions, and of any plans or actions related to developing new state learning standards under subsection (1) of this section.

NEW SECTION. **Sec. 5.** 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 office of the superintendent of public instruction, in collaboration with the statewide association of educational service districts, the legislative youth advisory council established under RCW 43.15.095, and the Washington state school directors' association, must create an open collection of educational resources for inclusive curricula. The office of the superintendent of public instruction must consult with the Washington state office of equity established in RCW 43.06D.020 and any other relevant state agencies when creating the open collection of educational resources.

(2) The open collection of educational resources must include resources that include the histories, contributions, and perspectives of historically marginalized and underrepresented groups.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall, as soon as is practicable, compile information received under section 2(4) of this act and, based on the

received materials, prepare best practices and other informative materials to support school districts, charter schools, and state-tribal education compact schools in meeting the requirements of section 2 of this act.

(2) This section expires June 30, 2028."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; Rude; Sandlin; Schmick; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

2E2SSB 5580 Prime Sponsor, Ways & Means: Improving maternal health outcomes. 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.** A new section is added to chapter 74.09 RCW to read as follows:

(1) By no later than January 1, 2026, the authority shall create a postdelivery and transitional care program that allows for extended postdelivery hospital care for people with a substance use disorder at the time of delivery. The authority shall:

(a) Allow for up to five additional days of hospitalization stay for the birth parent;

(b) Provide the birth parent access to integrated care and medical services including, but not limited to, access to clinical health, medication management, behavioral health, addiction medicine, specialty consultations, and psychiatric providers;

(c) Provide the birth parent access to social work support which includes coordination with the department of children, youth, and families to develop a plan for safe care;

(d) Allow dedicated time for health professionals to assist in facilitating early bonding between the birth parent and infant by helping the birth parent recognize and respond to their infant's cues; and

(e) Establish provider requirements and pay only those qualified providers for the services provided through the program.

(2) In administering the program, the authority shall seek any available federal financial participation under the medical assistance program, as codified at Title XIX of the federal social security act, the state children's health insurance program, as codified at Title XXI of the federal social security act, and any other federal funding sources that are now available or may become available.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

(1) Subject to the amounts appropriated for this specific purpose, the authority shall update the maternity support services program to address perinatal outcomes and increase equity and healthier birth outcomes. By January 1, 2026, the authority shall:

(a) Update current screening tools to be culturally relevant, include current risk factors, ensure the tools address health equity, and include questions identifying various social determinants of health that impact a healthy birth outcome and improve health equity;

(b) Ensure care coordination, including sharing screening tools with the patient's health care providers as necessary;

(c) Develop a mechanism to collect the results of the maternity support services screenings and evaluate the outcomes of the program. At minimum, the program evaluation shall:

(i) Identify gaps, strengths, and weaknesses of the program; and

(ii) Make recommendations for how the program may improve to better align with the authority's maternal and infant health initiatives; and

(d) Increase the allowable benefit and reimbursement rates with the goal of increasing utilization of services to all eligible maternity support services clients who choose to receive the services.

(2) The authority shall adopt rules to implement this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09 RCW to read as follows:

By November 1, 2024, the income standards for a pregnant person eligible for Washington apple health pregnancy coverage shall have countable income equal to or below 210 percent of the federal poverty level.

Sec. 4. RCW 74.09.830 and 2021 c 90 s 2 are each amended to read as follows:

(1) The authority shall extend health care coverage from 60 days postpartum to one year postpartum for pregnant or postpartum persons who, on or after the expiration date of the

federal public health emergency declaration related to COVID-19, are receiving postpartum coverage provided under this chapter.

(2) By June 1, 2022, the authority must:

(a) Provide health care coverage to postpartum persons who reside in Washington state, have countable income equal to or below 193 percent of the federal poverty level, and are not otherwise eligible under Title XIX or Title XXI of the federal social security act; and

(b) Ensure all persons approved for pregnancy or postpartum coverage at any time are continuously eligible for postpartum coverage for 12 months after the pregnancy ends regardless of whether they experience a change in income during the period of eligibility.

(3) By November 1, 2024, the income standards for a postpartum person eligible for Washington apple health pregnancy or postpartum coverage shall have countable income equal to or below 210 percent of the federal poverty level.

(4) Health care coverage under this section must be provided during the 12-month period beginning on the last day of the pregnancy.

((~~(4)~~))(5) The authority shall not provide health care coverage under this section to individuals who are eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act. Health care coverage for these individuals shall be provided by a program that is funded by Title XIX or Title XXI of the federal social security act. Further, the authority shall make every effort to expedite and complete eligibility determinations for individuals who are presumptively eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act to ensure the state is receiving the maximum federal match. This includes, but is not limited to, working with the managed care organizations to provide continuous outreach in various modalities until the individual's eligibility determination is completed. Beginning January 1, 2022, the authority must submit quarterly reports to the caseload forecast work group on the number of individuals who are presumptively eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act but are awaiting for the authority to complete eligibility determination, the number of individuals who were presumptively eligible but are now receiving health care coverage with the maximum federal match under Title XIX or Title XXI of the federal social security act, and outreach activities including the work with managed care organizations.

((~~(5)~~))(6) To ensure continuity of care and maximize the efficiency of the program, the amount and scope of health care services provided to individuals under this section must be the same as that provided to pregnant and postpartum persons under medical assistance, as defined in RCW 74.09.520.

((~~(6)~~))(7) In administering this program, the authority must seek any available federal financial participation under the medical assistance program, as codified at Title XIX of the federal social security act, the state children's health insurance program, as codified at Title XXI of the federal social security act, and any other federal funding sources that are now available or may become available. This includes, but is not limited to, ensuring the state is receiving the maximum federal match for individuals who are presumptively eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act by expediting completion of the individual's eligibility determination.

((~~(7)~~))(8) Working with stakeholder and community organizations and the Washington health benefit exchange, the authority must establish a comprehensive community education and outreach campaign to facilitate applications for and enrollment in the program or into a more appropriate program where the state receives maximum federal match. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach campaign must provide culturally and linguistically accessible information to facilitate participation in the program, including but not limited to enrollment procedures, program services, and benefit utilization.

((~~(8)~~))(9) Beginning January 1, 2022, the managed care organizations contracted with the authority to provide postpartum coverage must annually report to the legislature on their work to improve maternal health for enrollees, including but not limited to postpartum services offered to enrollees, the percentage of enrollees utilizing each postpartum service offered, outreach activities to engage enrollees in available postpartum services, and efforts to collect eligibility information for the authority to ensure the enrollee is in the most appropriate program for the state to receive the maximum federal match.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, 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; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5588 Prime Sponsor, Law & Justice: Concerning the mental health sentencing alternative. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Community Safety, Justice, & Reentry.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.695 and 2021 c 242 s 1 are each amended to read as follows:

(1) A defendant is eligible for the mental health sentencing alternative if:

(a) The defendant is convicted of a felony that is not a serious violent offense or sex offense;

(b) The defendant is diagnosed with a serious mental illness recognized by the diagnostic manual in use by mental health professionals at the time of sentencing;

(c) The defendant and the community would benefit from supervision and treatment, as determined by the judge; and

(d) The defendant is willing to participate in the sentencing alternative.

(2) A motion for a sentence under this section may be made by any party or the court, but is contingent upon the defendant's agreement to participate in the sentencing alternative. To determine whether the defendant has a serious mental illness, the court may rely on information including reports completed pursuant to chapters 71.05 and 10.77 RCW, or other mental health professional as defined in RCW 71.05.020, or other information and records related to mental health services. Information and records relating to mental health services must be handled consistently with RCW 9.94A.500(2). If insufficient information is available to determine whether a defendant has a serious mental illness, the court may order an examination of the defendant.

(3) To assist the court in its determination, the department shall provide a written report, which shall be in the form of a presentence investigation. Such report may be ordered by the court on the motion of a party prior to conviction if such a report will facilitate negotiations. The court may waive the production of this report if sufficient information is available to the court to make a determination under subsection (4) of this section. The report must contain:

(a) A proposed treatment plan for the defendant's mental illness, including at a minimum:

(i) The name and address of ((~~the~~))a treatment provider that ((~~has agreed~~))is agreeing to provide treatment to the defendant, including an intake evaluation, a psychiatric evaluation, and development of an individualized plan of treatment which shall be submitted as soon as possible to the department and the court; and

(ii) An agreement by the treatment provider to monitor the progress of the defendant on the sentencing alternative and notify the department and the court at any time during the duration of the order if reasonable efforts to engage the defendant fail to produce substantial compliance with court-ordered treatment conditions;

(b) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(c) Recommended crime-related prohibitions and affirmative conditions; and

(d) A release of information, signed by the defendant, allowing the parties and the department to confirm components of the treatment and monitoring plan.

(4) After consideration of all available information and determining whether the defendant is eligible, the court shall consider whether the defendant and the community will benefit from the use of this sentencing alternative. The court shall consider the victim's opinion whether the defendant should receive a sentence under this section. If the sentencing court determines that a sentence under this section is appropriate, the court shall waive imposition of the sentence within the standard range. The court shall impose a term of community custody between 12 and 24 months if the midpoint of the defendant's standard range sentence is less than or equal to 36 months, and a term of community custody between 12 months and 36 months if the midpoint of the defendant's standard range sentence is longer than 36 months. The actual length of community custody within these ranges shall be at the discretion of the court.

(5) If the court imposes an alternative sentence under this section, the department shall assign a community corrections officer to supervise the defendant. The department shall provide a community corrections officer assigned under this section with appropriate training in mental health to be determined by the department.

(6)((~~(a)~~))For a defendant participating in this sentencing alternative, the court and correctional facility may delay the defendant's release from total confinement in order to facilitate adherence to the defendant's treatment plan. This may include delaying release in order to:

(a) Allow a defendant to transfer directly to an inpatient treatment facility or supportive housing provider;

(b) Ensure appropriate transportation is established and available; or

(c) Release the defendant during business hours on a weekday when services are available.

(7)(a) The court may schedule progress hearings for the defendant to evaluate the defendant's progress in treatment and compliance with conditions of supervision.

(b) Before any progress hearing, the department and the treatment provider shall each submit a written report informing the parties of the defendant's progress and compliance with treatment, unless waived by the court. At the progress hearing, the court shall hear from the parties regarding the defendant's compliance and may modify the conditions of community custody if the modification serves the interests of justice and the best interests of the defendant.

((~~(7)~~))(8)(a) If the court imposes this sentencing alternative, the court shall impose conditions under RCW 9.94A.703 that ((~~do not conflict~~))are consistent with this section and may impose any additional conditions recommended by any of the written reports regarding the defendant.

(b) The court shall impose specific treatment conditions:

(i) Meet with treatment providers and follow the recommendations provided in the individualized treatment plan as initially constituted or subsequently modified by the treatment provider;

(ii) Take medications as prescribed, including monitoring of compliance with medication if needed;

(iii) Refrain from using alcohol and nonprescribed controlled substances if the defendant has a diagnosis of a substance use disorder. The court may order the department to monitor for the use of alcohol or nonprescribed controlled substances if the court prohibits use of those substances.

((~~(8)~~))(9) Treatment issues arising during supervision shall be discussed collaboratively. The treatment provider, community corrections officer, and any representative of the person's medical assistance plan shall jointly determine intervention for violation of a treatment condition. The community corrections officer shall have the authority to address the violation independently if:

(a) The violation is safety related with respect to the defendant or others;

(b) The treatment violation consists of decompensation related to psychosis that presents a risk to the community or the defendant and cannot be mitigated by community intervention. The community corrections officer may intervene with available resources such as a designated crisis responder; or

(c) The violation relates to a standard condition for supervision.

((~~(9)~~))(10) The community corrections officer, treatment provider, and any engaged representative of the defendant's medical assistance plan should collaborate prior to a progress update to the court. Required treatment interventions taken between court progress hearings shall be reported to the court as a part of the regular progress update to the court.

((~~(10)~~))(11) The court may schedule a review hearing for a defendant under this sentencing alternative at any time to evaluate the defendant's progress with treatment or to determine if any violations have occurred.

(a) At a review hearing the court may modify the terms of the community custody or impose sanctions if the court finds that the conditions have been violated or that different or additional terms are in the best interest of the defendant.

(b) The court may order the defendant to serve a term of total or partial confinement for violating the terms of community custody or failing to make satisfactory progress in treatment.

((~~(11)~~))(12) The court shall schedule a termination hearing one month prior to the end of the defendant's community custody. A termination hearing may also be scheduled if the department or the state reports that the defendant has violated the terms of community custody imposed by the court. At that hearing, the court may:

(a) Authorize the department to terminate the defendant's community custody status on the expiration date; or

(b) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(c) Revoke the sentencing alternative and impose a term of total or partial confinement within the standard sentence range or impose an exceptional sentence below the standard sentencing range if compelling reasons are found by the court or the parties agree to the downward departure. The defendant shall receive credit for time served while actively supervised in the community against any term of total confinement. The court must issue written findings indicating a substantial and compelling reason to revoke this sentencing alternative.

((~~(12)~~))(13)(a) The health care authority shall contract with a behavioral health agency, or an organization whose membership includes behavioral health agencies, in order to directly reimburse behavioral health providers for the following services for individuals participating in the sentencing alternative:

(i) In-custody mental health assessments;

(ii) In-custody preliminary treatment plan development; and

(iii) Ongoing monitoring of the defendant's adherence to the defendant's treatment plan and the requirements of the sentencing alternative, including reporting to the court and the department.

(b) A behavioral health provider may be reimbursed for the services provided under this subsection in an amount not to exceed $1,000 for each individual participating in the sentencing alternative.

(14) For the purposes of this section:

(a) "Behavioral health provider" has the same meaning as in RCW 71.24.025.

(b) "Serious mental illness" means a mental, behavioral, or emotional disorder resulting in a serious functional impairment, which substantially interferes with or limits one or more major life activities.

((~~(b)~~))(c) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

NEW SECTION. **Sec. 2.** A new section is added to chapter 71.24 RCW to read as follows:
Beginning January 1, 2025, the authority shall require that any contract with a managed care organization include a requirement that the managed care organization prioritize existing care coordination responsibilities, including in-custody mental health evaluations, treatment plan development, and same-day prescription access, for incarcerated individuals who are recommended for the mental health sentencing alternative under RCW 9.94A.695."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; and Schmick.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 5635 Prime Sponsor, Ways & Means: Concerning victims' rights. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Community Safety, Justice, & Reentry. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5652 Prime Sponsor, Transportation: Providing compensation for tow truck operators for keeping the public roadways clear. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; Mena; Nance; Orcutt; Ramel; Ramos; Schmidt; Volz; Walsh and Wylie.

Referred to Committee on Rules for second reading

February 26, 2024

2SSB 5660 Prime Sponsor, Ways & Means: Establishing a mental health advance directive effective implementation work group. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5667 Prime Sponsor, Agriculture, Water, Natural Resources & Parks: Concerning eligibility, enrollment, and compensation of small forestland owners volunteering for participation in the forestry riparian easement program. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 76.13.120 and 2017 c 140 s 1 are each amended to read as follows:
(1) The legislature finds that the state should acquire easements primarily along riparian and other sensitive aquatic areas from qualifying small forestland owners willing to sell or donate easements to the state provided that the state will not be required to acquire the easements if they are subject to unacceptable liabilities. Therefore the legislature establishes a forestry riparian easement program.
(2) The definitions in this subsection apply throughout this section and RCW 76.13.100, 76.13.110, 76.13.140, and 76.13.160 unless the context clearly requires otherwise.
(a) "Forestry riparian easement" means an easement covering qualifying timber granted voluntarily to the state by a qualifying small forestland owner.

(b) "Qualifying small forestland owner" means a landowner meeting all of the following characteristics as of the date the department offers compensation for a forestry riparian easement:

(i) Is a small forestland owner as defined in (d) of this subsection; and

(ii) Is an individual, partnership, corporation, or other nongovernmental for-profit legal entity.

(c) "Qualifying timber" means those forest trees on land owned by a qualifying small forestland owner for which the small forestland owner is willing to grant the state a forestry riparian easement and meets all of the following:

(i) The forest trees are covered by a forest practices application that the small forestland owner is required to leave unharvested under the rules adopted under RCW 76.09.040, 76.09.055, and 76.09.370 or that is made uneconomic to harvest by those rules;

(ii) The forest trees are within or bordering a commercially reasonable harvest unit as determined under rules adopted by the forest practices board, or for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(iii) The forest trees are located within, or affected by forest practices rules pertaining to any one, or all, of the following:

(A) Riparian or other sensitive aquatic areas;

(B) Channel migration zones; or

(C) Areas of potentially unstable slopes or landforms, verified by the department, and must meet all of the following:

(I) Are addressed in a forest practices application;

(II) Are adjacent to a commercially reasonable harvest area; and

(III) Have the potential to deliver sediment or debris to a public resource or threaten public safety.

(d) "Small forestland owner" means a landowner meeting all of the following characteristics:

(i) A forestland owner as defined in RCW 76.09.020 whose interest in the land and timber is in fee or who has rights to the timber to be included in the forestry riparian easement that extend at least ((~~fifty~~))40 years from the date the completed forestry riparian easement application associated with the easement is submitted;

(ii) An entity that has harvested from its own lands in this state during the three years prior to the year of application an average timber volume that would qualify the owner as a small harvester under RCW 84.33.035; and

(iii) An entity that certifies at the time of application that it does not expect to harvest from its own lands more than the volume allowed by RCW 84.33.035 during the ((~~ten~~))10 years following application. If a landowner's prior three-year average harvest exceeds the limit of RCW 84.33.035, or the landowner expects to exceed this limit during the ((~~ten~~))10 years following application, and that landowner establishes to the department's reasonable satisfaction that the harvest limits were or will be exceeded to raise funds to pay estate taxes or equally compelling and unexpected obligations such as court-ordered judgments or extraordinary medical expenses, the landowner shall be deemed to be a small forestland owner. For purposes of determining whether a person qualifies as a small forestland owner, the small forestland owner office, created in RCW 76.13.110, shall evaluate the landowner under this definition, pursuant to RCW 76.13.160, as of the date that the forest practices application is submitted and the date that the department offers compensation for the forestry riparian easement. A small forestland owner can include an individual, partnership, corporation, or other nongovernmental legal entity. If a landowner grants timber rights to another entity for less than five years, the landowner may still qualify as a small forestland owner under this section. If a landowner is unable to obtain an approved forest practices application for timber harvest for any of his or her land because of restrictions under the forest practices rules, the landowner may still qualify as a small forestland owner under this section.

(e) "Completion of harvest" means that the trees have been commercially harvested from an area and that further entry into that area by mechanized logging or slash treating equipment is not expected.

(3) Nothing in the eligibility limit identified in subsection (2)(c)(i) through (iii) of this section precludes inclusion of land in future mitigation programs.

(4) The department is authorized and directed to accept and hold in the name of the state of Washington forestry riparian easements granted by qualifying small forestland owners covering qualifying timber and to pay compensation to the landowners in accordance with this section. The department may not transfer the easements to any entity other than another state agency.

((~~(4)~~))(5) Forestry riparian easements shall be effective for ((~~fifty~~))40 years from the date of the completed forestry riparian easement application, unless the easement is voluntarily terminated earlier by the department, based on a determination that termination is in the best interest of the state, or under the terms of a termination clause in the easement.

((~~(5)~~))(6) Forestry riparian easements shall be restrictive of the timber only, and shall preserve all lawful uses of the easement premises by the landowner that are consistent with the terms of the easement and the requirement to protect riparian functions during the term of the easement, subject to the restriction that the leave trees required by the rules to be left on the easement premises may not be cut during the term of the easement. No right of public access to or across, or any public use of the easement premises is created by this statute or by the easement. Forestry riparian easements shall not be deemed to trigger the

compensating tax of or otherwise disqualify land from being taxed under chapter 84.33 or 84.34 RCW.

((~~(6)~~))(7) The small forestland owner office shall determine what constitutes a completed application for a forestry riparian easement. An application shall, at a minimum, include documentation of the owner's status as a qualifying small forestland owner, identification of location and the types of qualifying timber, and notification of completion of harvest, if applicable.

((~~(7)~~))(8) Upon receipt of the qualifying small forestland owner's forestry riparian easement application, and subject to the availability of amounts appropriated for this specific purpose, the following must occur:

(a) The small forestland owner office must determine the compensation to be offered to the qualifying small forestland owner for qualifying timber after the department accepts the completed forestry riparian easement application and the landowner has completed marking the boundary of the area containing the qualifying timber. The legislature recognizes that there is not readily available market transaction evidence of value for easements of the nature required by this section, and thus establishes the methodology provided in this subsection to ascertain the value for forestry riparian easements. Values so determined may not be considered competent evidence of value for any other purpose.

(b) The small forestland owner office, subject to the availability of amounts appropriated for this specific purpose, is responsible for assessing the volume of qualifying timber. However, no more than ((~~fifty~~))50 percent of the total amounts appropriated for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Based on the volume established by the small forestland owner office and using data obtained or maintained by the department of revenue under RCW 84.33.074 and 84.33.091, the small forestland owner office shall attempt to determine the fair market value of the qualifying timber as of the date of the ((~~complete forestry riparian easement application is~~)) completed harvest. To the extent reasonably possible, the forestry riparian easement applications should be processed in the order received. Removal of any qualifying timber before the expiration of the easement must be in accordance with the forest practices rules and the terms of the easement. There shall be no reduction in compensation for reentry.

((~~(8)~~))(9)(a) ((~~Except as provided in subsection (9) of this section and subject~~))Subject to the availability of amounts appropriated for this specific purpose, the small forestland owner office shall offer compensation for qualifying timber to the qualifying small forestland owner in the amount of ((~~fifty~~))70 percent of the value determined by the small forestland owner office, plus the compliance and reimbursement costs as determined in accordance with RCW 76.13.140. However, compensation for any qualifying small forestland owner for qualifying timber located on potentially unstable slopes or landforms may not exceed a total of ((~~fifty thousand dollars~~))$100,000 during any biennial funding period.

(b) If the landowner accepts the offer for qualifying timber, the department shall pay the compensation promptly upon:

(i) Completion of harvest in the area within a commercially reasonable harvest unit with which the forestry riparian easement is associated under an approved forest practices application, unless an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(ii) Verification that the landowner has no outstanding violations under chapter 76.09 RCW or any associated rules; and

(iii) Execution and delivery of the easement to the department.

(c) Upon donation or payment of compensation, the department may record the easement.

((~~(9) For approved forest practices applications for which the regulatory impact is greater than the average percentage impact for all small forestland owners as determined by an analysis by the department under the regulatory fairness act, chapter 19.85 RCW, the compensation offered will be increased to one hundred percent for that portion of the regulatory impact that is in excess of the average. Regulatory impact includes all trees identified as qualifying timber. A separate average or high impact regulatory threshold shall be established for western and eastern Washington. Criteria for these measurements and payments shall be established by the small forestland owner office.~~))

(10)(a) The forest practices board shall adopt rules under the administrative procedure act, chapter 34.05 RCW, to implement the forestry riparian easement program, including the following:

((~~(a)~~))(i) A standard version of a forestry riparian easement application as well as all additional documents necessary or advisable to create the forestry riparian easements as provided for in this section;

((~~(b)~~))(ii) Standards for descriptions of the easement premises with a degree of precision that is reasonable in relation to the values involved;

((~~(c)~~))(iii) Methods and standards for cruises and valuation of forestry riparian easements for purposes of establishing the compensation. The department shall perform the timber cruises of forestry riparian easements required under this chapter and chapter 76.09 RCW. Timber cruises are subject to amounts appropriated for this purpose. However, no more than ((~~fifty~~))50 percent of the total appropriated funding for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Any rules concerning the methods and standards for valuations of forestry riparian easements shall apply only to the department, qualifying small forestland owners, and the small forestland owner office;

((~~(d)~~))(iv) A method to determine that a forest practices application involves a commercially reasonable harvest, and adopt criteria for entering into a forestry riparian

easement where a commercially reasonable harvest is not possible or a forest practices application that has been submitted cannot be approved because of restrictions under the forest practices rules;

((~~(e)~~))(v) A method to address blowdown of qualified timber falling outside the easement premises;

((~~(f)~~))(vi) A formula for sharing of proceeds in relation to the acquisition of qualified timber covered by an easement through the exercise or threats of eminent domain by a federal or state agency with eminent domain authority, based on the present value of the department's and the landowner's relative interests in the qualified timber;

((~~(g) High impact regulatory thresholds;~~

~~(h)~~))(vii) A method to determine timber that is qualifying timber because it is rendered uneconomic to harvest by the rules adopted under RCW 76.09.055 and 76.09.370;

((~~(i)~~))(viii) A method for internal department review of small forestland owner office compensation decisions under this section; and

((~~(j)~~))(ix) Consistent with RCW 76.13.180, a method to collect reimbursement from landowners who received compensation for a forestry riparian easement and who, within the first ((~~ten~~))10 years after receipt of compensation for a forestry riparian easement, sells the land on which an easement is located to a nonqualifying landowner.

(b) At least semiannually, the department shall consult with the small forestland owner advisory committee established in RCW 76.13.110(4) to review landowner complaints, administrative processes, rule recommendations, and related issues where the department is actively seeking the small forestland owner advisory committee's advice on potential improved efficiencies and effectiveness.

(11) The legislature finds that the overall societal benefits of economically viable working forests are multiple, and include the protection of clean, cold water, the provision of wildlife habitat, the sheltering of cultural resources from development, and the natural carbon storage potential of growing trees. As such, working forests and the ((~~forest [forestry]~~))forestry riparian easement program may be part of the state's overall carbon sequestration strategy. If the state creates a climate strategy, the department must share information regarding the carbon sequestration benefits of the ((~~forest [forestry]~~))forestry riparian easement program with other state programs using methods and protocols established in the state climate strategy that attempt to quantify carbon storage or account for carbon emissions. The department must promote the expansion of funding for the ((~~forest [forestry]~~))forestry riparian easement program and the ecosystem services supported by the program based on the findings stated in RCW 76.13.100. Nothing in this subsection allows a landowner to be reimbursed by the state more than once for the same forest riparian easement application.

(12) It is the intent of the legislature that the small forestland owner office complete forestry riparian easement program application transactions within two years of the application receipt consistent with the goals of RCW 70A.65.270(2)(b)(iii).

Sec. 2. RCW 76.13.140 and 2011 c 218 s 2 are each amended to read as follows:

In order to assist small forestland owners to remain economically viable, the legislature intends that the qualifying small forestland owners be able to net ((~~fifty~~))70 percent of the value of the trees left in the buffer areas. The small forestland owner office may utilize landowners' actual mill receipts to help determine fair market value but may not require these documents in any valuation process. The amount of compensation offered in RCW 76.13.120 shall also include the compliance costs for participation in the forestry riparian easement program, including the cost of preparing and recording the forestry riparian easement, and any business and occupation tax and real estate excise tax imposed because of entering into the forestry riparian easement. The small forestland owner office may contract with private consultants that the office finds qualified to perform timber cruises of forestry riparian easements or to lay out streamside buffers and comply with other forest practices regulatory requirements related to the forestry riparian easement program. The department shall reimburse qualifying small forestland owners for the actual costs incurred for laying out the streamside buffers and marking the qualifying timber once a contract has been executed for the forestry riparian easement program. Reimbursement is subject to the work being acceptable to the department. The small forestland owner office shall determine how the reimbursement costs will be calculated."

Correct the title.

Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Abbarno, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Alvarado; Bateman; Christian; Eslick; Farivar; Fosse; Kloba; Kretz; Leavitt; Maycumber; Morgan; Mosbrucker; Orwall; Peterson; Reed; Rule; Sandlin; Shavers; Stearns and Waters.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5774 Prime Sponsor, Early Learning & K-12 Education: Increasing the capacity to conduct timely fingerprint-based background checks for prospective child care employees and other programs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Human Services, Youth, & Early Learning. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representative Macri, Vice Chair.

Referred to Committee on Rules for second reading

February 26, 2024

2SSB 5780 Prime Sponsor, Ways & Means: Encouraging participation in public defense and prosecution professions. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

2SSB 5784 Prime Sponsor, Ways & Means: Concerning deer and elk damage to commercial crops. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Agriculture & Natural Resources. Signed by Representatives Bergquist, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5802 Prime Sponsor, Ways & Means: Providing flexibility in calculation of nursing rates. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.46.020 and 2016 c 131 s 4 are each reenacted and amended to read as follows:

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

(1) "Appraisal" means the process of estimating the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by a professionally designated real estate appraiser with no pecuniary interest in the property to be appraised. It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(2) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(3) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

(4) "Audit" or "department audit" means an examination of the records of a nursing facility participating in the medicaid payment system, including but not limited to: The contractor's financial and statistical records, cost reports and all supporting documentation and schedules, receivables, and resident trust funds, to be performed as deemed necessary by the department and according to department rule.

(5) "Capital component" means a fair market rental system that sets a price per nursing facility bed.

(6) "Capitalization" means the recording of an expenditure as an asset.

(7) "Case mix" means a measure of the intensity of care and services needed by the residents of a nursing facility or a group of residents in the facility.

(8) "Case mix index" means a number representing the average case mix of a nursing facility.

(9) "Case mix weight" means a numeric score that identifies the relative resources used by a particular group of a nursing facility's residents.

(10) "Contractor" means a person or entity licensed under chapter 18.51 RCW to operate a medicare and medicaid certified nursing facility, responsible for operational decisions, and contracting with the department to provide services to medicaid recipients residing in the facility.

(11) "Default case" means no initial assessment has been completed for a resident and transmitted to the department by the cut-off date, or an assessment is otherwise past due for the resident, under state and federal requirements.

(12) "Department" means the department of social and health services (DSHS) and its employees.

(13) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(14) "Direct care component" means nursing care and related care provided to nursing facility residents and includes the therapy care component, along with food, laundry, and dietary services of the previous system.

(15) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct care of a nursing facility's residents.

(16) "Entity" means an individual, partnership, corporation, limited liability company, or any other association of individuals capable of entering enforceable contracts.

(17) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(18) "Essential community provider" means a facility which is the only nursing facility within a commuting distance radius of at least forty minutes duration, traveling by automobile.

(19) "Facility" or "nursing facility" means a nursing home licensed in accordance with chapter 18.51 RCW, excepting nursing homes certified as institutions for mental diseases, or that portion of a multiservice facility licensed as a nursing home, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(20) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

(21) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

(22) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB) or its successor.

(23) "Grouper" means a computer software product that groups individual nursing facility residents into case mix classification groups based on specific resident assessment data and computer logic.

(24) "High labor-cost county" means an urban county in which the median allowable facility cost per case mix unit is more than ten percent higher than the median allowable facility cost per case mix unit among all other urban counties, excluding that county.

(25) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(26) "Home and central office costs" means costs that are incurred in the support and operation of a home and central office. Home and central office costs include centralized services that are performed in support of a nursing facility. The department may exclude from this definition costs that are nonduplicative, documented, ordinary, necessary, and related to the provision of care services to authorized patients.

(27) "Indirect care component" means the elements of administrative expenses, maintenance costs, taxes, and housekeeping services from the previous system.

(28) "Large nonessential community providers" means nonessential community providers with more than sixty licensed beds, regardless of how many beds are set up or in use.

(29) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination (due to any cause other than death or divorce) or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee, shall not be considered modification of a lease term.

(30) "Medical care program" or "medicaid program" means medical assistance, including nursing care, provided under RCW 74.09.500 or authorized state medical care services.

(31) "Medical care recipient," "medicaid recipient," or "recipient" means an individual determined eligible by the department for the services provided under chapter 74.09 RCW.

(32) "Minimum data set" means the overall data component of the resident assessment instrument, indicating the strengths, needs, and preferences of an individual nursing facility resident.

(33) "Net book value" means the historical cost of an asset less accumulated depreciation.

(34) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles.

(35) "Nonurban county" means a county which is not located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

(36) "Owner" means a sole proprietor, general or limited partners, members of a limited liability company, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

(37) "Patient day" or "resident day" means a calendar day of care provided to a nursing facility resident, regardless of payment source, which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. A "medicaid day" or "recipient day" means a calendar day of care provided to a medicaid recipient determined eligible by the department for services provided under chapter 74.09 RCW, subject to the same conditions regarding admission and discharge applicable to a patient day or resident day of care.

(38) "Patient-driven payment method" means a case mix system implemented by the centers for medicare and medicaid services to classify skilled nursing facility patients into payment groups based on specific data-driven patient characteristics.

(39) "Qualified therapist" means:

(a) A mental health professional as defined by chapter 71.05 RCW;

(b) An intellectual disabilities professional who is a therapist approved by the department who has had specialized training or one year's experience in treating or working with persons with intellectual or developmental disabilities;

(c) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

(d) A physical therapist as defined by chapter 18.74 RCW;

(e) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training; and

(f) A respiratory care practitioner certified under chapter 18.89 RCW.

((~~(39)~~))(40) "Quality enhancement component" means a rate enhancement offered to facilities that meet or exceed the standard established for the quality measures.

((~~(40)~~))(41) "Rate" or "rate allocation" means the medicaid per-patient-day payment amount for medicaid patients calculated in accordance with the allocation methodology set forth in ((~~part E of this chapter~~))RCW 74.46.421 through 74.46.531.

((~~(41)~~))(42) "Rebased rate" or "cost-rebased rate" means a facility-specific component rate assigned to a nursing facility for a particular rate period established on desk-reviewed, adjusted costs reported for that facility covering at least six months of a prior calendar year designated as a year to be used for cost-rebasing payment rate allocations under the provisions of this chapter.

((~~(42)~~))(43) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

((~~(43)~~))(44) "Resident assessment instrument," including federally approved modifications for use in this state, means a federally mandated, comprehensive nursing facility resident care planning and assessment tool, consisting of the minimum data set and resident assessment protocols.

((~~(44)~~))(45) "Resident assessment protocols" means those components of the resident assessment instrument that use the minimum data set to trigger or flag a resident's potential problems and risk areas.

((~~(45) "Resource utilization groups" means a case mix classification system that identifies relative resources needed to care for an individual nursing facility resident.~~))

(46) "Secretary" means the secretary of the department of social and health services.

(47) "Small nonessential community providers" means nonessential community providers with sixty or fewer licensed beds, regardless of how many beds are set up or in use.

(48) "Therapy care" means those services required by a nursing facility resident's comprehensive assessment and plan of care, that are provided by qualified therapists, or support personnel under their supervision, including related costs as designated by the department.

(49) "Title XIX" or "medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended and the medicaid program administered by the department.

(50) "Urban county" means a county which is located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

Sec. 2. RCW 74.46.485 and 2021 c 334 s 991 are each amended to read as follows:

(1) The legislature recognizes that staff and resources needed to adequately care for individuals with cognitive or behavioral impairments is not limited to support for activities of daily living. Therefore, the department shall:

(a) ((~~Employ the resource utilization group IV case mix classification methodology. The department shall use the fifty-seven group index maximizing model for the resource utilization group IV grouper version MDS 3.05, but in the 2021-2023 biennium the department~~

~~may revise or update the methodology used to establish case mix classifications to reflect advances or refinements in resident assessment or classification, as made available by the federal government. The department may adjust by no more than thirteen percent the case mix index for resource utilization group categories beginning with PA1 through PB2 to any case mix index that aids in achieving the purpose and intent of RCW 74.39A.007 and cost-efficient care, excluding behaviors, and allowing for exceptions for limited placement options; and~~

~~(b) Implement minimum data set 3.0 under the authority of this section. The department must notify nursing home contractors twenty-eight days in advance the date of implementation of the minimum data set 3.0. In the notification, the department must identify for all semiannual rate settings following the date of minimum data set 3.0 implementation a previously established semiannual case mix adjustment established for the semiannual rate settings that will be used for semiannual case mix calculations in direct care until minimum data set 3.0 is fully implemented.~~))Beginning July 1, 2024, implement a method for applying case mix to the rate. This method should be informed by the minimum data set collected by the centers for medicare and medicaid services;

(b) Subject to the availability of amounts appropriated for this specific purpose, employ the case mix adjustment method to adjust rates of individual facilities for case mix changes;

(c) Upon the discontinuation of resource utilization group's scores, and in collaboration with appropriate stakeholders, create a new case mix adjustment method for adjusting direct care rates based on changes in case mix using the patient-driven payment method;

(d) By December 1, 2024, provide an initial report to the governor and appropriate legislative committees outlining a phased implementation plan; and

(e) By December 1, 2026, provide a final report to the appropriate legislative committees. These reports must include the following information:

(i) An analysis of the potential impact of the new case mix classification methodology on nursing facility payment rates;

(ii) Proposed payment adjustments for capturing specific client needs that may not be clearly captured in the data available from the centers for medicare and medicaid services; and

(iii) A plan to continuously monitor the effects of the new methodologies on each facility to ensure certain client populations or needs are not unintentionally negatively impacted.

(2) ((~~The department is authorized to adjust upward the weights for resource utilization groups BA1-BB2 related to cognitive or behavioral health to ensure adequate access to appropriate levels of care.~~

~~(3)~~)) A default case mix group shall be established for cases in which the resident dies or is discharged for any purpose prior to completion of the resident's initial assessment. The default case mix group and case mix weight for these cases shall be designated by the department.

((~~(4)~~))(3) A default case mix group may also be established for cases in which there is an untimely assessment for the resident. The default case mix group and case mix weight for these cases shall be designated by the department.

Sec. 3. RCW 74.46.496 and 2011 1st sp.s. c 7 s 5 are each amended to read as follows:

(1) Each case mix classification group shall be assigned a case mix weight. The case mix weight for each resident of a nursing facility for each calendar quarter or six-month period during a calendar year shall be based on data from resident assessment instruments completed for the resident and weighted by the number of days the resident was in each case mix classification group. Days shall be counted as provided in this section.

(2) ((~~The case mix weights shall be based on the average minutes per registered nurse, licensed practical nurse, and certified nurse aide, for each case mix group, and using the United States department of health and human services nursing facility staff time measurement study. Those minutes shall be weighted by statewide ratios of registered nurse to certified nurse aide, and licensed practical nurse to certified nurse aide, wages, including salaries and benefits, which shall be based on cost report data for this state.~~

~~(3) The case mix weights shall be determined as follows:~~

~~(a) Set the certified nurse aide wage weight at 1.000 and calculate wage weights for registered nurse and licensed practical nurse average wages by dividing the certified nurse aide average wage into the registered nurse average wage and licensed practical nurse average wage;~~

~~(b) Calculate the total weighted minutes for each case mix group in the resource utilization group classification system by multiplying the wage weight for each worker classification by the average number of minutes that classification of worker spends caring for a resident in that resource utilization group classification group, and summing the products;~~

~~(c) Assign the lowest case mix weight to the resource utilization group with the lowest total weighted minutes and calculate case mix weights by dividing the lowest group's total weighted minutes into each group's total weighted minutes and rounding weight calculations to the third decimal place.~~

~~(4) The case mix weights in this state may be revised if the United States department of health and human services updates its nursing facility staff time measurement studies. The case mix weights shall be revised, but only when direct care component rates are cost-rebased as provided in subsection (5) of this section, to be effective on the July 1st effective date of each cost-rebased direct care component rate. However, the department may revise case mix~~

~~weights more frequently if, and only if, significant variances in wage ratios occur among direct care staff in the different caregiver classifications identified in this section.~~

~~(5) Case mix weights shall be revised when direct care component rates are cost-rebased as provided in RCW 74.46.431(4).~~))The case mix weights shall be based on finalized case mix weights as published by the centers for medicare and medicaid services in the federal register.

Sec. 4. RCW 74.46.501 and 2021 c 334 s 992 are each amended to read as follows:

(1) From individual case mix weights for the applicable quarter, the department shall determine two average case mix indexes for each medicaid nursing facility, one for all residents in the facility, known as the facility average case mix index, and one for medicaid residents, known as the medicaid average case mix index.

(2)(a) In calculating a facility's two average case mix indexes for each quarter, the department shall include all residents or medicaid residents, as applicable, who were physically in the facility during the quarter in question based on the resident assessment instrument completed by the facility and the requirements and limitations for the instrument's completion and transmission (January 1st through March 31st, April 1st through June 30th, July 1st through September 30th, or October 1st through December 31st).

(b) The facility average case mix index shall exclude all default cases as defined in this chapter. However, the medicaid average case mix index shall include all default cases.

(3) Both the facility average and the medicaid average case mix indexes shall be determined by multiplying the case mix weight of each resident, or each medicaid resident, as applicable, by the number of days, as defined in this section and as applicable, the resident was at each particular case mix classification or group, and then averaging.

(4) In determining the number of days a resident is classified into a particular case mix group, the department shall determine a start date for calculating case mix grouping periods as specified by rule.

(5) The cut-off date for the department to use resident assessment data, for the purposes of calculating both the facility average and the medicaid average case mix indexes, and for establishing and updating a facility's direct care component rate, shall be one month and one day after the end of the quarter for which the resident assessment data applies.

(6)((~~(a)~~)) Although the facility average and the medicaid average case mix indexes shall both be calculated quarterly, the cost-rebasing period facility average case mix index will be used throughout the applicable cost-rebasing period in combination with cost report data as specified by RCW 74.46.561, to establish a facility's allowable cost per case mix unit. ((~~To allow for the transition to minimum data set 3.0 and implementation of resource utilization group IV for July 1, 2015, through June 30, 2016, the department shall calculate rates using the medicaid average case mix scores effective for January 1, 2015, rates adjusted under RCW 74.46.485(1)(a), and the scores shall be increased each six months during the transition period by one-half of one percent. The July 1, 2016, direct care cost per case mix unit shall be calculated by utilizing 2014 direct care costs, patient days, and 2014 facility average case mix indexes based on the minimum data set 3.0 resource utilization group IV grouper 57. Otherwise, a~~))A facility's medicaid average case mix index shall be used to update a nursing facility's direct care component rate semiannually.

((~~(b) Except during the 2021-2023 fiscal biennium, the facility average case mix index used to establish each nursing facility's direct care component rate shall be based on an average of calendar quarters of the facility's average case mix indexes from the four calendar quarters occurring during the cost report period used to rebase the direct care component rate allocations as specified in RCW 74.46.561.~~

~~(c) Except during the 2021-2023 fiscal biennium, the medicaid average case mix index used to update or recalibrate a nursing facility's direct care component rate semiannually shall be from the calendar six-month period commencing nine months prior to the effective date of the semiannual rate. For example, July 1, 2010, through December 31, 2010, direct care component rates shall utilize case mix averages from the October 1, 2009, through March 31, 2010, calendar quarters, and so forth.~~

~~(d) The department shall establish a methodology to use the case mix to set the direct care component [rate] in the 2021-2023 fiscal biennium.~~))"

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5803 Prime Sponsor, Ways & Means: Concerning the recruitment and retention of Washington national guard members. Reported by Committee on Appropriations

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

Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SB 5811 Prime Sponsor, Senator Kauffman: Expanding the definition of family member for individual providers. 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:

"Sec. 1. RCW 18.88B.041 and 2023 c 424 s 7 are each amended to read as follows:

(1) The following long-term care workers are not required to become a certified home care aide pursuant to this chapter:

(a)(i)(A) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary determines that the circumstances do not require certification.

(B) A person who was initially hired as a long-term care worker prior to January 7, 2012, and who completes all of the training requirements in effect as of the date the person was hired.

(ii) Individuals exempted by (a)(i) of this subsection may obtain certification as a home care aide without fulfilling the training requirements in RCW 74.39A.074(1)(d)(ii) but must successfully complete a certification examination pursuant to RCW 18.88B.031.

(b) All long-term care workers employed by community residential service businesses.

(c)(i) An individual provider caring only for the individual provider's ((~~biological, step, or adoptive~~)) child or parent, including when related by marriage or domestic partnership; and

(ii) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(d) A person working as an individual provider who provides ((~~twenty~~))20 hours or less of nonrespite care for one person in any calendar month.

(e) A person working as an individual provider who only provides respite services and works less than ((~~three hundred~~))300 hours in any calendar year.

(f) A long-term care worker providing approved services only for a spouse or registered domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW.

(g) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

(2) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.074 may not be prohibited from enrolling in training pursuant to that section.

(3) The department shall adopt rules to implement this section.

Sec. 2. RCW 74.39A.076 and 2023 c 424 s 8 are each amended to read as follows:

(1) Beginning January 7, 2012, except for long-term care workers exempt from certification under RCW 18.88B.041(1)(a):

(a) A ((~~biological, step, or adoptive~~)) parent who is the individual provider only for the person's developmentally disabled ((~~son or daughter~~))child, including when related by marriage or domestic partnership, must receive ((~~twelve~~))12 hours of training relevant to the needs of individuals with developmental disabilities within the first ((~~one hundred twenty~~))120 days after becoming an individual provider.

(b) A spouse or registered domestic partner who is a long-term care worker only for a spouse or domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW, must receive ((~~fifteen~~))15 hours of basic training, and at least six hours of additional focused training based on the care-receiving spouse's or partner's needs, within the first ((~~one hundred twenty~~))120 days after becoming a long-term care worker.

(c) A person working as an individual provider who (i) provides respite care services only for individuals with developmental disabilities receiving services under Title 71A RCW or only for individuals who receive services under this chapter, and (ii) works ((~~three hundred~~))300 hours or less in any calendar year, must complete ((~~fourteen~~))14 hours of training within the first ((~~one hundred twenty~~))120 days after becoming an individual provider. Five of the ((~~fourteen~~))14 hours must be completed before becoming eligible to provide care, including two hours of orientation training regarding the caregiving role and terms of employment and three hours of safety training. The training partnership identified

in RCW 74.39A.360 must offer at least ((~~twelve~~))12 of the ((~~fourteen~~))14 hours online, and five of those online hours must be individually selected from elective courses.

(d) Individual providers identified in (d)(i) or (ii) of this subsection must complete ((~~thirty-five~~))35 hours of training within the first ((~~one hundred twenty~~))120 days after becoming an individual provider. Five of the ((~~thirty-five~~))35 hours must be completed before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:

(i)(A) ((~~An~~))Unless covered by (a) of this subsection, an individual provider caring only for the individual provider's ((~~biological, step, or adoptive~~)) child or parent ((~~unless covered by (a) of this subsection~~)), including when related by marriage or domestic partnership; ((~~and~~))

(B) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(ii) A person working as an individual provider who provides ((~~twenty~~))20 hours or less of care for one person in any calendar month; and

(iii) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

(2) In computing the time periods in this section, the first day is the date of hire.

(3) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(4) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection (4) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in subsection (1) of this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (4) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1) of this section and provide the legislature with a report.

(5) The department shall adopt rules to implement this section.

Sec. 3. RCW 74.39A.341 and 2023 c 424 s 6 are each amended to read as follows:

(1) All long-term care workers shall complete ((~~twelve~~))12 hours of continuing education training in advanced training topics each year. This requirement applies beginning July 1, 2012.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 18.88B RCW.

(3) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, subsection (1) of this section does not apply to:

(a) ((~~An individual provider caring only for his or her biological, step, or adoptive child;~~

~~(b)~~)) An individual provider caring only for the individual provider's child, parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

((~~(c)~~))(b) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW;

((~~(d)~~))(c) Before January 1, 2016, a long-term care worker employed by a community residential service business;

((~~(e)~~))(d) A person working as an individual provider who provides ((~~twenty~~))20 hours or less of care for one person in any calendar month;

((~~(f)~~))(e) A person working as an individual provider who only provides respite services and works less than ((~~three hundred~~))300 hours in any calendar year; or

((~~(g)~~))(f) A person whose certificate has been expired for less than five years who seeks to restore the certificate to active status. The person does not need to complete continuing education requirements in order for their certificate to be restored to active status. Subsection (1) of this section applies to persons once the certificate has been restored to active status, beginning on the date the certificate is restored to active status.

(4) Beginning July 1, 2024, individual providers covered under subsection (3) of this section may voluntarily take continuing education. The consumer directed employer must pay individual providers covered in subsection (3) of this section for any continuing education that they may take, up to 12 hours of continuing education annually.

(5) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

((~~(5)~~))(6) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

((~~(6)~~))(7) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection ((~~(6)~~))(7) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection ((~~(6)~~))(7) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1) of this section and provide the legislature with a report.

((~~(7)~~))(8) The department of health shall adopt rules to implement subsection (1) of this section.

((~~(8)~~))(9) The department shall adopt rules to implement subsection (2) of this section.

NEW SECTION. **Sec. 4.** Section 3 of this act takes effect July 1, 2024."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

2SSB 5825 Prime Sponsor, Ways & Means: Concerning guardianship and conservatorship. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Civil Rights & Judiciary. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SB 5836 Prime Sponsor, Senator Wilson, L.: Adding an additional superior court judge in Clark county. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SB 5837 Prime Sponsor, Senator Valdez: Codifying the state election database to publish, evaluate, and analyze certain election data. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; Rude; Sandlin; Schmick; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 5838 Prime Sponsor, Ways & Means: Establishing an artificial intelligence task force. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Consumer Protection & Business.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that artificial intelligence is a fast-evolving technology that holds extraordinary potential and has a myriad of uses for both the public and private sectors. Advances in artificial intelligence technology have led to programs that are capable of creating text, audio, and media that are difficult to distinguish from media created by a human. This technology has the potential to provide great benefits to people if used well and to cause great harm if used irresponsibly.

The legislature further finds that generative artificial intelligence has become widely available to consumers and has great potential to become a versatile tool for a wide audience. It can streamline tasks, save time and money for users, and facilitate further innovation. Artificial intelligence has the potential to help solve urgent challenges, while making our world more prosperous, productive, innovative, and secure when used responsibly.

Washington state is in a unique position to become a center for artificial intelligence and machine learning. When used irresponsibly, artificial intelligence has the potential to further perpetuate bias and harm to historically excluded groups. It is vital that the fundamental rights to privacy and freedom from discrimination are properly safeguarded as society explores this emerging technology.

The federal government has not yet enacted binding regulations, however in July 2023, the federal government announced voluntary commitments by seven leading artificial intelligence companies, including three companies headquartered in Washington, to move toward safe, secure, and transparent development of artificial intelligence technology. The October 2023 executive order on the safe, secure, and trustworthy development and use of artificial intelligence builds on this work by directing developers of artificial intelligence systems to share their safety test results for certain highly capable models with the United States government.

Numerous businesses and agencies have developed principles for artificial intelligence. In Washington, Washington technology solutions (WaTech) developed guiding principles for artificial intelligence use by state agencies. These principles share common themes: Accountability, transparency, human control, privacy and security, advancing equity, and promoting innovation and economic development.

The legislature finds that the possible impacts of advancements in generative artificial intelligence for Washingtonians requires careful consideration in order to mitigate risks and potential harms, while promoting transparency, accountability, equity, and innovation that drives technological breakthroughs. On January 30, 2024, governor Inslee issued Executive Order 24-01 directing WaTech to identify generative artificial intelligence initiatives that could be implemented in state operations and issue guidelines for public sector procurement and usage.

NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts appropriated for this specific purpose, a task force to assess current uses and trends and make recommendations to the legislature regarding guidelines and potential legislation for the use of artificial intelligence systems is established.

(2) The task force is composed of an executive committee consisting of members as provided in this subsection.

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

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

(c) The attorney general shall appoint the following members, selecting only individuals with experience in technology policy:

(i) One member from the office of the governor;

(ii) One member from the office of the attorney general;

(iii) One member from Washington technology solutions;

(iv) One member from the Washington state auditor;

(v) One member representing universities or research institutions that are experts in the design and effect of an algorithmic system;

(vi) One member representing private technology industry groups;

(vii) One member representing business associations;

(viii) Three members representing community advocate organizations that represent communities that are disproportionately vulnerable to being harmed by algorithmic bias;

(ix) One member representing the LGBTQ+ community;

(x) One member representing the retail industry;

(xi) One member representing the hospitality industry;

(xii) One member representing statewide labor organizations; and

(xiii) One member representing public safety.

(d) The task force may meet in person or by telephone conference call, videoconference, or other similar telecommunications method, or a combination of such methods.

(e) The executive committee may convene subcommittees to advise the task force on the recommendations and findings set out in subsection (4) of this section.

(i) The executive committee shall define the scope of activity and subject matter focus required of the subcommittees including, but not limited to: Education and workforce development; public safety and ethics; health care and accessibility; labor; government and public sector efficiency; state security and cybersecurity; consumer protection and privacy; and industry and innovation.

(ii) Subcommittees and their members may be invited to participate on an ongoing, recurring, or one-time basis.

(iii) The executive committee in collaboration with the attorney general shall appoint members to the subcommittees that must be comprised of industry participants, subject matter experts, representatives of federally recognized tribes, or other relevant stakeholders.

(iv) Each subcommittee must contain at least one member possessing relevant industry expertise and at least one member from an advocacy organization that represents communities that are disproportionately vulnerable to being harmed by algorithmic bias including, but not limited to: African American; Hispanic American; Native American; Asian American; Native Hawaiian and Pacific Islander communities; religious minorities; individuals with disabilities; and other vulnerable communities.

(v) Meeting summaries and reports delivered by the subcommittees to the executive committee must be made available on the attorney general's website within 30 days of delivery.

(3) The office of the attorney general must administer and provide staff support for the task force. The office of the attorney general may, when deemed necessary by the task force, retain consultants to provide data analysis, research, recommendations, training, and other services to the task force for the purposes provided in subsection (4) of this section. The office of the attorney general may work with the task force to determine appropriate subcommittees as needed.

(4) The executive committee and subcommittees of the task force shall examine the development and use of artificial intelligence by private and public sector entities and make recommendations to the legislature regarding guidelines and potential legislation for the use and regulation of artificial intelligence systems to protect Washingtonians' safety, privacy, and civil and intellectual property rights. The task force findings and recommendations must include:

(a) A literature review of public policy issues with artificial intelligence, including benefits and risks to the public broadly, historically excluded communities, and other identifiable groups, racial equity considerations, workforce impacts, and ethical concerns;

(b) A review of existing protections under state and federal law for individual data and privacy rights, safety, civil rights, and intellectual property rights, and how federal, state, and local laws relating to artificial intelligence align, differ, conflict, and interact across levels of government;

(c) A recommended set of guiding principles for artificial intelligence use informed by standards established by relevant bodies, including recommending a definition for ethical artificial intelligence and guiding principles;

(d) Identification of high-risk uses of artificial intelligence, including those that may negatively affect safety or fundamental rights;

(e) Opportunities to support and promote the innovation of artificial intelligence technologies through grants and incentives;

(f) Recommendations on appropriate uses of and limitations on the use of artificial intelligence by state and local governments and the private sector;

(g) Recommendations relating to the appropriate and legal use of training data;

(h) Algorithmic discrimination issues which may occur when artificial intelligence systems are used and contribute to unjustified differential treatment or impacts disfavoring people on the basis of race, color, national origin, citizen or immigration status, families with children, creed, religious belief or affiliation, sex, marital status, the presence of any sensory, mental, or physical disability, age, honorably discharged veteran or military status, sexual orientation, gender expression or gender identity, or any other protected class under RCW 49.60.010 and recommendations to mitigate and protect against algorithmic discrimination;

(i) Recommendations on minimizing unlawful discriminatory or biased outputs or applications;

(j) Recommendations on prioritizing transparency so that the behavior and functional components artificial intelligence can be understood in order to enable the identification of performance issues, safety and privacy concerns, biases, exclusionary practices, and unintended outcomes;

(k) Racial equity issues posed by artificial intelligence systems and ways to mitigate the concerns to build equity into the systems;

(l) Civil liberties issues posed by artificial intelligence systems and civil rights and civil liberties protections to be incorporated into artificial intelligence systems;

(m) Recommendations as to how the state should educate the public on the development and use of artificial intelligence, including information about data privacy and security, data collection and retention practices, use of individual data in machine learning, and intellectual property considerations regarding generative artificial intelligence;

(n) A review of protections of personhood, including replicas of voice or likeness, in typical contract structures, and a review of artificial intelligence tools used to support employment decisions;

(o) Proposed state guidelines for the use of artificial intelligence to inform the development, deployment, and use of artificial intelligence systems to:

(i) Retain appropriate human agency and oversight;

(ii) Be subject to internal and external security testing of systems before public release for high-risk artificial intelligence systems;

(iii) Protect data privacy and security;

(iv) Promote appropriate transparency for consumers when they interact with artificial intelligence systems or products created by artificial intelligence; and

(v) Ensure accountability, considering oversight, impact assessment, auditability, and due diligence mechanisms;

(p) A review of existing civil and criminal remedies for addressing potential harms resulting from the use of artificial intelligence systems and recommendations, if needed, for new means of enforcement and remedies; and

(q) Recommendations for establishing an ongoing committee that must study emerging technologies not limited to artificial technology.

(5) The executive committee of the task force must hold its first meeting within 45 days of final appointments to the task force and must meet at least twice each year thereafter. The task force must submit reports to the governor and the appropriate committees of the legislature detailing its findings and recommendations. A preliminary report must be delivered by December 31, 2024, an interim report by December 1, 2025, and a final report by July 1, 2026. Meeting summaries must be posted to the website of the attorney general's office within 30 days of any meeting by the task force.

(6) Legislative members of the task force shall be 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.

(7) To ensure that the task force has diverse and inclusive representation of those affected by its work, task force members, including subcommittee members, whose participation in the task force may be hampered by financial hardship and may be compensated as provided in RCW 43.03.220.

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

(a) "Artificial intelligence" means the use of machine learning and related technologies that use data to train statistical models for the purpose of enabling computer systems to perform tasks normally associated with human intelligence or perception, such as computer vision, speech or natural language processing, and content generation.

(b) "Generative artificial intelligence" means an artificial intelligence system that generates novel data or content based on a foundation model.

(c) "Machine learning" means the process by which artificial intelligence is developed using data and algorithms to draw inferences therefrom to automatically adapt or improve its accuracy without explicit programming.

(d) "Training data" means labeled data that is used to teach artificial intelligence models or machine learning algorithms to make proper decisions. Training data may include, but is not limited to, annotated text, images, video, or audio.

(9) This section expires June 30, 2027.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; and Sandlin.

Referred to Committee on Rules for second reading

February 26, 2024

SB 5852 Prime Sponsor, Senator Braun: Concerning special education safety net awards. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 5853 Prime Sponsor, Ways & Means: Extending the crisis relief center model to provide behavioral health crisis 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; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

2SSB 5882 Prime Sponsor, Ways & Means: Increasing prototypical school staffing to better meet student needs. 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.** Youth mental and behavioral health has been a rising crisis for a decade. As youth grapple with new pressures from social media and impacts of a pandemic, their needs can manifest as disruptive behaviors in the school environment. Teachers, counselors, administrators, and education support professionals have identified the need to have more caring and committed education staff in schools to meet the needs of students.

Education support professionals are vital team members in a school and often directly support students. Educational staff professionals drive students safely to school, provide one-on-one individualized instruction for special education students, run small group instruction for English language learners and for students struggling with certain academic concepts, supervise and monitor students before and after school, at lunch, and during recess, provide physical and behavioral health services in schools, serve lunches, keep buildings clean and maintained, and many other support services that are essential to school operations and student learning.

Therefore, to improve the individualized support for student learning and behavioral needs, the legislature intends to increase staffing allocations for paraprofessionals in instructional and noninstructional roles. The intent of this additional funding is to assist school districts in hiring additional support staff or providing the staff they already employ with better wages.

Sec. 2. RCW 28A.150.260 and 2023 c 379 s 6 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2)(a) The distribution formula under this section shall be for allocation purposes only. Except as may be required under subsections (4)(b) and (c), (5)(b) and (c), and (9) of this section, chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(b) To promote transparency in state funding allocations, the superintendent of public instruction must report state per-pupil allocations for each school district for the general apportionment, special education, learning assistance, transitional bilingual, highly capable, and career and technical education programs. The superintendent must report this information in a user-friendly format on the main page of the office's website. School districts must include a link to the superintendent's per-pupil allocations report on the main page of the school district's website. In addition, the budget documents published by the legislature for the enacted omnibus operating appropriations act must report statewide average per-pupil allocations for general apportionment and the categorical programs listed in this subsection.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students

as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has 600 average annual full-time equivalent students in grades nine through 12;

(ii) A prototypical middle school has 432 average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has 400 average annual full-time equivalent students in grades kindergarten through six.

(4)(a)(i) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

	General education average class size
Grades K-3	17.00
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(ii) The minimum class size allocation for each prototypical high school shall also provide for enhanced funding for class size reduction for two laboratory science classes within grades nine through 12 per full-time equivalent high school student multiplied by a laboratory science course factor of 0.0833, based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours in RCW 28A.150.220, and providing at least one teacher planning period per school day:

	Laboratory science average class size
Grades 9-12	19.98

(b)(i) Beginning September 1, 2019, funding for average K-3 class sizes in this subsection (4) may be provided only to the extent of, and proportionate to, the school district's demonstrated actual class size in grades K-3, up to the funded class sizes.

(ii) The office of the superintendent of public instruction shall develop rules to implement this subsection (4)(b).

(c)(i) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

	Career and technical education average class size
Approved career and technical education offered at the middle school and high school level	23.00
Skill center programs meeting the standards established by the office of the superintendent of public instruction	19.00

(ii) Funding allocated under this subsection (4)(c) is subject to RCW 28A.150.265.

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than 50 percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for advanced placement and international baccalaureate courses.

(5)(a) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators	1.253	1.353	1.880

Teacher-librarians, a function that includes information literacy, technology, and media to support school library media programs.	0.663	0.519	0.523
((~~Teaching assistance~~))Paraeducators, including any aspect of educational instructional services provided by classified employees.	((~~0.936~~)) 1.004	((~~0.700~~)) 0.768	((~~0.652~~)) 0.720
Office support and other noninstructional aides. .	((~~2.012~~)) 2.080	((~~2.325~~)) 2.393	((~~3.269~~)) 3.337
Custodians.	1.657	1.942	2.965
Nurses.	0.585	0.888	0.824
Social workers.	0.311	0.088	0.127
Psychologists.	0.104	0.024	0.049
Counselors.	0.993	1.716	3.039
Classified staff providing student and staff safety	0.079	0.092	0.141
Parent involvement coordinators.	0.0825	0.00	0.00

(b)(i) The superintendent may only allocate funding, up to the combined minimum allocations, for nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, and parent involvement coordinators under (a) of this subsection to the extent of and proportionate to a school district's demonstrated actual ratios of: Full-time equivalent physical, social, and emotional support staff to full-time equivalent students.

(ii) The superintendent must adopt rules to implement this subsection (5)(b) and the rules must require school districts to prioritize funding allocated as required by (b)(i) of this subsection for physical, social, and emotional support staff who hold a valid educational staff associate certificate appropriate for the staff's role.

(iii) For the purposes of this subsection (5)(b), "physical, social, and emotional support staff" include nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, parent involvement coordinators, and other school district employees and contractors who provide physical, social, and emotional support to students as defined by the superintendent.

(c) The superintendent shall develop rules that require school districts to use the additional funding provided under (a) of this subsection to support increased staffing, prevent layoffs, or increase salaries for the following staff types in the 2024-25 school year: Paraeducators, office support, and noninstructional aides. The superintendent shall collect data from school districts on how the increased allocations are used.

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

	Staff per 1,000 K-12 students
Technology.	0.628
Facilities, maintenance, and grounds.	1.813
Warehouse, laborers, and mechanics.	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs as provided in the 2017-18 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

	Per annual average full-time equivalent student in grades K-12
Technology.	$130.76
Utilities and insurance.	$355.30
Curriculum and textbooks.	$140.39
Other supplies	$278.05
Library materials.	$20.00
Instructional professional development for certificated and classified staff.	$21.71

Facilities maintenance.	$176.01
Security and central office administration.	$121.94

(b) In addition to the amounts provided in (a) of this subsection, beginning in the 2014-15 school year, the omnibus appropriations act shall provide the following minimum allocation for each annual average full-time equivalent student in grades nine through 12 for the following materials, supplies, and operating costs, to be adjusted annually for inflation:

	Per annual average full-time equivalent student in grades 9-12
Technology.	$36.35
Curriculum and textbooks.	$39.02
Other supplies	$77.28
Library materials.	$5.56
Instructional professional development for certificated and classified staff.	$6.04

(9) In addition to the amounts provided in subsection (8) of this section and subject to RCW 28A.150.265, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through 12;

(b) Preparatory career and technical education courses for students in grades nine through 12 offered in a high school; and

(c) Preparatory career and technical education courses for students in grades 11 and 12 offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a)(i) To provide supplemental instruction and services for students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the greater of either: The district percentage of students in kindergarten through grade 12 who were eligible for free or reduced-price meals for the school year immediately preceding the district's participation, in whole or part, in the United States department of agriculture's community eligibility provision, or the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall, except as provided in (a)(iii) of this subsection, provide for each level of prototypical school resources to provide, on a statewide average, 2.3975 hours per week in extra instruction with a class size of 15 learning assistance program students per teacher.

(ii) In addition to funding allocated under (a)(i) of this subsection, to provide supplemental instruction and services for students who are not meeting academic standards in qualifying schools. A qualifying school, except as provided in (a)(iv) of this subsection, means a school in which the three-year rolling average of the prior year total annual average enrollment that qualifies for free or reduced-price meals equals or exceeds 50 percent or more of its total annual average enrollment. A school continues to meet the definition of a qualifying school if the school: Participates in the United States department of agriculture's community eligibility provision; and met the definition of a qualifying school in the year immediately preceding their participation. The minimum allocation for this additional high poverty-based allocation must provide for each level of prototypical school resources to provide, on a statewide average, 1.1 hours per week in extra instruction with a class size of 15 learning assistance program students per teacher, under RCW 28A.165.055, school districts must distribute the high poverty-based allocation to the schools that generated the funding allocation.

(iii) For the 2024-25 and 2025-26 school years, allocations under (a)(i) of this subsection for school districts providing meals at no charge to students under RCW 28A.235.135 that are not participating, in whole or in part, in the United States department of agriculture's community eligibility provision shall be based on the school district percentage of students in grades K-12 who were eligible for free or reduced-price meals in school years 2019-20 through 2022-23 or the prior school year, whichever is greatest.

(iv) For the 2024-25 and 2025-26 school years, a school providing meals at no charge to students under RCW 28A.235.135 that is not participating in the department of agriculture's community eligibility provision continues to meet the definition of a qualifying school under (a)(ii) of this subsection if the school met the definition during one year of the 2019-20 through 2022-23 school years, or in the prior school year.

(b)(i) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction for students in grades kindergarten through six and 6.7780 hours per week in extra instruction for students in grades seven through 12, with 15 transitional bilingual instruction program students per teacher. Notwithstanding other provisions of this subsection (10), the actual per-student allocation may be scaled to provide a larger allocation for students needing more intensive intervention and a

commensurate reduced allocation for students needing less intensive intervention, as detailed in the omnibus appropriations act.

(ii) To provide supplemental instruction and services for students who have exited the transitional bilingual program, allocations shall be based on the head count number of students in each school who have exited the transitional bilingual program within the previous two years based on their performance on the English proficiency assessment and are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.040(1)(g). The minimum allocation for each prototypical school shall provide resources to provide, on a statewide average, 3.0 hours per week in extra instruction with 15 exited students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on 5.0 percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

Sec. 3. RCW 28A.400.007 and 2022 c 109 s 5 are each amended to read as follows:

(1) In addition to the staffing units in RCW 28A.150.260, the superintendent of public instruction must provide school districts with allocations for the following staff units if and to the extent that funding is specifically appropriated and designated for that category of staffing unit in the omnibus operating appropriations act.

(a) Additional staffing units for each level of prototypical school in RCW 28A.150.260:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators.	0.0470	0.0470	0.0200
Teacher-librarians, a function that includes information literacy, technology, and media to support school library media programs.	0.3370	0.4810	0.4770
((~~Teaching assistance~~))Paraeducators, including any aspect of educational instructional services provided by classified employees.	((~~1.0640~~)) 0.996	((~~0.3000~~)) 0.232	((~~0.3480~~)) 0.280
Office support and other noninstructional aides. .	((~~0.9880~~)) 0.92	((~~1.1750~~)) 1.107	((~~0.2310~~)) 0.163
Custodians.	0.0430	0.0580	0.0350

Classified staff providing student and staff safety	0.0000	0.6080	1.1590
Parent involvement coordinators.	0.9175	1.0000	1.0000

(b) Additional certificated instructional staff units sufficient to achieve the following reductions in class size in each level of prototypical school under RCW 28A.150.260:

	General education certificated instructional staff units sufficient to achieve class size reduction of:
Grades K-3 class size.	0.00
Grade 4.	2.00
Grades 5-6.	2.00
Grades 7-8.	3.53
Grades 9-12.	3.74
CTE.	4.00
Skills.	3.00

	High poverty certificated instructional staff units sufficient to achieve class size reduction of:
Grades K-3 class size.	2.00
Grade 4.	5.00
Grades 5-6.	4.00
Grades 7-8.	5.53
Grades 9-12.	5.74

(2) The staffing units in subsection (1) of this section are an enrichment to and are beyond the state's statutory program of basic education in RCW 28A.150.220 and 28A.150.260. However, if and to the extent that any of these additional staffing units are funded by specific reference to this section in the omnibus operating appropriations act, those units become part of prototypical school funding formulas and a component of the state funding that the legislature deems necessary to support school districts in offering the statutory program of basic education under Article IX, section 1 of the state Constitution.

NEW SECTION. **Sec. 4.** The state must provide the full school year amount for paraeducators, including any aspect of educational instructional services provided by classified employees, and office support and other noninstructional aides provided in this act, for the 2023-24 school year. The first month's distribution of additional amounts provided under this act in the 2023-24 school year must be a proportion of the total annual additional amount provided in this act equal to the sum of the proportional shares under RCW 28A.510.250 from September 2023 to the first month's distribution. Staff units for nurses, social workers, psychologists, and counselors in this act, above those provided in section 5, chapter 379, Laws of 2023 may not be allocated until the 2024-25 school year.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, 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; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SB 5904 Prime Sponsor, Senator Nobles: Extending the terms of eligibility for financial aid programs. 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.92.200 and 2022 c 214 s 5 are each amended to read as follows:

(1) The Washington college grant program is created to provide a statewide free college program for eligible participants and greater access to postsecondary education for Washington residents. The Washington college grant program is intended to increase the number of high school graduates and adults that can attain a postsecondary credential and provide them with the qualifications needed to compete for job opportunities in Washington.

(2) The office shall implement and administer the Washington college grant program and is authorized to establish rules necessary for implementation of the program.

(3) The legislature shall appropriate funding for the Washington college grant program. Allocations must be made on the basis of estimated eligible participants enrolled in eligible institutions of higher education or apprenticeship programs. All eligible students are entitled to a Washington college grant beginning in academic year 2020-21.

(4) The office shall award Washington college grants to all eligible students beginning in academic year 2020-21.

(5) To be eligible for the Washington college grant, students must meet the following requirements:

(a)(i) Demonstrate financial need under RCW 28B.92.205;

(ii) Receive one of the following types of public assistance:

(A) Aged, blind, or disabled assistance benefits under chapter 74.62 RCW;

(B) Essential needs and housing support program benefits under RCW 43.185C.220; or

(C) Pregnant women assistance program financial grants under RCW 74.62.030; or

(iii) Be a Washington high school student in the 10th, 11th, or 12th grade whose parent or legal guardian is receiving one of the types of public assistance listed in (a)(ii) of this subsection and have received a certificate confirming eligibility from the office in accordance with RCW 28B.92.225;

(b)(i) Be enrolled or accepted for enrollment for at least three quarter credits or the equivalent semester credits at an institution of higher education in Washington as defined in RCW 28B.92.030; or

(ii) Be enrolled in a registered apprenticeship program approved under chapter 49.04 RCW;

(c) Be a resident student as defined in RCW 28B.15.012(2) (a) through (e);

(d) File an annual application for financial aid as approved by the office; and

(e) Must not have earned a baccalaureate degree or higher from a postsecondary institution.

(6) Washington college grant eligibility may not extend beyond ((~~five~~))six years or ((~~one hundred twenty-five~~))150 percent of the published length of the program in which the student is enrolled or the credit or clock-hour equivalent.

(7) Institutional aid administrators shall determine whether a student eligible for the Washington college grant in a given academic year may remain eligible for the ensuing year if the student's family income increases by no more than three percent.

(8) Qualifications for receipt and renewal include maintaining satisfactory academic progress toward completion of an eligible program as determined by the office and established in rule.

(9) Should a recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution of higher education according to the institution of higher education's policy for issuing refunds, except as provided in RCW 28B.92.070.

(10) An eligible student enrolled on a part-time basis shall receive a prorated portion of the Washington college grant for any academic period in which he or she is enrolled on a part-time basis.

(11) The Washington college grant is intended to be used to meet the costs of postsecondary education for students with financial need. The student shall be awarded all need-based financial aid for which the student qualifies as determined by the institution.

(12) Students and participating institutions of higher education shall comply with all the rules adopted by the council for the administration of this chapter.

Sec. 2. RCW 28B.118.010 and 2023 c 174 s 2 are each amended to read as follows:

The office of student financial assistance shall design the Washington college bound scholarship program in accordance with this section and in alignment with the Washington college grant program in chapter 28B.92 RCW unless otherwise provided in this section. The right of an eligible student to receive a college bound scholarship vest upon enrollment in the program that is earned by meeting the requirements of this section as it exists at the time of the student's enrollment under subsection (2) of this section.

(1) "Eligible students" are those students who:

(a) Qualify for free or reduced-price lunches.

(i) If a student qualifies in the seventh or eighth grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(ii) Beginning in the 2019-20 academic year, if a student qualifies for free or reduced-price lunches in the ninth grade and was previously ineligible during the seventh or eighth grade while he or she was a student in Washington, the student is eligible for the college bound scholarship program;

(b) Are dependent pursuant to chapter 13.34 RCW and:

(i) In grade seven through 12; or

(ii) Are between the ages of 18 and 21 and have not graduated from high school; or

(c) Were dependent pursuant to chapter 13.34 RCW and were adopted between the ages of 14 and 18 with a negotiated adoption agreement that includes continued eligibility for the Washington state college bound scholarship program pursuant to RCW 74.13A.025.

(2)(a) Every eligible student shall be automatically enrolled by the office of student financial assistance, with no action necessary by the student, student's family, or student's guardians.

(b) Eligible students and the students' parents or guardians shall be notified of the student's enrollment in the Washington college bound scholarship program and the requirements

for award of the scholarship by the office of student financial assistance. To the maximum extent practicable, an eligible student must acknowledge enrollment in the college bound scholarship program and receipt of the requirements for award of the scholarship.

(c) The office of the superintendent of public instruction and the department of children, youth, and families must provide the office of student financial assistance with a list of eligible students when requested. The office of student financial assistance must determine the most effective methods, including timing and frequency, to notify eligible students of enrollment in the Washington college bound scholarship program. The office of student financial assistance must take reasonable steps to ensure that eligible students acknowledge enrollment in the college bound scholarship program and receipt of the requirements for award of the scholarship. The office of student financial assistance shall also make available to every school district information, brochures, and posters to increase awareness and to enable school districts to notify eligible students directly or through school teachers, counselors, or school activities.

(3) Except as provided in subsection (4) of this section, an eligible student must:

(a)(i) Graduate from a public high school under RCW 28A.150.010, an approved private high school under chapter 28A.195 RCW in Washington, or have received home-based instruction under chapter 28A.200 RCW; and

(ii) For eligible students enrolling in a postsecondary educational institution for the first time beginning with the 2023-24 academic year, graduate with at least a "C" average for consideration of direct admission to a public or private four-year institution of higher education;

(b) Have no felony convictions;

(c) Be a resident student as defined in RCW 28B.15.012(2) (a) through (e); and

(d) Have a family income that does not exceed 65 percent of the state median family income at the time of high school graduation.

(4)(a) An eligible student who is a resident student under RCW 28B.15.012(2)(e) must also provide the institution, as defined in RCW 28B.15.012, 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.

(b) For eligible students as defined in subsection (1)(b) and (c) of this section, a student may also meet the requirement in subsection (3)(a) of this section by receiving a high school equivalency certificate as provided in RCW 28B.50.536.

(5)(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington or the representative average of awards granted to students in public research universities in Washington in the 2014-15 academic year, whichever is greater.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington or the representative average of awards granted to students in public community and technical colleges in Washington in the 2014-15 academic year, whichever is greater.

(6) Eligible students must enroll no later than the fall term, as defined by the institution of higher education, one academic year following high school graduation. ((~~Eligible students may receive no more than four full-time years' worth of scholarship awards within a five-year period~~))College bound scholarship eligibility may not extend beyond six years or 150 percent of the published length of the program in which the student is enrolled or the credit or clock-hour equivalent.

(7) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

(8) The first scholarships shall be awarded to students graduating in 2012.

(9) The eligible student has a property right in the award, but the state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(10) ((~~The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.~~

~~(11)~~)) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

Sec. 3. RCW 28B.118.005 and 2007 c 405 s 1 are each amended to read as follows:

The legislature intends to inspire and encourage all Washington students to dream big by creating a guaranteed ((~~four-year~~)) tuition scholarship program for students from low-income families who enroll within one year of high school graduation. The legislature finds that,

too often, financial barriers prevent many of the brightest students from considering college as a future possibility. Often the cost of tuition coupled with the complexity of finding and applying for financial aid is enough to prevent a student from even applying to college. Many students become disconnected from the education system early on and may give up or drop out before graduation. It is the intent of the legislature to alert students early in their educational career to the options and opportunities available beyond high school.

Sec. 4. RCW 28B.117.030 and 2019 c 470 s 23 are each amended to read as follows:

(1) The office shall design and, to the extent funds are appropriated for this purpose, implement, passport to careers with two programmatic pathways: The passport to college promise program and the passport to apprenticeship opportunities program. Both programs offer supplemental scholarship and student assistance for students who were under the care of the state foster care system, tribal foster care system, or federal foster care system, and verified unaccompanied youth or young adults who have experienced homelessness.

(2) The office shall convene and consult with an advisory committee to assist with program design and implementation. The committee shall include but not be limited to former foster care and unaccompanied homeless youth and their advocates; representatives from the state board for community and technical colleges, public and private agencies that assist current and former foster care recipients and unaccompanied youth or young adults experiencing homelessness in their transition to adulthood; student support specialists from public and private colleges and universities; the state workforce training and education coordinating board; the employment security department; and the state apprenticeship council.

(3) To the extent that sufficient funds have been appropriated for this purpose, a student is eligible for assistance under this section if he or she:

(a)(i) Was in the care of the state foster care system, tribal foster care system, or federal foster care system in Washington state at any time before age twenty-one subsequent to the following:

(A) Age fifteen as of July 1, 2018;

(B) Age fourteen as of July 1, 2019; and

(C) Age thirteen as of July 1, 2020; or

(ii) Beginning July 1, 2019, was verified on or after July 1st of the prior academic year as an unaccompanied youth experiencing homelessness, before age twenty-one;

(b) Is a resident student, as defined in RCW 28B.15.012(2), or if unable to establish residency because of homelessness or placement in out-of-state foster care under the interstate compact for the placement of children, has residency determined through verification by the office;

(c) Is enrolled with or will enroll on at least a half-time basis with an institution of higher education or a registered apprenticeship or recognized preapprenticeship in Washington state by the age of twenty-one;

(d) Is making satisfactory academic progress toward the completion of a degree, certificate program, or registered apprenticeship or recognized preapprenticeship, if receiving supplemental scholarship assistance;

(e) Has not earned a bachelor's or professional degree; and

(f) Is not pursuing a degree in theology.

(4) The office shall define a process for verifying unaccompanied homeless status for determining eligibility under subsection (3)(a)(ii) of this section. The office may use a letter from the following persons or entities to provide verification: A high school or school district McKinney-Vento liaison; the director or designated staff member of an emergency shelter, transitional housing program, or homeless youth drop-in center; or other similar professional case manager or school employee. Students who have no formal connection with such a professional may also submit to the office an essay that describes their experience with homelessness and the barriers it created to their academic progress. The office may consider this essay in lieu of a letter of homelessness determination and may interview the student if further information is needed to verify eligibility.

(5) A passport to college promise program is created.

(a) A passport to college promise scholarship under this section:

(i) Shall not exceed resident undergraduate tuition and fees at the highest-priced public institution of higher education in the state; and

(ii) Shall not exceed the student's financial need, when combined with all other public and private grant, scholarship, and waiver assistance the student receives.

(b) ((~~An eligible student may receive a passport~~))Passport to college promise scholarship ((~~under this section for a maximum of five years after the student first enrolls with an institution of higher education or until the student turns age twenty-six, whichever occurs first. If a student turns age twenty-six during an academic year, and would otherwise be eligible for a scholarship under this section, the student shall continue to be eligible for a scholarship for the remainder of the academic year~~))eligibility may not extend beyond six years or 150 percent of the published length of the program in which the student is enrolled or the credit or clock-hour equivalent.

(c) The office, in consultation with and with assistance from the state board for community and technical colleges, shall perform an annual analysis to verify that those institutions of higher education at which students have received a scholarship under this section have awarded the student all available need-based and merit-based grant and scholarship aid for which the student qualifies.

(d) In designing and implementing the passport to college promise student support program under this section, the office, in consultation with and with assistance from the state board

for community and technical colleges, shall ensure that a participating college or university:

(i) Has a viable plan for identifying students eligible for assistance under this section, for tracking and enhancing their academic progress, for addressing their unique needs for assistance during school vacations and academic interims, and for linking them to appropriate sources of assistance in their transition to adulthood;

(ii) Receives financial and other incentives for achieving measurable progress in the recruitment, retention, and graduation of eligible students.

(e) To the extent funds are appropriated for this specific purpose, the office shall contract with at least one nongovernmental entity to provide services to support effective program implementation, resulting in increased postsecondary completion rates for passport scholars.

(6) The passport to apprenticeship opportunities program is created. The office shall:

(a) Identify students and applicants who are eligible for services under RCW 28B.117.030 through coordination of certain agencies as detailed in RCW 28B.117.040;

(b) Provide financial assistance through the nongovernmental entity or entities in RCW 28B.117.055 for registered apprenticeship and recognized preapprenticeship entrance requirements and occupational-specific costs that does not exceed the individual's financial need; and

(c) Extend financial assistance to any eligible applicant for ((~~a maximum of~~)) six years ((~~after first enrolling with a registered apprenticeship or recognized preapprenticeship, or until the applicant turns twenty-six, whichever occurs first~~))or 150 percent of the published length of the program in which the student is enrolled or the credit or clock-hour equivalent.

(7) Recipients may utilize passport to college promise or passport to apprenticeship opportunities at different times, but not concurrently. The total award an individual may receive in any combination of the programs shall not exceed the equivalent amount that would have been awarded for the individual to attend a public university for ((~~five~~))six years with the highest annual tuition and state-mandated fees in the state.

(8) Personally identifiable information shared pursuant to this section retains its confidentiality and may not be further disclosed except as allowed under state and federal law.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, 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; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Corry, Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; Sandlin; and Stokesbary.

Referred to Committee on Rules for second reading

February 26, 2024

ESB 5906 Prime Sponsor, Senator Wilson, L.: Implementing a statewide drug overdose prevention and education campaign. 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 43.70 RCW to read as follows:

(1) The department shall develop, implement, and maintain a statewide drug overdose prevention and awareness campaign to address the drug overdose epidemic.

(2)(a) The campaign must educate the public about the dangers of methamphetamines and opioids, including fentanyl, and the harms caused by drug use. The campaign must include outreach to both youth and adults aimed at preventing substance use and overdose deaths.

(b) The department, in consultation with the health care authority, may also include messaging focused on substance use disorder and overdose death prevention, resources for addiction treatment and services, and information on immunity for people who seek medical assistance in a drug overdose situation pursuant to RCW 69.50.315.

(3) The 2024 and 2025 campaigns must focus on increasing the awareness of the dangers of fentanyl and other synthetic opioids, including the high possibility that other drugs are contaminated with synthetic opioids and that even trace amounts of synthetic opioids can be lethal.

(4) Beginning June 30, 2025, and each year thereafter, the department must submit a report to the appropriate committees of the legislature on the content and distribution of

the statewide drug overdose prevention and awareness campaign. The report must include a summary of the messages distributed during the campaign, the mediums through which the campaign was operated, and data on how many individuals received information through the campaign. The report must be submitted in compliance with RCW 43.01.036.

(5) This section expires July 1, 2029.

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, 2024, 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; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 5908 Prime Sponsor, Ways & Means: Providing extended foster care services to youth ages 18 to 21. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Human Services, Youth, & Early Learning. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Chambers, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Rude; Sandlin; Schmick; and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Corry, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Harris; and Stokesbary.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 5937 Prime Sponsor, Ways & Means: Supporting crime victims and witnesses by promoting victim-centered, trauma-informed responses. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5940 Prime Sponsor, Health & Long Term Care: Creating a medical assistant-EMT certification. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Bergquist, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Fitzgibbon; and Stonier.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5953 Prime Sponsor, Human Services: Concerning financial aid grants for incarcerated students. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Postsecondary Education & Workforce. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Couture, Assistant Ranking Minority Member; Rude; Sandlin; Schmick; and Stokesbary.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5972 Prime Sponsor, Agriculture, Water, Natural Resources & Parks: Concerning the use of neonicotinoid pesticides. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Agriculture & Natural Resources. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 5986 Prime Sponsor, Ways & Means: Protecting consumers from out-of-network health care services charges. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; and Rude.

Referred to Committee on Rules for second reading

February 26, 2024

2SSB 6006 Prime Sponsor, Ways & Means: Supporting victims of human trafficking and sexual abuse. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Community Safety, Justice, & Reentry. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6025 Prime Sponsor, Business, Financial Services, Gaming & Trade: Protecting consumers from predatory loans. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

ESSB 6031 Prime Sponsor, Ways & Means: Modifying the student transportation allocation to accommodate multiple vehicle types for transporting students. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.** A new section is added to chapter 28A.160 RCW to read as follows:

By January 1, 2026, the office of the superintendent of public instruction must perform a study of school district transportation costs and allocations in the 2024-25 school year. The purpose of the study is to recommend revisions to pupil transportation formulas beginning in the 2026-27 school year to make allocations more predictable, transparent, and comprehensive. The superintendent must report any findings and recommendations to the education and fiscal committees of the house of representatives and senate and submit agency request legislation as necessary to implement a new formula. The study must compare 2024-25

school year allocations provided by distribution formulas under RCW 28A.160.150 through 28A.160.180 and 28A.160.192 to alternative allocation formulas.

(1) The alternative allocation formulas studied must include, at a minimum, the following:

(a) A cost and methodology for reimbursing special transportation for students receiving special education services, students experiencing homelessness, and students in foster care. For any expenditures in 2024-25 that would be reimbursed under an alternative formula, the superintendent must report the expenditures by program, object, and activity as defined under accounting rules for the 2024-25 school year.

(b) An approach to accommodate multiple vehicle types that are used for pupil transportation.

(c) A rate per rider for transportation costs above proposed reimbursements in subsection (1)(a).

(d) A rate per mile for transportation costs above proposed reimbursements in subsection (1)(a).

(e) A minimum allocation formula.

(f) An inflation factor.

(2) The superintendent must use actual data from the 2024-25 school year to calculate alternative allocations in the study. To collect the data necessary, the superintendent must require school districts to report the following for the 2024-25 school year in addition to information reported under RCW 28A.160.170.

(a) Passengers eligible for and receiving special education that require transportation as a related service of their individualized education program.

(b) Passengers that are homeless students requiring transportation under the federal McKinney-Vento homeless assistance act, Title 42 U.S.C. Sec. 11431 et seq..

(c) Passengers that are foster students receiving transportation as required under the federal every student succeeds act, Title 20 U.S.C. Sec. 6312(c)(5)(b).

(d) The number of miles driven per vehicle type.

(e) Other data deemed necessary by the superintendent to develop alternative allocations.

(3) The office of the superintendent of public instruction may establish rules as necessary to implement this section.

(4) This section expires September 1, 2027."

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Rude; Ryu; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Harris; and Sandlin.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 6058 Prime Sponsor, Ways & Means: Facilitating linkage of Washington's carbon market with the California-Quebec carbon market. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70A.65.010 and 2022 c 181 s 10 are each amended to read as follows:

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

(1) "Allowance" means an authorization to emit up to one metric ton of carbon dioxide equivalent.

(2) "Allowance price containment reserve" means an account maintained by the department with allowances available for sale through separate reserve auctions at predefined prices to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.

(3) "Annual allowance budget" means the total number of greenhouse gas allowances allocated for auction and distribution for one calendar year by the department.

(4) "Asset controlling supplier" means any entity that owns or operates interconnected electricity generating facilities or serves as an exclusive marketer for these facilities even though it does not own them, and has been designated by the department and received a department-published emissions factor for the wholesale electricity procured from its system. The department shall use a methodology consistent with the methodology used by an external greenhouse gas emissions trading program that shares the regional electricity transmission system. Electricity from an asset controlling supplier is considered a specified source of electricity.

(5) "Auction" means the process of selling greenhouse gas allowances by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.

(6) "Auction floor price" means a price for allowances below which bids at auction are not eligible to be accepted.

(7) "Auction purchase limit" means the limit on the number of allowances one registered entity or a group of affiliated registered entities may purchase from the share of allowances sold at an auction.

(8) "Balancing authority" means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time.

(9) "Balancing authority area" means the collection of generation, transmission, and load within the metered boundaries of a balancing authority. A balancing authority maintains load-resource balance within this area.

(10) "Best available technology" means a technology or technologies that will achieve the greatest reduction in greenhouse gas emissions, taking into account the fuels, processes, and equipment used by facilities to produce goods of comparable type, quantity, and quality. Best available technology must be technically feasible, commercially available, economically viable, not create excessive environmental impacts, and be compliant with all applicable laws while not changing the characteristics of the good being manufactured.

(11) "Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, and microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of municipal wastewater and industrial waste, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

(12) "Biomass-derived fuels," "biomass fuels," or "biofuels" means ((~~fuels derived from biomass that have at least 40 percent lower greenhouse gas emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute~~))whichever of the following fuels derived from biomass has lower associated life-cycle greenhouse gas emissions: (a) Fuels that have at least 30 percent lower greenhouse gas emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute; or (b) fuels that meet a standard adopted by the department by rule that align with the definition of biofuel, or other standards applicable to biofuel, established by a jurisdiction with which the department has entered into a linkage agreement.

(13) "Carbon dioxide equivalents" means a measure used to compare the emissions from various greenhouse gases based on their global warming potential.

(14) "Carbon dioxide removal" means deliberate human activities removing carbon dioxide from the atmosphere and durably storing it in geological, terrestrial, or ocean reservoirs, or in products. "Carbon dioxide removal" includes existing and potential anthropogenic enhancement of biological or geochemical sinks and including, but not limited to, carbon mineralization and direct air capture and storage.

(15) "Climate commitment" means the process and mechanisms to ensure a coordinated and strategic approach to advancing climate resilience and environmental justice and achieving an equitable and inclusive transition to a carbon neutral economy.

(16) "Climate resilience" is the ongoing process of anticipating, preparing for, and adapting to changes in climate and minimizing negative impacts to our natural systems, infrastructure, and communities. For natural systems, increasing climate resilience involves restoring and increasing the health, function, and integrity of our ecosystems and improving their ability to absorb and recover from climate-affected disturbances. For communities, increasing climate resilience means enhancing their ability to understand, prevent, adapt, and recover from climate impacts to people and infrastructure.

(17) "Closed facility" means a facility at which the current owner or operator has elected to permanently stop production and will no longer be an emissions source.

(18) "Compliance instrument" means an allowance or offset credit issued by the department or by an external greenhouse gas emissions trading program to which Washington has linked its greenhouse gas emissions cap and invest program. One compliance instrument is equal to one metric ton of carbon dioxide equivalent.

(19) "Compliance obligation" means the requirement to submit to the department the number of compliance instruments equivalent to a covered or opt-in entity's covered emissions during the compliance period.

(20) "Compliance period" means the four-year period, except as provided in RCW 70A.65.070(1)(a)(ii), for which the compliance obligation is calculated for covered entities.

(21) "Cost burden" means the impact on rates or charges to customers of electric utilities in Washington state for the incremental cost of electricity service to serve load due to the compliance cost for greenhouse gas emissions caused by the program. Cost burden includes administrative costs from the utility's participation in the program.

(22) "Covered emissions" means the emissions for which a covered entity has a compliance obligation under RCW 70A.65.080.

(23) "Covered entity" means a person that is designated by the department as subject to RCW 70A.65.060 through 70A.65.210.

(24) "Cumulative environmental health impact" has the same meaning as provided in RCW 70A.02.010.

(25) "Curtailed facility" means a facility at which the owner or operator has temporarily suspended production but for which the owner or operator maintains operating permits and retains the option to resume production if conditions become amenable.

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

(27) "Electricity importer" means:

(a) For electricity that is scheduled with a NERC e-tag to a final point of delivery into a balancing authority area located entirely within the state of Washington, the electricity

importer is identified on the NERC e-tag as the purchasing-selling entity on the last segment of the tag's physical path with the point of receipt located outside the state of Washington and the point of delivery located inside the state of Washington;

(b) For facilities physically located outside the state of Washington with the first point of interconnection to a balancing authority area located entirely within the state of Washington when the electricity is not scheduled on a NERC e-tag, the electricity importer is the facility operator or owner;

(c) For electricity imported through a centralized market, the electricity importer will be defined by rule consistent with the rules required under RCW 70A.65.080(1)(c);

(d) For electricity provided as balancing energy in the state of Washington, including balancing energy that is also inside a balancing authority area that is not located entirely within the state of Washington, the electricity importer may be defined by the department by rule;

(e) For electricity from facilities allocated to serve retail electricity customers of a multijurisdictional electric company, the electricity importer is the multijurisdictional electric company;

((~~(c)~~))(f) If the importer identified under (a) of this subsection is a federal power marketing administration over which the state of Washington does not have jurisdiction, and the federal power marketing administration has not voluntarily elected to comply with the program, then the electricity importer is the next purchasing-selling entity in the physical path on the NERC e-tag, or if no additional purchasing-selling entity over which the state of Washington has jurisdiction, then the electricity importer is the electric utility that operates the Washington transmission or distribution system, or the generation balancing authority;

((~~(f)~~))(g) For electricity that is imported into the state by a federal power marketing administration and sold to a public body or cooperative customer or direct service industrial customer located in Washington pursuant to section 5(b) or (d) of the Pacific Northwest electric power planning and conservation act of 1980, P.L. 96-501, the electricity importer is the federal marketing administration;

((~~(g)~~))(h) If the importer identified under ((~~(f)~~))(g) of this subsection has not voluntarily elected to comply with the program, then the electricity importer is the public body or cooperative customer or direct service industrial customer; ((~~or~~

~~(h)~~))(i) For electricity from facilities allocated to a consumer-owned utility inside the state of Washington from a multijurisdictional consumer-owned utility, the electricity importer is the consumer-owned utility inside the state of Washington; or

(j) For imported electricity not otherwise assigned an electricity importer by this subsection, the electricity importer may be defined by the department by rule.

(28) "Emissions containment reserve allowance" means a conditional allowance that is withheld from sale at an auction by the department or its agent to secure additional emissions reductions in the event prices fall below the emissions containment reserve trigger price.

(29) "Emissions containment reserve trigger price" means the price below which allowances will be withheld from sale by the department or its agent at an auction, as determined by the department by rule.

(30) "Emissions threshold" means the greenhouse gas emission level at or above which a person has a compliance obligation.

(31) "Environmental benefits" has the same meaning as defined in RCW 70A.02.010.

(32) "Environmental harm" has the same meaning as defined in RCW 70A.02.010.

(33) "Environmental impacts" has the same meaning as defined in RCW 70A.02.010.

(34) "Environmental justice" has the same meaning as defined in RCW 70A.02.010.

(35) "Environmental justice assessment" has the same meaning as identified in RCW 70A.02.060.

(36) "External greenhouse gas emissions trading program" means a government program, other than Washington's program created in this chapter, that restricts greenhouse gas emissions from sources outside of Washington and that allows emissions trading.

(37) "Facility" means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas.

(38) "First jurisdictional deliverer" means the owner or operator of an electric generating facility in Washington or an electricity importer.

(39) "General market participant" means a registered entity that is not identified as a covered entity or an opt-in entity that is registered in the program registry and intends to purchase, hold, sell, or voluntarily retire compliance instruments.

(40) "Greenhouse gas" has the same meaning as in RCW 70A.45.010.

(41) "Holding limit" means the maximum number of allowances that may be held for use or trade by a registered entity at any one time.

(42) "Imported electricity" means electricity generated outside the state of Washington with a final point of delivery within the state.

(a) "Imported electricity" includes electricity from an organized market, such as the energy imbalance market.

(b) "Imported electricity" includes imports from linked jurisdictions, but such imports shall be construed as having no emissions.

(c) Electricity from a system that is marketed by a federal power marketing administration shall be construed as "imported electricity," not electricity generated in the state of Washington.

(d) "Imported electricity" does not include any electricity ((~~imports of unspecified electricity that are netted by exports of unspecified electricity to any jurisdiction not covered by a linked program by the same entity within the same hour~~))that the department determines by rule to be: (i) Wheeled through the state; or (ii) separately accounted for in this chapter.

(e) For a multijurisdictional electric company, "imported electricity" means electricity, other than from in-state facilities, that contributes to a common system power pool. Where a multijurisdictional electric company has a cost allocation methodology approved by the utilities and transportation commission, the allocation of specific facilities to Washington's retail load will be in accordance with that methodology.

(f) For a multijurisdictional consumer-owned utility, "imported electricity" includes electricity from facilities that contribute to a common system power pool that are allocated to a consumer-owned utility inside the state of Washington pursuant to a methodology approved by the governing board of the consumer-owned utility.

(43) "Leakage" means a reduction in emissions of greenhouse gases within the state that is offset by a directly attributable increase in greenhouse gas emissions outside the state and outside the geography of another jurisdiction with a linkage agreement with Washington.

(44) "Limits" means the greenhouse gas emissions reductions required by RCW 70A.45.020.

(45) "Linkage" means a bilateral or multilateral decision under a linkage agreement between greenhouse gas market programs to accept compliance instruments issued by a participating jurisdiction to meet the obligations of regulated entities in a partner jurisdiction and to otherwise coordinate activities to facilitate operation of a joint market.

(46) "Linkage agreement" means a nonbinding agreement that connects two or more greenhouse gas market programs and articulates a mutual understanding of how the participating jurisdictions will work together to facilitate a connected greenhouse gas market.

(47) "Linked jurisdiction" means a jurisdiction with which Washington has entered into a linkage agreement.

(48) "Multijurisdictional consumer-owned utility" means a consumer-owned utility that provides electricity to member owners in Washington and in one or more other states in a contiguous service territory or from a common power system.

(49) "Multijurisdictional electric company" means an investor-owned utility that provides electricity to customers in Washington and in one or more other states in a contiguous service territory or from a common power system.

(50) "NERC e-tag" means North American electric reliability corporation (NERC) energy tag representing transactions on the North American bulk electricity market scheduled to flow between or across balancing authority areas.

(51) "Offset credit" means a tradable compliance instrument that represents an emissions reduction or emissions removal of one metric ton of carbon dioxide equivalent.

(52) "Offset project" means a project that reduces or removes greenhouse gases that are not covered emissions under this chapter.

(53) "Offset protocols" means a set of procedures and standards to quantify greenhouse gas reductions or greenhouse gas removals achieved by an offset project.

(54) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts or risks due to exposure to environmental pollutants or contaminants through multiple pathways, which may result in significant disparate adverse health outcomes or effects.

(a) "Overburdened community" includes, but is not limited to:

(i) Highly impacted communities as defined in RCW 19.405.020;

(ii) Communities located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151; and

(iii) Populations, including Native Americans or immigrant populations, who may be exposed to environmental contaminants and pollutants outside of the geographic area in which they reside based on the populations' use of traditional or cultural foods and practices, such as the use of resources, access to which is protected under treaty rights in ceded areas, when those exposures in conjunction with other exposures may result in disproportionately greater risks, including risks of certain cancers or other adverse health effects and outcomes.

(b) Overburdened communities identified by the department may include the same communities as those identified by the department through its process for identifying overburdened communities under RCW 70A.02.010.

(55) "Person" has the same meaning as defined in RCW 70A.15.2200(5)((~~(h)~~))(g)(iii).

(56) "Point of delivery" means a point on the electricity transmission or distribution system where a deliverer makes electricity available to a receiver, or available to serve load. This point may be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into the state over a multijurisdictional retail provider's distribution system.

(57) "Price ceiling unit" means the units issued at a fixed price by the department for the purpose of limiting price increases and funding further investments in greenhouse gas reductions.

(58) "Program" means the greenhouse gas emissions cap and invest program created by and implemented pursuant to this chapter.

(59) "Program registry" means the data system in which covered entities, opt-in entities, and general market participants are registered and in which compliance instruments are recorded and tracked.

(60) "Registered entity" means a covered entity, opt-in entity, or general market participant that has completed the process for registration in the program registry.

(61) "Resilience" means the ability to prepare, mitigate and plan for, withstand, recover from, and more successfully adapt to adverse events and changing conditions, and reorganize in an equitable manner that results in a new and better condition.

(62) "Retire" means to permanently remove a compliance instrument such that the compliance instrument may never be sold, traded, or otherwise used again.

(63) "Specified source of electricity" or "specified source" means a facility, unit, or asset controlling supplier that is permitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership in the facility or a written power contract to procure electricity generated by that facility or unit or from an asset controlling supplier at the time of entry into the transaction to procure electricity.

(64) "Supplier" means a supplier of fuel in Washington state as defined in RCW 70A.15.2200(5)((~~(h)~~))(g)(ii).

(65) "Tribal lands" has the same meaning as defined in RCW 70A.02.010.

(66) "Unspecified source of electricity" or "unspecified source" means a source of electricity that is not a specified source at the time of entry into the transaction to procure electricity.

(67) "Voluntary renewable reserve account" means a holding account maintained by the department from which allowances may be retired for voluntary renewable electricity generation, which is directly delivered to the state and has not and will not be sold or used to meet any other mandatory requirements in the state or any other jurisdiction, on behalf of voluntary renewable energy purchasers or end users.

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

(69) "Electricity wheeled through the state" means electricity that is generated outside the state of Washington and delivered into Washington with the final point of delivery outside Washington including, but not limited to, electricity wheeled through the state on a single NERC e-tag, or wheeled into and out of Washington at a common point or trading hub on the power system on separate e-tags within the same hour.

Sec. 2. RCW 70A.65.060 and 2021 c 316 s 8 are each amended to read as follows:

(1) In order to ensure that greenhouse gas emissions are reduced by covered entities consistent with the limits established in RCW 70A.45.020, the department must implement a cap on greenhouse gas emissions from covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments.

(2) The program must consist of:

(a) Annual allowance budgets that limit emissions from covered entities, as provided in this section and RCW 70A.65.070 and 70A.65.080;

(b) Defining those entities covered by the program, and those entities that may voluntarily opt into coverage under the program, as provided in this section and RCW 70A.65.070 and 70A.65.080;

(c) Distribution of emission allowances, as provided in RCW 70A.65.100, and through the allowance price containment provisions under RCW 70A.65.140 and 70A.65.150;

(d) Providing for offset credits as a method for meeting a compliance obligation, pursuant to RCW 70A.65.170;

(e) Defining the compliance obligations of covered entities, as provided in chapter 316, Laws of 2021;

(f) Establishing the authority of the department to enforce the program requirements, as provided in RCW 70A.65.200;

(g) Creating a climate investment account for the deposit of receipts from the distribution of emission allowances, as provided in RCW 70A.65.250;

(h) Providing for the transfer of allowances and recognition of compliance instruments, including those issued by jurisdictions with which Washington has linkage agreements;

(i) Providing monitoring and oversight of the sale and transfer of allowances by the department;

(j) Creating a price ceiling and associated mechanisms as provided in RCW 70A.65.160; and

(k) Providing for the allocation of allowances to emissions-intensive, trade-exposed industries pursuant to RCW 70A.65.110.

(3) The department shall consider opportunities to implement the program in a manner that allows linking the state's program with those of other jurisdictions. The department must evaluate whether such linkage will provide for a more cost-effective means for covered entities to meet their compliance obligations in Washington while recognizing the special characteristics of the state's economy, communities, and industries. The department is authorized to enter into a linkage agreement with another jurisdiction after conducting an environmental justice assessment and after formal notice and opportunity for a public hearing, and when consistent with the requirements of RCW 70A.65.210. The department is authorized to withdraw from a linkage agreement and every linkage agreement must provide that the department reserves the right to withdraw from the agreement.

(4) During the 2022 regular legislative session, the department must bring forth agency request legislation developed in consultation with emissions-intensive, trade-exposed businesses, covered entities, environmental advocates, and overburdened communities that

outlines a compliance pathway specific to emissions-intensive, trade-exposed businesses for achieving their proportionate share of the state's emissions reduction limits through 2050.

(5) By December 1, 2027, and ((~~at least every four years thereafter~~))by December 1st of each year that is one year after the end of a compliance period, and in compliance with RCW 43.01.036, the department must submit a report to the legislature that includes a comprehensive review of the implementation of the program to date, including but not limited to outcomes relative to the state's emissions reduction limits, overburdened communities, covered entities, and emissions-intensive, trade-exposed businesses. The department must transmit the report to the environmental justice council at the same time it is submitted to the legislature.

(6) The department must bring forth agency request legislation if the department finds that any provision of this chapter prevents linking Washington's cap and invest program with that of any other jurisdiction.

Sec. 3. RCW 70A.65.070 and 2022 c 181 s 1 are each amended to read as follows:

(1)(a)(i) The department shall commence the program by January 1, 2023, by determining an emissions baseline establishing the proportionate share that the total greenhouse gas emissions of covered entities for the first compliance period bears to the total anthropogenic greenhouse gas emissions in the state during 2015 through 2019, based on data reported to the department under RCW 70A.15.2200 or provided as required by this chapter, as well as other relevant data. By October 1, 2022, the department shall adopt annual allowance budgets for the first compliance period of the program, calendar years 2023 through 2026, to be distributed from January 1, 2023, through December 31, 2026.

(ii) If the department enters into a linkage agreement, and the linked jurisdictions do not amend their rules to synchronize with Washington's compliance periods, the department must amend its rules to synchronize Washington's compliance periods with those of the linked jurisdiction or jurisdictions. The department may not by rule amend the length of the first compliance period to end on a date other than December 31, 2026.

(b) By October 1, 2026, the department shall add to its emissions baseline by incorporating the proportionate share that the total greenhouse gas emissions of new covered entities in the second compliance period bear to the total anthropogenic greenhouse gas emissions in the state during 2015 through 2019. In determining the addition to the baseline, the department may exclude a year from the determination if the department identifies that year to have been an outlier due to a state of emergency. The department shall adopt annual allowance budgets for the second compliance period of the program((~~, calendar years 2027 through 2030,~~)) that will be distributed ((~~from January 1, 2027, through December 31, 2030~~))during the second compliance period.

(c) By October 1, 2028, the department shall adopt by rule the annual allowance budgets for ((~~calendar years 2031~~))the end of the second compliance period through 2040.

(2) The annual allowance budgets must be set to achieve the share of reductions by covered entities necessary to achieve the 2030, 2040, and 2050 statewide emissions limits established in RCW 70A.45.020, based on data reported to the department under chapter 70A.15 RCW or provided as required by this chapter. Annual allowance budgets must be set such that the use of offsets as compliance instruments, consistent with RCW 70A.65.170, does not prevent the achievement of the emissions limits established in RCW 70A.45.020. In so setting annual allowance budgets, the department must reduce the annual allowance budget relative to the limits in an amount equivalent to offset use, or in accordance with a similar methodology adopted by the department. The department must adopt annual allowance budgets for the program on a calendar year basis that provide for progressively equivalent reductions year over year. An allowance distributed under the program, either directly by the department under RCW 70A.65.110 through 70A.65.130 or through auctions under RCW 70A.65.100, does not expire and may be held or banked consistent with RCW 70A.65.100(6) and 70A.65.150(1).

(3) The department must complete evaluations by December 31, 2027, and ((~~by~~)) December ((~~31, 2035~~))31st of the year following the conclusion of the third compliance period, of the performance of the program, including its performance in reducing greenhouse gases. If the evaluation shows that adjustments to the annual allowance budgets are necessary for covered entities to achieve their proportionate share of the 2030 and 2040 emission reduction limits identified in RCW 70A.45.020, as applicable, the department shall adjust the annual allowance budgets accordingly. The department must complete additional evaluations of the performance of the program by December ((~~31, 2040, and by December 31, 2045~~))31st of the year following the conclusion of the fifth and sixth compliance periods, and make any necessary adjustments in the annual allowance budgets to ensure that covered entities achieve their proportionate share of the 2050 emission reduction limit identified in RCW 70A.45.020. Nothing in this subsection precludes the department from making additional adjustments to annual allowance budgets as necessary to ensure successful achievement of the proportionate emission reduction limits by covered entities. The department shall determine and make public the circumstances, metrics, and processes that would initiate the public consideration of additional allowance budget adjustments to ensure successful achievement of the proportionate emission reduction limits.

(4) Data reported to the department under RCW 70A.15.2200 or provided as required by this chapter for 2015 through 2019 is deemed sufficient for the purpose of adopting annual allowance budgets and serving as the baseline by which covered entities demonstrate compliance under the first compliance period of the program. Data reported to the department under RCW 70A.15.2200 or provided as required by this chapter for 2023 through 2025 is deemed

sufficient for adopting annual allowance budgets and serving as the baseline by which covered entities demonstrate compliance under the second compliance period of the program.

(5) The legislature intends to promote a growing and sustainable economy and to avoid leakage of emissions from manufacturing to other jurisdictions. Therefore, the legislature finds that implementation of this section is contingent upon the enactment of RCW 70A.65.110.

Sec. 4. RCW 70A.65.080 and 2022 c 179 s 14 are each amended to read as follows:

(1) A person is a covered entity as of the beginning of the first compliance period and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 for any calendar year from 2015 through 2019, or if additional data provided as required by this chapter indicates that emissions for any calendar year from 2015 through 2019 equaled or exceeded any of the following thresholds, or if the person is a first jurisdictional deliverer and imports electricity into the state during the compliance period:

(a) Where the person owns or operates a facility and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent;

(b) Where the person is a first jurisdictional deliverer and generates electricity in the state and emissions associated with this generation equals or exceeds 25,000 metric tons of carbon dioxide equivalent;

(c)(i) Where the person is a first jurisdictional deliverer importing electricity into the state and:

(A) For specified sources, the cumulative annual total of emissions associated with the imported electricity((~~, whether from specified or unspecified sources,~~)) exceeds 25,000 metric tons of carbon dioxide equivalent;

(B) For unspecified sources, the cumulative annual total of emissions associated with the imported electricity exceeds 0 metric tons of carbon dioxide equivalent; or

(C) For electricity purchased from a federal power marketing administration pursuant to section 5(b) of the Pacific Northwest electric power planning and conservation act of 1980, P.L. 96-501, if the department determines such electricity is not from a specified source, the cumulative annual total of emissions associated with the imported electricity exceeds 25,000 metric tons of carbon dioxide equivalent.

(ii) In consultation with any linked jurisdiction to the program created by this chapter, by October 1, 2026, the department, in consultation with the department of commerce and the utilities and transportation commission, shall adopt by rule a methodology for addressing imported electricity associated with a centralized electricity market;

(d) Where the person is a supplier of fossil fuel other than natural gas and from that fuel 25,000 metric tons or more of carbon dioxide equivalent emissions would result from the full combustion or oxidation, excluding the amounts for fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington; and

(e)(i) Where the person supplies natural gas in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts for fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington, and excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) delivered to opt-in entities;

(ii) Where the person who is not a natural gas company and has a tariff with a natural gas company to deliver to an end-use customer in the state in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) the amounts delivered to opt-in entities;

(iii) Where the person is an end-use customer in the state who directly purchases natural gas from a person that is not a natural gas company and has the natural gas delivered through an interstate pipeline to a distribution system owned by the purchaser in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) delivered to opt-in entities.

(2) A person is a covered entity as of the beginning of the second compliance period and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for any calendar year from 2023 through 2025, where the person owns or operates a waste to energy facility utilized by a county and city solid waste management program and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(3) A person is a covered entity ((~~beginning January 1, 2031~~))as of the beginning of the third compliance period, and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for ((~~any calendar year from~~)) 2027 ((~~through 2029~~))or 2028, where the person owns or operates a railroad company, as that term is defined in RCW 81.04.010, and the railroad company's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(4) When a covered entity reports, during a compliance period, emissions from a facility under RCW 70A.15.2200 that are below the thresholds specified in subsection (1) or (2) of this section, the covered entity continues to have a compliance obligation through the current compliance period. When a covered entity reports emissions below the threshold for each year during an entire compliance period, or has ceased all processes at the facility requiring reporting under RCW 70A.15.2200, the entity is no longer a covered entity as of the beginning of the subsequent compliance period unless the department provides notice at least

12 months before the end of the compliance period that the facility's emissions were within 10 percent of the threshold and that the person will continue to be designated as a covered entity in order to ensure equity among all covered entities. Whenever a covered entity ceases to be a covered entity, the department shall notify the appropriate policy and fiscal committees of the legislature of the name of the entity and the reason the entity is no longer a covered entity.

(5) For types of emission sources described in subsection (1) of this section that begin or modify operation after January 1, 2023, and types of emission sources described in subsection (2) of this section that begin or modify operation after 2027, coverage under the program starts in the calendar year in which emissions from the source exceed the applicable thresholds in subsection (1) or (2) of this section, or upon formal notice from the department that the source is expected to exceed the applicable emissions threshold, whichever happens first. Sources meeting these conditions are required to transfer their first allowances on the first transfer deadline of the year following the year in which their emissions were equal to or exceeded the emissions threshold.

(6) For emission sources described in subsection (1) of this section that are in operation or otherwise active between 2015 and 2019 but were not required to report emissions for those years under RCW 70A.15.2200 for the reporting periods between 2015 and 2019, coverage under the program starts in the calendar year following the year in which emissions from the source exceed the applicable thresholds in subsection (1) of this section as reported pursuant to RCW 70A.15.2200 or provided as required by this chapter, or upon formal notice from the department that the source is expected to exceed the applicable emissions threshold for the first year that source is required to report emissions, whichever happens first. Sources meeting these criteria are required to transfer their first allowances on the first transfer deadline of the year following the year in which their emissions, as reported under RCW 70A.15.2200 or provided as required by this chapter, were equal to or exceeded the emissions threshold.

(7) The following emissions are exempt from coverage in the program, regardless of the emissions reported under RCW 70A.15.2200 or provided as required by this chapter:

(a) Emissions from the combustion of aviation fuels;

(b) Emissions from watercraft fuels supplied in Washington that are combusted outside of Washington;

(c) Emissions from a coal-fired electric generation facility exempted from additional greenhouse gas limitations, requirements, or performance standards under RCW 80.80.110;

(d) Carbon dioxide emissions from the combustion of biomass or biofuels;

(e)(i) Motor vehicle fuel or special fuel that is used exclusively for agricultural purposes by a farm fuel user. This exemption is available only if a buyer of motor vehicle fuel or special fuel provides the seller with an exemption certificate in a form and manner prescribed by the department. For the purposes of this subsection, "agricultural purposes" and "farm fuel user" have the same meanings as provided in RCW 82.08.865.

(ii) The department must determine a method for expanding the exemption provided under (e)(i) of this subsection to include fuels used for the purpose of transporting agricultural products on public highways. The department must maintain this expanded exemption for a period of five years, in order to provide the agricultural sector with a feasible transition period;

(f) Emissions from facilities with North American industry classification system code 92811 (national security); and

(g) Emissions from municipal solid waste landfills that are subject to, and in compliance with, chapter 70A.540 RCW.

(8) The department shall not require multiple covered entities to have a compliance obligation for the same emissions. The department may by rule authorize refineries, fuel suppliers, facilities using natural gas, and natural gas utilities to provide by agreement for the assumption of the compliance obligation for fuel or natural gas supplied and combusted in the state. The department must be notified of such an agreement at least 12 months prior to the compliance obligation period for which the agreement is applicable.

(9)(a) The legislature intends to promote a growing and sustainable economy and to avoid leakage of emissions from manufacturing to other locations. The legislature further intends to see innovative new businesses locate and grow in Washington that contribute to Washington's prosperity and environmental objectives.

(b) Consistent with the intent of the legislature to avoid the leakage of emissions to other jurisdictions, in achieving the state's greenhouse gas limits in RCW 70A.45.020, the state, including lead agencies under chapter 43.21C RCW, shall pursue the limits in a manner that recognizes that the siting and placement of new or expanded best-in-class facilities with lower carbon emitting processes is in the economic and environmental interests of the state of Washington.

(c) In conducting a life-cycle analysis, if required, for new or expanded facilities that require review under chapter 43.21C RCW, a lead agency must evaluate and attribute any potential net cumulative greenhouse gas emissions resulting from the project as compared to other existing facilities or best available technology including best-in-class facilities and emerging lower carbon processes that supply the same product or end use. The department may adopt rules to determine the appropriate threshold for applying this analysis.

(d) Covered emissions from an entity that is or will be a covered entity under this chapter may not be the basis for denial of a permit for a new or expanded facility. Covered emissions must be included in the analysis undertaken pursuant to (c) of this subsection. Nothing in this subsection requires a lead agency or a permitting agency to approve or issue a permit to a permit applicant, including to a new or expanded fossil fuel project.

(e) A lead agency under chapter 43.21C RCW or a permitting agency shall allow a new or expanded facility that is a covered entity or opt-in entity to satisfy a mitigation requirement for its covered emissions under this chapter ((~~316, Laws of 2021~~)) and under any greenhouse gas emission mitigation requirements for covered emissions under chapter 43.21C RCW by submitting to the department the number of compliance instruments equivalent to its covered emissions during a compliance period.

Sec. 5. RCW 70A.65.100 and 2023 c 475 s 937 are each amended to read as follows:

(1) Except as provided in RCW 70A.65.110, 70A.65.120, and 70A.65.130, the department shall distribute allowances through auctions as provided in this section and in rules adopted by the department to implement these sections. An allowance is not a property right.

(2)(a) The department shall hold a maximum of four auctions annually, plus any necessary reserve auctions. An auction may include allowances from the annual allowance budget of the current year and allowances from the annual allowance budgets from prior years that remain to be distributed. The department must transmit to the environmental justice council an auction notice at least 60 days prior to each auction, as well as a summary results report and a postauction public proceeds report within 60 days after each auction. The department must communicate the results of the previous calendar year's auctions to the environmental justice council on an annual basis beginning in 2024.

(b) The department must make future vintage allowances available through parallel auctions at least twice annually in addition to the auctions through which current vintage allowances are exclusively offered under (a) of this subsection.

(3) The department shall engage a qualified, independent contractor to run the auctions. The department shall also engage a qualified financial services administrator to hold the bid guarantees, evaluate bid guarantees, and inform the department of the value of bid guarantees once the bids are accepted.

(4) Auctions are open to covered entities, opt-in entities, and general market participants that are registered entities in good standing. The department shall adopt by rule the requirements for a registered entity to register and participate in a given auction.

(a) Registered entities intending to participate in an auction must submit an application to participate at least 30 days prior to the auction. The application must include the documentation required for review and approval by the department. A registered entity is eligible to participate only after receiving a notice of approval by the department.

(b) Each registered entity that elects to participate in the auction must have a different representative. Only a representative with an approved auction account is authorized to access the auction platform to submit an application or confirm the intent to bid for the registered entity, submit bids on behalf of the registered entity during the bidding window, or to download reports specific to the auction.

(5) The department may require a bid guarantee, payable to the financial services administrator, in an amount greater than or equal to the sum of the maximum value of the bids to be submitted by the registered entity.

(6) To protect the integrity of the auctions, a registered entity or group of registered entities with a direct corporate association are subject to auction purchase and holding limits. The department may impose additional limits if it deems necessary to protect the integrity and functioning of the auctions:

(a) A covered entity or an opt-in entity may not buy more than ((~~10~~))25 percent of the allowances offered during a single auction;

(b) A general market participant may not buy more than four percent of the allowances offered during a single auction ((~~and~~));

(c) Until Washington links with a jurisdiction that does not have this requirement, a general market participant may not in aggregate own more than 10 percent of total allowances to be issued in a calendar year;

((~~(c)~~))(d) No registered entity may buy more than the entity's bid guarantee; and

((~~(d)~~))(e) No registered entity may buy allowances that would exceed the entity's holding limit at the time of the auction.

(7)(a) For fiscal year 2023, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) $127,341,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(b) For fiscal year 2024, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) $356,697,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240, except during fiscal year 2024, the deposit as provided in this subsection (7)(b)(i) may be prorated equally across each of the auctions occurring in fiscal year 2024; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280, which may be prorated equally across each of the auctions occurring in fiscal year 2024.

(c) For fiscal year 2025, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) $366,558,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240, except that during fiscal year 2025, the deposit as provided in this subsection (7)(c)(i) may be prorated

equally across each of the auctions occurring in fiscal year 2025; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280, which may be prorated equally across each of the auctions occurring in fiscal year 2025.

(d) For fiscal years 2026 through 2037, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) $359,117,000 per year must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(e) The deposits into the carbon emissions reduction account pursuant to (a) through (d) of this subsection must not exceed $5,200,000,000 over the first 16 fiscal years and any remaining auction proceeds must be deposited into the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(f) For fiscal year 2038 and each year thereafter, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) 50 percent of the auction proceeds to the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(8) The department shall adopt by rule provisions to guard against bidder collusion and minimize the potential for market manipulation. A registered entity may not release or disclose any bidding information including: Intent to participate or refrain from participation; auction approval status; intent to bid; bidding strategy; bid price or bid quantity; or information on the bid guarantee provided to the financial services administrator. The department may cancel or restrict a previously approved auction participation application or reject a new application if the department determines that a registered entity has:

(a) Provided false or misleading facts;

(b) Withheld material information that could influence a decision by the department;

(c) Violated any part of the auction rules;

(d) Violated registration requirements; or

(e) Violated any of the rules regarding the conduct of the auction.

(9) Records containing the following information are confidential and are exempt from public disclosure in their entirety:

(a) Bidding information as identified in subsection (8) of this section;

(b) Information contained in the secure, online electronic tracking system established by the department pursuant to RCW 70A.65.090(6);

(c) Financial, proprietary, and other market sensitive information as determined by the department that is submitted to the department pursuant to this chapter;

(d) Financial, proprietary, and other market sensitive information as determined by the department that is submitted to the independent contractor or the financial services administrator engaged by the department pursuant to subsection (3) of this section; and

(e) Financial, proprietary, and other market sensitive information as determined by the department that is submitted to a jurisdiction with which the department has entered into a linkage agreement pursuant to RCW 70A.65.210, and which is shared with the department, the independent contractor, or the financial services administrator pursuant to a linkage agreement.

(10) Any cancellation or restriction approved by the department under subsection (8) of this section may be permanent or for a specified number of auctions and the cancellation or restriction imposed is not exclusive and is in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other state or federal laws, if applicable.

(11) The department shall design allowance auctions so as to allow, to the maximum extent practicable, linking with external greenhouse gas emissions trading programs in other jurisdictions and to facilitate the transfer of allowances when the state's program has entered into a linkage agreement with other external greenhouse gas emissions trading programs. The department may conduct auctions jointly with linked jurisdictions.

(12) In setting the number of allowances offered at each auction, the department shall consider the allowances in the marketplace due to the marketing of allowances issued as required under RCW 70A.65.110, 70A.65.120, and 70A.65.130 in the department's determination of the number of allowances to be offered at auction. The department shall offer only such number of allowances at each auction as will enhance the likelihood of achieving the goals of RCW 70A.45.020.

Sec. 6. RCW 70A.65.110 and 2021 c 316 s 13 are each amended to read as follows:

(1) Facilities owned or operated by a covered entity must receive an allocation of allowances for the covered emissions at those facilities under this subsection at no cost if the operations of the facility are classified as emissions-intensive and trade-exposed, as determined by being engaged in one or more of the processes described by the following industry descriptions and codes in the North American industry classification system:

(a) Metals manufacturing, including iron and steel making, ferroalloy and primary metals manufacturing, secondary aluminum smelting and alloying, aluminum sheet, plate, and foil

manufacturing, and smelting, refining, and alloying of other nonferrous metals, North American industry classification system codes beginning with 331;

(b) Paper manufacturing, including pulp mills, paper mills, and paperboard milling, North American industry classification system codes beginning with 322;

(c) Aerospace product and parts manufacturing, North American industry classification system codes beginning with 3364;

(d) Wood products manufacturing, North American industry classification system codes beginning with 321;

(e) Nonmetallic mineral manufacturing, including glass container manufacturing, North American industry classification system codes beginning with 327;

(f) Chemical manufacturing, North American industry classification system codes beginning with 325;

(g) Computer and electronic product manufacturing, including semiconductor and related device manufacturing, North American industry classification system codes beginning with 334;

(h) Food manufacturing, North American industry classification system codes beginning with 311;

(i) Cement manufacturing, North American industry classification system code 327310;

(j) Petroleum refining, North American industry classification system code 324110;

(k) Asphalt paving mixtures and block manufacturing from refined petroleum, North American industry classification system code 324121;

(l) Asphalt shingle and coating manufacturing from refined petroleum, North American industry classification system code 324122; and

(m) All other petroleum and coal products manufacturing from refined petroleum, North American industry classification system code 324199.

(2) By July 1, 2022, the department must adopt by rule objective criteria for both emissions' intensity and trade exposure for the purpose of identifying emissions-intensive, trade-exposed manufacturing businesses during the second compliance period of the program and subsequent compliance periods. A facility covered by subsection (1)(a) through (m) of this section is considered an emissions-intensive, trade-exposed facility and is eligible for allocation of no cost allowances as described in this section. In addition, any covered party that is a manufacturing business that can demonstrate to the department that it meets the objective criteria adopted by rule is also eligible for treatment as emissions-intensive, trade-exposed and is eligible for allocation of no cost allowances as described in this section. In developing the objective criteria under this subsection, the department must consider the locations of facilities potentially identified as emissions-intensive, trade-exposed manufacturing businesses relative to overburdened communities.

(3)(a) For the ((~~first compliance period beginning in January 1, 2023~~))years 2023 through 2026, the annual allocation of no cost allowances for direct distribution to a facility identified as emissions-intensive and trade-exposed must be equal to the facility's baseline carbon intensity established using data from 2015 through 2019, or other data as allowed under this section, multiplied by the facility's actual production for each calendar year during the compliance period. For facilities using the mass-based approach, the allocation of no cost allowances shall be equal to the facility's mass-based baseline using data from 2015 through 2019, or other data as allowed under this section.

(b) For the ((~~second compliance period, beginning in January, 2027,~~))four years beginning January 2027 and in each subsequent ((~~compliance~~))four-year period, the annual allocation of no cost allowances established in (a) of this subsection shall be adjusted according to the benchmark reduction schedules established in (b)(ii) and (iii) and (e) of this subsection multiplied by the facility's actual production during the period. The department shall adjust the no cost allocation of allowances and credits to an emissions-intensive and trade-exposed facility to avoid duplication with any no cost allowances transferred pursuant to RCW 70A.65.120 and 70A.65.130, if applicable.

(i) For the purpose of this section, "carbon intensity" means the amount of carbon dioxide equivalent emissions from a facility in metric tons divided by the facility specific measure of production including, but not limited to, units of product manufactured or sold, over the same time interval.

(ii) If an emissions-intensive and trade-exposed facility is not able to feasibly determine a carbon intensity benchmark based on its unique circumstances, the entity may elect to use a mass-based baseline that does not vary based on changes in production volumes. The mass-based baseline must be based upon data from 2015 through 2019, unless the emissions-intensive, trade-exposed facility can demonstrate that there have been abnormal periods of operation that materially impacted the facility and the baseline period should be expanded to include years prior to 2015. For ((~~each year during the first four-year compliance period that begins January 1, 2023~~))the years 2023 through 2026, these facilities must be awarded no cost allowances equal to 100 percent of the facility's mass-based baseline. For each year during the ((~~second four-year compliance period that begins January 1, 2027~~))years 2027 through 2030, these facilities must be awarded no cost allowances equal to 97 percent of the facility's mass-based baseline. For each year during the ((~~third compliance period that begins January 1, 2031~~))years 2031 through 2034, these facilities must be awarded no cost allowances equal to 94 percent of the facility's mass-based baseline. Except as provided in (b)(iii) of this subsection, if a facility elects to use a mass-based baseline, it may not later convert to a carbon intensity benchmark during the ((~~first three compliance periods~~))years 2023 through 2034.

(iii) A facility with a North American industry classification system code beginning with 3364 that is utilizing a mass-based baseline in (b)(ii) of this subsection must receive an additional no cost allowance allocation under this section in order to accommodate an

increase in production that increases its emissions above the baseline on a basis equivalent in principle to those awarded to entities utilizing a carbon intensity benchmark pursuant to this subsection (3)(b). The department shall establish methods to award, for any annual period, additional no cost allowance allocations under this section and, if appropriate based on projected production, to achieve a similar ongoing result through the adjustment of the facility's mass-based baseline. An eligible facility under this subsection that has elected to use a mass-based baseline may not convert to a carbon intensity benchmark until the next compliance period.

(c)(i) By September 15, 2022, each emissions-intensive, trade-exposed facility shall submit its carbon intensity baseline for the first compliance period to the department. The carbon intensity baseline for the first compliance period must use data from 2015-2019, unless the emissions-intensive, trade-exposed facility can demonstrate that there have been abnormal periods of operation that materially impacted the facility and the baseline period should be expanded to include years prior to 2015.

(ii) By November 15, 2022, the department shall review and approve each emissions-intensive, trade-exposed facility's baseline carbon intensity for the ((~~first compliance period~~))years 2023 through 2026.

(d) During the ((~~first four-year compliance period that begins January 1, 2023~~))years 2023 through 2026, each emissions-intensive, trade-exposed facility must record its facility-specific carbon intensity baseline based on its actual production.

(e)(i) For the ((~~second four-year compliance period that begins January 1, 2027~~))years 2027 through 2030, the second period benchmark for each emissions-intensive, trade-exposed facility is three percent below the first period baseline specified in (a), (b), and (c) of this subsection.

(ii) For the ((~~third four-year compliance period that begins January 1, 2031~~))years 2031 through 2034, the third period benchmark for each emissions-intensive, trade-exposed facility is three percent lower than the ((~~second period benchmark~~))years 2027 through 2030.

(f) Prior to the beginning of ((~~either the second, third, or subsequent compliance~~))2027, 2031, or subsequent four-year periods, the department may make an upward adjustment in the next ((~~compliance~~))four-year period's benchmark for an emissions-intensive, trade-exposed facility based on the facility's demonstration to the department that additional reductions in carbon intensity or mass emissions are not technically or economically feasible. The department may base the upward adjustment applicable to an emissions-intensive, trade-exposed facility in the next ((~~compliance~~))four-year period on the facility's best available technology analysis. The department shall by rule provide for emissions-intensive, trade-exposed facilities to apply to the department for an adjustment to the allocation for direct distribution of no cost allowances based on its facility-specific carbon intensity benchmark or mass emissions baseline. The department shall make adjustments based on:

(i) A significant change in the emissions use or emissions attributable to the manufacture of an individual good or goods in this state by an emissions-intensive, trade-exposed facility based on a finding by the department that an adjustment is necessary to accommodate for changes in the manufacturing process that have a material impact on emissions;

(ii) Significant changes to an emissions-intensive, trade-exposed facility's external competitive environment that result in a significant increase in leakage risk; or

(iii) Abnormal operating periods when an emissions-intensive, trade-exposed facility's carbon intensity has been materially affected so that these abnormal operating periods are either excluded or otherwise considered in the establishment of the ((~~compliance period~~)) carbon intensity benchmarks.

(4)(a) By December 1, 2026, the department shall provide a report to the appropriate committees of the senate and house of representatives that describes alternative methods for determining the amount and a schedule of allowances to be provided to facilities owned or operated by each covered entity designated as an emissions-intensive, trade-exposed facility from January 1, 2035, through January 1, 2050. The report must include a review of global best practices in ensuring against emissions leakage and economic harm to businesses in carbon pricing programs and describe alternative methods of emissions performance benchmarking and mass-based allocation of no cost allowances. At a minimum, the department must evaluate benchmarks based on both carbon intensity and mass, as well as the use of best available technology as a method for compliance. In developing the report, the department shall form an advisory group that includes representatives of the manufacturers listed in subsection (1) of this section.

(b) If the legislature does not adopt a compliance obligation for emissions-intensive, trade-exposed facilities by December 1, 2027, those facilities must continue to receive allowances as provided in the ((~~third four-year compliance period that begins January 1, 2031~~))years 2031 through 2034.

(5) If the actual emissions of an emissions-intensive, trade- exposed facility exceed the facility's no cost allowances assigned for that compliance period, it must acquire additional compliance instruments such that the total compliance instruments transferred to its compliance account consistent with this chapter ((~~316, Laws of 2021~~)) equals emissions during the compliance period. An emissions-intensive, trade-exposed facility must be allowed to bank unused allowances, including for future sale and investment in best available technology when economically feasible. The department shall limit the use of offset credits for compliance by an emissions-intensive, trade-exposed facility, such that the quantity of no cost allowances plus the provision of offset credits does not exceed 100 percent of the facility's total compliance obligation over a compliance period.

(6) The department must withhold or withdraw the relevant share of allowances allocated to a covered entity under this section in the event that the covered entity ceases production in the state and becomes a closed facility. In the event an entity curtails all production and becomes a curtailed facility, the allowances are retained but cannot be traded, sold, or transferred and are still subject to the emission reduction requirements specified in this section. An owner or operator of a curtailed facility may transfer the allowances to a new operator of the facility that will be operated under the same North American industry classification system codes. If the curtailed facility becomes a closed facility, then all unused allowances will be transferred to the emissions containment reserve. A curtailed facility is not eligible to receive free allowances during a period of curtailment. Any allowances withheld or withdrawn under this subsection must be transferred to the emissions containment reserve.

(7) An owner or operator of more than one facility receiving no cost allowances under this section may transfer allowances among the eligible facilities.

(8) Rules adopted by the department under this section must include protocols for allocating allowances at no cost to an eligible facility built after July 25, 2021. The protocols must include consideration of the products and criteria pollutants being produced by the facility, as well as the local environmental and health impacts associated with the facility. For a facility that is built on tribal lands or is determined by the department to impact tribal lands and resources, the protocols must be developed in consultation with the affected tribal nations.

Sec. 7. RCW 70A.65.170 and 2022 c 181 s 12 are each amended to read as follows:

(1) The department shall adopt by rule the protocols for establishing offset projects and ((~~securing~~))generating offset credits that may be used to meet a portion of a covered or opt-in entity's compliance obligation under this chapter. The protocols adopted by the department under this section must align with the policies of the state established under RCW 70A.45.090 and 70A.45.100.

(2) Offset projects must:

(a) Provide direct environmental benefits to the state or be located in a jurisdiction with which Washington has entered into a linkage agreement;

(b) Result in greenhouse gas reductions or removals that:

(i) Are real, permanent, quantifiable, verifiable, and enforceable; and

(ii) Are in addition to greenhouse gas emission reductions or removals otherwise required by law and other greenhouse gas emission reductions or removals that would otherwise occur; and

(c) Have been certified by a recognized registry.

(3)(a) A total of no more than five percent of a covered or opt-in entity's compliance obligation during the first compliance period may be met by transferring offset credits, regardless of whether or not the offset project is located on federally recognized tribal land. During these years, at least 50 percent of a covered or opt-in entity's compliance obligation satisfied by offset credits must be sourced from offset projects that provide direct environmental benefits in the state.

(b) A total of no more than four percent of a covered or opt-in entity's compliance obligation during the second compliance period may be met by transferring offset credits, regardless of whether or not the offset project is located on federally recognized tribal land. During these years, at least 75 percent of a covered or opt-in entity's compliance obligation satisfied by offset credits must be sourced from offset projects that provide direct environmental benefits in the state. The department may reduce the 75 percent requirement if it determines there is not sufficient offset supply in the state to meet offset demand during the second compliance period.

(c) The limits in (a) and (b) of this subsection may be modified by rule as adopted by the department when appropriate to ensure achievement of the proportionate share of statewide emissions limits established in RCW 70A.45.020 and to provide for alignment with other jurisdictions to which the state has linked.

(d) The limits in (a) and (b) of this subsection may be reduced for a specific covered or opt-in entity if the department determines, in consultation with the environmental justice council, that the covered or opt-in entity has or is likely to:

(i) Contribute substantively to cumulative air pollution burden in an overburdened community as determined by criteria established by the department, in consultation with the environmental justice council; or

(ii) Violate any permits required by any federal, state, or local air pollution control agency where the violation may result in an increase in emissions.

(e) ((~~An offset project on federally recognized tribal land does not count against~~))In addition to the offset credit limits described in (a) and (b) of this subsection((~~.~~)):

(i) No more than an additional three percent of a covered or opt-in entity's compliance obligation may be met by transferring offset credits from projects on federally recognized tribal land during the first compliance period.

(ii) No more than an additional two percent of a covered or opt-in entity's compliance obligation may be met by transferring offset credits from projects on federally recognized tribal land during the second compliance period.

(4) In adopting protocols governing offset projects and covered and opt-in entities' use of offset credits, the department shall:

(a) Take into consideration standards, rules, or protocols for offset projects and offset credits established by other states, provinces, and countries with programs comparable to the program established in this chapter;

(b) Take into consideration forest practices rules where a project is located, or applicable best management practices established by federal, state, or local governments that relate to forest management;

(c) Encourage opportunities for the development of offset projects in this state by adopting offset protocols that may include, but need not be limited to, protocols that make use of aggregation or other mechanisms to reduce transaction costs related to the development of offset projects and that support the development of carbon dioxide removal projects;

((~~(c)~~))(d) Adopt a process for monitoring and invalidating offset credits as necessary to ensure the credit reflects emission reductions or removals that continue to meet the standards required by subsection (1) of this section. If an offset credit is invalidated, the covered or opt-in entity must, within six months of the invalidation, transfer replacement credits or allowances to meet its compliance obligation. Failure to transfer the required credits or allowances is a violation subject to penalties as provided in RCW 70A.65.200; and

((~~(d)~~))(e) Make use of aggregation or other mechanisms, including cost-effective inventory and monitoring provisions, to increase the development of offset and carbon removal projects by landowners across the broadest possible variety of types and sizes of lands, including lands owned by small forestland owners.

(5) Any offset credits used must:

(a) Not be in addition to or allow for an increase in the emissions limits established under RCW 70A.45.020, as reflected in the annual allowance budgets developed under RCW 70A.65.070;

(b) Have been issued for reporting periods wholly after July 25, 2021, or within two years prior to July 25, 2021; and

(c) ((~~Be consistent with offset protocols adopted by the department~~))For offset credits issued by a jurisdiction with which Washington has entered into a linkage agreement, come from offset projects located in Washington or in the linked jurisdiction.

(6) The offset credit must be registered and tracked as a compliance instrument.

(7) Beginning in 2031, the limits established in subsection (3)(b) and (e)(ii) of this section apply unless modified by rule as adopted by the department after a public consultation process.

Sec. 8. RCW 70A.65.200 and 2022 c 181 s 4 are each amended to read as follows:

(1) All covered and opt-in entities are required to submit compliance instruments in a timely manner to meet the entities' compliance obligations and shall comply with all requirements for monitoring, reporting, holding, and transferring emission allowances and other provisions of this chapter.

(2) If a covered or opt-in entity does not submit sufficient compliance instruments to meet its compliance obligation by the specified transfer dates, a penalty of four allowances for every one compliance instrument that is missing must be submitted to the department within six months. When a covered entity or opt-in entity reasonably believes that it will be unable to meet a compliance obligation, the entity shall immediately notify the department. Upon receiving notification, the department shall issue an order requiring the entity to submit the penalty allowances.

(3) If a covered entity or opt-in entity fails to submit penalty allowances as required by subsection (2) of this section, the department must issue an order or issue a penalty of up to $10,000 per day per violation, or both, for failure to submit penalty allowances as required by subsection (2) of the section. The order may include a plan and schedule for coming into compliance.

(4) The department may issue a penalty of up to $50,000 per day per violation for violations of RCW 70A.65.100(8) (a) through (e).

(5) Except as provided in subsections (3) and (4) of this section, any person that violates the terms of this chapter or an order issued under this chapter incurs a penalty of up to $10,000 per day per violation for each day that the person does not comply. All penalties under subsections (3) and (4) of this section and this subsection must be deposited into the climate investment account created in RCW 70A.65.250.

(6) Orders and penalties issued under this chapter are appealable to the pollution control hearings board under chapter 43.21B RCW.

(7) ((~~For~~))Until the department enters into a linkage agreement or until the end of the first compliance period, whichever is sooner, the department may reduce the amount of the penalty by adjusting the monetary amount or the number of penalty allowances described in subsections (2) and (3) of this section.

(8) An electric utility or natural gas utility must notify its retail customers and the environmental justice council in published form within three months of paying a monetary penalty under this section.

(9)(a) No city, town, county, township, or other subdivision or municipal corporation of the state may implement a charge or tax based exclusively upon the quantity of greenhouse gas emissions.

(b) No state agency may adopt or enforce a greenhouse gas pricing or market-based emissions cap and reduce program for stationary sources, or adopt or enforce emission limitations on greenhouse gas emissions from stationary sources except as:

(i) Provided in this chapter;

(ii) Authorized or directed by a state statute in effect as of July 1, 2022; or

(iii) Required to implement a federal statute, rule, or program.

(c) This chapter preempts the provisions of chapter 173-442 WAC, and the department shall repeal chapter 173-442 WAC.

(10)(a) By December 1, 2023, the office of financial management must submit a report to the appropriate committees of the legislature that summarizes two categories of state laws other than this chapter:

(i) Laws that regulate greenhouse gas emissions from stationary sources, and the greenhouse gas emission reductions attributable to each chapter, relative to a baseline in which this chapter and all other state laws that regulate greenhouse gas emissions are presumed to remain in effect; and

(ii) Laws whose implementation may effectuate reductions in greenhouse gas emissions from stationary sources.

(b) The state laws that the office of financial management may address in completing the report required in this subsection include, but are not limited to:

(i) Chapter 19.27A RCW;
(ii) Chapter 19.280 RCW;
(iii) Chapter 19.405 RCW;
(iv) Chapter 36.165 RCW;
(v) Chapter 43.21F RCW;
(vi) Chapter 70.30 RCW;
(vii) Chapter 70A.15 RCW;
(viii) Chapter 70A.45 RCW;
(ix) Chapter 70A.60 RCW;
(x) Chapter 70A.535 RCW;
(xi) Chapter 80.04 RCW;
(xii) Chapter 80.28 RCW;
(xiii) Chapter 80.70 RCW;
(xiv) Chapter 80.80 RCW; and
(xv) Chapter 81.88 RCW.

(c) The office of financial management may contract for all or part of the work product required under this subsection.

Sec. 9. RCW 70A.65.210 and 2021 c 316 s 24 are each amended to read as follows:

(1) Subject to making the findings and conducting the public comment process described in subsection (3) of this section, the department shall seek to enter into linkage agreements with other jurisdictions with external greenhouse gas emissions trading programs in order to:

(a) Allow for the mutual use and recognition of compliance instruments issued by Washington and other linked jurisdictions;

(b) Broaden the greenhouse gas emission reduction opportunities to reduce the costs of compliance on covered entities and consumers;

(c) Enable allowance auctions to be held jointly and provide for the use of a unified tracking system for compliance instruments;

(d) Enhance market security;

(e) Reduce program administration costs; and

(f) Provide consistent requirements for covered entities whose operations span jurisdictional boundaries.

(2) The director of the department is authorized to execute linkage agreements with other jurisdictions with external greenhouse gas emissions trading programs consistent with the requirements in this chapter. A linkage agreement must cover the following:

(a) Provisions relating to regular, periodic auctions, including requirements for eligibility for auction participation, the use of a single auction provider to facilitate joint auctions, publication of auction-related information, processes for auction participation, purchase limits by auction participant type, bidding processes, dates of auctions, and financial requirements;

(b) Provisions related to holding limits to ensure no entities in any of the programs are disadvantaged relative to their counterparts in the other jurisdictions;

(c) Other requirements, such as greenhouse gas reporting and verification, offset protocols, criteria and process, and supervision and enforcement, to prevent fraud, abuse, and market manipulation;

(d) Common program registry, electronic auction platform, tracking systems for compliance instruments, and monitoring of compliance instruments;

(e) Provisions to ensure coordinated administrative and technical support;

(f) Provisions for public notice and participation; and

(g) Provisions to collectively resolve differences, amend the agreements, and delink or otherwise withdraw from the agreements.

(3) Before entering into a linkage agreement under this section, the department must evaluate and make a finding regarding whether the aggregate number of unused allowances in a linked program would reduce the stringency of Washington's program and the state's ability to achieve its greenhouse gas emissions reduction limits. The department must include in its evaluation a consideration of pre-2020 unused allowances that may exist in the program with which it is proposing to link. Before entering into a linkage agreement, the department must also establish a finding that the linking jurisdiction and the linkage agreement meet certain criteria identified under this subsection and conduct a public comment process to obtain input and a review of the linkage agreement by relevant stakeholders and other interested parties. The department must consider input received from the public comment process before

finalizing a linkage agreement. In the event that the department determines that a full linkage agreement is unlikely to meet the criteria, it may enter into a linkage agreement with limitations, including limits on the share of compliance that may be met with allowances originating from linked jurisdictions and other limitations deemed necessary by the department. A linkage agreement approved by the department must:

(a) Achieve the purposes identified in subsection (1) of this section;

(b) Ensure that the linking jurisdiction has provisions to ensure the distribution of benefits from the program to vulnerable populations and overburdened communities;

(c) Be determined by the department to not yield net adverse impacts to either jurisdictions' highly impacted communities or analogous communities in the aggregate, relative to the baseline level of emissions; and

(d) Not adversely impact Washington's ability to achieve the emission reduction limits established in RCW 70A.45.020.

(4) Before entering a linkage agreement, the department must post and maintain on its website, and provide notification to the appropriate policy and fiscal committees of the legislature, a quarterly status update regarding any potential linkage agreement that the department has determined to seek to enter into under this section. The status report must include:

(a) An outline of the expected steps that the department expects that it and linked jurisdictions will need to take prior to entering into a linkage agreement, including the requirements of subsection (3) of this section;

(b) Notation of any steps completed or initiated under (a) of this subsection; and

(c) An estimate of the time frames of possible completion for any steps identified under (a) of this subsection that have not yet been completed.

(5) The state retains all legal and policymaking authority over its program design and enforcement.

Sec. 10. RCW 70A.65.310 and 2022 c 181 s 2 are each amended to read as follows:

(1) A covered or opt-in entity has a compliance obligation for its emissions during each ((~~four-year~~)) compliance period, with the first compliance period commencing January 1, 2023. The department shall by rule require that covered or opt-in entities annually transfer a percentage of compliance instruments, but must fully satisfy their compliance obligation, for each compliance period.

(2) Compliance occurs through the transfer of the required compliance instruments or price ceiling units, on or before the transfer date, from the holding account to the compliance account of the covered or opt-in entity as described in RCW 70A.65.080.

(3)(a) A covered entity may substitute the submission of compliance instruments with price ceiling units.

(b) A covered or opt-in entity submitting insufficient compliance instruments to meet its compliance obligation is subject to a penalty as provided in RCW 70A.65.200.

(4) Older vintage allowances must be retired before newer vintage allowances.

(5) Upon receipt by the department of all compliance instruments transferred by a covered entity or opt-in entity to meet its compliance obligation, the department shall retire the allowances or offset credits.

NEW SECTION. **Sec. 11.** A new section is added to chapter 70A.65 RCW to read as follows:

(1) A federal power marketing administration may elect to voluntarily participate in the program by registering as an opt-in entity pursuant to the requirements of this section.

(2) In registering as an opt-in entity under this section, a federal power marketing administration may assume the compliance obligations associated with either:

(a) All electricity marketed in the state by the federal power marketing administration; or

(b) Only the electricity marketed by the federal power marketing administration in the state through a centralized electricity market.

(3) A federal power marketing administration that voluntarily elects to comply with the program must register with the department as an opt-in entity at least 90 days prior to January 1st of the calendar year in which the federal power marketing administration would assume the compliance obligations associated with federally marketed electricity in the state, in accordance with the requirements of this section.

(4) If a federal power marketing administration registers as an opt-in entity under this section, then beginning January 1st of the calendar year in which the federal power marketing administration would assume the compliance obligations associated with federally marketed electricity in the state, a covered or opt-in entity must not include in its covered emissions the emissions associated with federally marketed electricity in the state for which the federal power marketing administration has assumed the compliance obligation.

(5) After consulting with a federal power marketing administration, the department must determine the appropriate registration requirements for that federal power marketing administration.

(6)(a) An electric utility may voluntarily elect to transfer all or a designated number of the utility's allowances allocated at no cost to a federal power marketing administration registered as an opt-in entity under this section to be used for direct compliance. An electric utility wishing to transfer allowances allocated at no cost from the utility's holding account to a holding account of a federal power marketing administration to be used

for direct compliance may submit a request to the department requesting the transfer and providing the following information:

(i) The electric utility's holding account number;

(ii) The holding account number of the federal power marketing administration;

(iii) The number and vintage of no cost allowances to be transferred; and

(iv) The relationship between the electric utility and the federal power marketing administration.

(b) The department may transfer the allowances only if:

(i) The electric utility has an agreement to purchase electricity from the federal power marketing administration, or a power purchase agreement, including a custom product contract, with the federal power marketing administration; and

(ii) The transfer does not violate the federal power marketing administration's holding limit.

(7)(a) In addition to the manual transfer request process provided under subsection (6) of this section, the department must also provide for an optional process by which an electric utility may approve the automatic distribution of all or a designated number of the utility's allowances allocated at no cost directly into a holding account of a federal power marketing administration to be used for direct compliance, without first being distributed to the utility's holding account.

(b) An electric utility receiving an allocation of allowances at no cost must inform the department by September 1st of each year of the accounts into which the allocation or a portion of the allocation is to be automatically distributed under this subsection. If an electric utility fails to submit its distribution preference by September 1st, the department must automatically place all directly allocated allowances for the following calendar year into the electric utility's holding account. Nothing in this subsection (7)(b) precludes an electric utility from requesting a manual transfer of allowances under subsection (6) of this section after September 1st of each year.

Sec. 12. RCW 70A.15.2200 and 2022 c 181 s 9 are each amended to read as follows:

(1) The board of any activated authority or the department, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Except as provided in subsection (3) of this section, any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the department or board of the authority, require registration or reporting shall register therewith and make reports containing information as may be required by such department or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. In the case of emissions of greenhouse gases as defined in RCW 70A.45.010 the department shall adopt rules requiring reporting of those emissions. The department or board may require that such registration or reporting be accompanied by a fee, and may determine the amount of such fee for such class or classes: PROVIDED, That the amount of the fee shall only be to compensate for the costs of administering such registration or reporting program which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering or other reliable analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program: PROVIDED FURTHER, That any such registration made with either the board or the department shall preclude a further registration and reporting with any other board or the department, except that emissions of greenhouse gases as defined in RCW 70A.45.010 must be reported as required under subsection (5) of this section.

All registration program and reporting fees collected by the department shall be deposited in the air pollution control account. All registration program fees collected by the local air authorities shall be deposited in their respective treasuries.

(3) If a registration or report has been filed for a grain warehouse or grain elevator as required under this section, registration, reporting, or a registration program fee shall not, after January 1, 1997, again be required under this section for the warehouse or elevator unless the capacity of the warehouse or elevator as listed as part of the license issued for the facility has been increased since the date the registration or reporting was last made. If the capacity of the warehouse or elevator listed as part of the license is increased, any registration or reporting required for the warehouse or elevator under this

section must be made by the date the warehouse or elevator receives grain from the first harvest season that occurs after the increase in its capacity is listed in the license.

This subsection does not apply to a grain warehouse or grain elevator if the warehouse or elevator handles more than 10,000,000 bushels of grain annually.

(4) For the purposes of subsection (3) of this section:

(a) A "grain warehouse" or "grain elevator" is an establishment classified in standard industrial classification (SIC) code 5153 for wholesale trade for which a license is required and includes, but is not limited to, such a licensed facility that also conducts cleaning operations for grain;

(b) A "license" is a license issued by the department of agriculture licensing a facility as a grain warehouse or grain elevator under chapter 22.09 RCW or a license issued by the federal government licensing a facility as a grain warehouse or grain elevator for purposes similar to those of licensure for the facility under chapter 22.09 RCW; and

(c) "Grain" means a grain or a pulse.

(5)(a) The department shall adopt rules requiring persons to report emissions of greenhouse gases as defined in RCW 70A.45.010 where those emissions from a single facility, or from ((~~electricity or~~)) fossil fuels sold in Washington by a single supplier or local distribution company, meet or exceed 10,000 metric tons of carbon dioxide equivalent annually. The department's rules may also require electric power entities to report emissions of greenhouse gases from all electricity that is purchased, sold, imported, exported, or exchanged in Washington. The rules adopted by the department must support implementation of the program created in RCW 70A.65.060. In addition, the rules must require that:

(i) Emissions of greenhouse gases resulting from the combustion of fossil fuels be reported separately from emissions of greenhouse gases resulting from the combustion of biomass; ((~~and~~))

(ii) Each annual report must include emissions data for the preceding calendar year and must be submitted to the department by March 31st of the year in which the report is due, except for an electric power entity, which must submit its report by June 1st of the year in which the report is due; and

(iii) To the extent practicable, the department's rules must seek to minimize reporting burdens through the utilization of existing reports and disclosures for electric power entities who report greenhouse gas emissions that equal 10,000 metric tons of carbon dioxide equivalent or less annually from all electricity that is purchased, sold, imported, exported, or exchanged in Washington.

(b)(i) The department may by rule include additional gases to the definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has been designated as a greenhouse gas by the United States congress, by the United States environmental protection agency, or included in external greenhouse gas emission trading programs with which Washington has pursuant to RCW 70A.65.210. Prior to including additional gases to the definition of "greenhouse gas" in RCW 70A.45.010, the department shall notify the appropriate committees of the legislature.

(ii) The department may by rule exempt persons who are required to report greenhouse gas emissions to the United States environmental protection agency and who emit less than 10,000 metric tons carbon dioxide equivalent annually.

(iii) The department must establish greenhouse gas emission reporting methodologies for persons who are required to report under this section. The department's reporting methodologies must be designed to address the needs of ensuring accuracy of reported emissions and maintaining consistency over time, and may, to the extent practicable, be similar to reporting methodologies of jurisdictions with which Washington has entered into a linkage agreement.

(iv) The department must establish a methodology for persons who are not required to report under this section to voluntarily report their greenhouse gas emissions.

(c)((~~(i) The department shall review and if necessary update its rules whenever:~~

~~(A) The United States environmental protection agency adopts final amendments to 40 C.F.R. Part 98 to ensure consistency with federal reporting requirements for emissions of greenhouse gases; or~~

~~(B) Needed to ensure consistency with emissions reporting requirements for jurisdictions with which Washington has entered a linkage agreement.~~

~~(ii) The department shall not amend its rules in a manner that conflicts with this section.~~

~~(d)~~)) The department shall share any reporting information reported to it with the local air authority in which the person reporting under the rules adopted by the department operates.

((~~(e)~~))(d) The fee provisions in subsection (2) of this section apply to reporting of emissions of greenhouse gases. Persons required to report under (a) of this subsection who fail to report or pay the fee required in subsection (2) of this section are subject to enforcement penalties under this chapter. The department shall enforce the reporting rule requirements. When a person that holds a compliance obligation under RCW 70A.65.080 fails to submit an emissions data report or fails to obtain a positive emissions data verification statement in accordance with ((~~(g)~~))(f)(ii) of this subsection, the department may assign an emissions level for that person.

((~~(f)~~))(e) The energy facility site evaluation council shall, simultaneously with the department, adopt rules that impose greenhouse gas reporting requirements in site certifications on owners or operators of a facility permitted by the energy facility site evaluation council. The greenhouse gas reporting requirements imposed by the energy facility site evaluation council must be the same as the greenhouse gas reporting requirements imposed by the department. The department shall share any information reported to it from facilities

permitted by the energy facility site evaluation council with the council, including notice of a facility that has failed to report as required. The energy facility site evaluation council shall contract with the department to monitor the reporting requirements adopted under this section.

((~~(g)~~)) (f) (i) The department must establish by rule the methods of verifying the accuracy of emissions reports.

(ii) Verification requirements apply at a minimum to persons required to report under (a) of this subsection with emissions that equal or exceed 25,000 metric tons of carbon dioxide equivalent emissions, including carbon dioxide from biomass-derived fuels, or to persons who have a compliance obligation under RCW 70A.65.080 in any year of the current compliance period. The department may adopt rules to accept verification reports from another jurisdiction with a linkage agreement pursuant to RCW 70A.65.180 in cases where the department deems that the methods or procedures are substantively similar.

((~~(h)~~)) (g) (i) The definitions in RCW 70A.45.010 apply throughout this subsection (5) unless the context clearly requires otherwise.

(ii) For the purpose of this subsection (5), the term "supplier" includes: (A) Suppliers that produce, import, or deliver, or any combination of producing, importing, or delivering, a quantity of fuel products in Washington that, if completely combusted, oxidized, or used in other processes, would result in the release of greenhouse gases in Washington equivalent to or higher than the threshold established under (a) of this subsection; and (B) suppliers of carbon dioxide that produce, import, or deliver a quantity of carbon dioxide in Washington that, if released, would result in emissions equivalent to or higher than the threshold established under (a) of this subsection.

(iii) For the purpose of this subsection (5), the term "person" includes: (A) An owner or operator of a facility; (B) a supplier; or (C) an electric power entity.

(iv) For the purpose of this subsection (5), the term "facility" includes facilities that directly emit greenhouse gases in Washington equivalent to the threshold established under (a) of this subsection with at least one source category listed in the United States environmental protection agency's mandatory greenhouse gas reporting regulation, 40 C.F.R. Part 98 Subparts C through II and RR through UU, as adopted on April 25, 2011.

(v) For the purpose of this subsection (5), the term "electric power entity" includes any of the following that supply electric power in Washington with associated emissions of greenhouse gases equal to or above the threshold established under (a) of this subsection: (A) Electricity importers and exporters; (B) retail providers, including multijurisdictional retail providers; and (C) first jurisdictional deliverers, as defined in RCW 70A.65.010, not otherwise included here.

NEW SECTION. **Sec. 13.** This act is not a conflicting measure dealing with the same subject as Initiative Measure No. 2117 within the meaning of Article II, section 1 of the state Constitution, but if a court of competent jurisdiction enters a final judgment that is no longer subject to appeal directing the secretary of state to place this act on the 2024 ballot as a conflicting measure to Initiative Measure No. 2117, this act is null and void and may not be placed on the 2024 ballot.

NEW SECTION. **Sec. 14.** This act takes effect January 1, 2025, only if Initiative Measure No. 2117 is not approved by a vote of the people in the 2024 general election. If Initiative Measure No. 2117 is approved by a vote of the people in the 2024 general election, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; Rude; Sandlin; Schmick; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6059 Prime Sponsor, Housing: Concerning the sale or lease of manufactured/mobile home communities and the property on which they sit. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Housing. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 6068 Prime Sponsor, Ways & Means: Reporting on dependency outcomes. 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.** Dependency courts should work to ensure the well-being of dependent children and to ensure that every young person who leaves foster care has relational permanency – meaning they have various long-term relationships that help them feel loved and connected. This includes relationships with siblings, parents, family members, extended family, family friends, mentors, tribes, and where appropriate, former foster family members.

Legal permanency, achieved through reunification, guardianship, or adoption is important, but it is not the only way to provide a sense of belonging and meaningful connections for young people. The federal children's bureau has cautioned that, legal permanence alone does not guarantee secure attachments and lifelong relationships. The relational aspects of permanency are critically important and fundamental to overall well-being, administration on children, youth and families, information memorandum ACYF-CB-IM-20-09, January 5, 2021. Relational permanency is one component of a child's overall well-being. Washington state's data collection should reflect the importance of both relational and legal permanency as well as child well-being.

Sec. 2. RCW 13.34.820 and 2017 3rd sp.s. c 6 s 309 are each amended to read as follows:

(1) The administrative office of the courts, in consultation with the attorney general's office and the department, shall compile an annual report, providing information about cases that fail to meet statutory guidelines to achieve permanency for dependent children.

(2) The administrative office of the courts shall submit the annual report required by this section to appropriate committees of the legislature by December 1st of each year, beginning on December 1, 2007. The administrative office of the courts shall also submit the annual report to a representative of the foster parent association of Washington state.

(3) The annual report shall include information regarding whether foster parents received timely notification of dependency hearings as required by RCW 13.34.096 and 13.34.145 and whether caregivers submitted reports to the court.

(4) Subject to the availability of amounts appropriated for this specific purpose, the administrative office of the courts shall, in consultation with others, identify measures of relational permanency and child well-being and shall report to the legislature by July 1, 2025, in compliance with RCW 43.01.036, the following information:

(a) A plan for reporting on child well-being and relational permanency;

(b) A plan for tracking and reporting on whether an order or portion of an order was agreed or contested, and if contested, by which party or parties;

(c) How to make such information publicly available;

(d) What can be reported using existing data;

(e) What additional information should be collected;

(f) What data-sharing agreements are necessary to ensure an accurate picture of the needs of families in the dependency system; and

(g) How many children in dependency have incarcerated parents.

(5) In making these determinations the administrative office of the courts must consult with representatives who have knowledge of data collection systems from the office of the superintendent of public instruction; the health care authority; the department of children, youth, and families; the department of social and health services; the department of corrections; tribal data experts; and any other entity holding relevant data or expertise.

(6) Consistent with RCW 13.50.280, to collect data necessary to evaluate the relational permanency and well-being of dependent children, the administrative office of the courts may execute data-sharing agreements with the office of the superintendent of public instruction, the health care authority, the department of children, youth, and families, the department of corrections, and the department of social and health services."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

ESSB 6069 Prime Sponsor, Ways & Means: Improving retirement security for Washingtonians by establishing Washington saves, an automatic enrollment individual retirement savings account program, and updating the Washington retirement marketplace statute. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Consumer Protection & Business.

Strike everything after the enacting clause and insert the following:

"PART I
WASHINGTON SAVES

NEW SECTION. **Sec. 1.** ESTABLISHMENT. (1) Washington saves is established to serve as a vehicle through which covered employees may, on a voluntary basis, provide for additional retirement security through a state-facilitated retirement savings program in a convenient, cost-effective, and portable manner.

(2) Washington saves is intended as a public-private partnership that will encourage, not replace or compete with, employer-sponsored retirement plans.

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

(1) "Administrative account" means the Washington saves administrative treasury trust account created in section 12 of this act.

(2) "Complainant" means a covered employee, or that employee's designee who has written or legal authority to act on behalf of the employee, who files a complaint alleging an employer administrative violation of section 3 of this act who learned of the alleged violation by way of their employment with a covered employer.

(3) "Consumer price index" means the consumer price index for all urban consumers, all items, for the Seattle area as calculated by the United States bureau of labor statistics or its successor agency.

(4) "Covered employee" means an individual who is 18 years of age or older, who is employed by a covered employer.

(5) "Covered employer" means any employer that:

(a) Has been in business in this state for at least two years as of the immediately preceding calendar year;

(b) Maintains a physical presence;

(c) Does not offer a qualified retirement plan to their covered employees who have had continuous employment of one year or more; and

(d) Employs, and at any point during the immediately preceding calendar year employed, employees working a combined minimum of 10,400 hours.

(6) "Department" means the department of labor and industries.

(7) "Employer" means a person or entity engaged in a business, profession, trade, or other enterprise in the state, whether for profit or not for profit. "Employer" does not include federal or state entities, agencies, or instrumentalities, or any political subdivision thereof.

(8) "Employer administrative duties" include all requirements of covered employers under section 3 of this act that do not involve amounts due to the employee.

(9) "Employment" has the same meaning as in RCW 50.04.100.

(10) "Governing board" means the board created in section 4 of this act.

(11) "Individual account" means an IRA established by or for an individual participant and owned by the individual participant pursuant to this chapter.

(12) "Individual participant" means any individual who is contributing to, or has a balance credited in, an IRA through the program.

(13) "Internal revenue code" means the federal internal revenue code of 1986, as amended, or any successor law.

(14) "IRA" means a traditional or Roth individual retirement account or individual retirement annuity described in section 408(a), 408(b), or 408A of the internal revenue code.

(15) "Office" means the office of the state treasurer.

(16) "Payroll deduction IRA agreement" means an arrangement by which a participating employer makes payroll deductions authorized by this chapter and remits amounts deducted as contributions to IRAs on behalf of individual participants.

(17) "Program" means the Washington saves program established under this chapter.

(18) "Qualified retirement plan" means a retirement plan in compliance with applicable federal law for employees including those described in section 401(a), 401(k), 403(a), 403(b), 408(k), or 408(p) of the internal revenue code. A qualified retirement plan may require continuous employment of up to one year to be eligible for employee participation.

(19) "Wages" means any commission, compensation, salary, or other remuneration, as defined by section 219(f)(1) of the internal revenue code, received by a covered employee from a covered employer.

NEW SECTION. **Sec. 3.** GENERAL PROVISIONS. (1) The program:

(a) Allows covered employees to contribute to an IRA through automatic payroll deductions;

(b) Requires covered employers to fulfill the requirements provided in subsection (3) of this section;

(c) Facilitates automatic enrollment for covered employees and allows for covered employees to opt out of the plan;

(d) Has a default contribution rate, set by the governing board by rule. The default contribution rate may not be less than three percent or more than seven percent of wages; and

(e) Has a default escalation rate, set by the governing board by rule. The default escalation rate may not exceed one percent per year. The maximum contribution rate based on the default escalation rate may not exceed 10 percent of wages.

(2)(a) Covered employees, who do not opt out of the program, are automatically enrolled in the program at the default rate or at an amount expressly specified by the employee in connection with the payroll deduction IRA agreement. Individual participants may modify their contribution rates or amounts or terminate their participation in the program at any time, subject to procedure defined by rule by the governing board. All contribution amounts are subject to the dollar limits on contributions provided by federal law.

(b) Contributions must be invested in the default investment option unless the individual participant affirmatively elects to invest some or all balances in one or more approved investment options offered by the program. An individual participant must have the opportunity to change investments for either future contributions or existing balances, or both, subject to requirements defined by rule by the governing board.

(c) Individual accounts are portable. A former individual participant who is either unemployed, or is employed by a noncovered employer, must be permitted to contribute to their individual account.

(d) An individual participant's and former individual participant's ability to withdraw, roll over, or transfer account balances is subject to, and liable for, all fees, penalties, and taxes under applicable law.

(e) An individual participant's or former individual participant's ability to receive distributions of contributions and earnings is subject to applicable law.

(3)(a) Each covered employer must facilitate the opportunity for covered employees to participate in the program by fulfilling the following administrative duties, as defined by rule by the governing board:

(i) Register with the program and provide the program administrator relevant information about covered employees;

(ii)(A) Assist the program by offering all covered employees the choice to either participate by voluntarily contributing to an IRA or opt out; or

(B) Automatically enroll covered employees in a qualified retirement plan offered by a trade association or chamber of commerce and permit covered employees to opt out;

(iii) Timely remit participant contributions; and

(iv) Distribute program information and disclosures to covered employees, as provided in section 4(12) of this act.

(b) The employers' role in the program is solely ministerial. In accordance with federal law, employers are prohibited from contributing funds to the IRAs through the program.

(c) Employers are not fiduciaries with respect to, or are liable for, the program, related information, educational materials, or forms or disclosures approved by the governing board, or the selection or performance of vendors selected by the governing board. An employer is not responsible for or obligated to monitor a covered employee's or individual participant's decision to participate in or opt out of the program, for contribution decisions, investment decisions, or failure to comply with the statutory eligibility conditions or limits on IRA contributions. An employer does not guarantee any investment, rate of return, or interest on assets in any individual participant account or the administrative account or is liable for any market losses, failure to realize gains, or any other adverse consequences, including the loss of favorable tax treatment or public assistance benefits, incurred by any person as a result of participating in the program. Nothing in this section relieves an employer from liability for criminal, fraudulent, tortious, or otherwise actionable conduct including liability related to the failure to remit employee contributions.

(4)(a) The governing board must determine the type or types of IRA accounts available under the program.

(b) An individual participant's contributions and earnings may be combined for investment and custodial purposes only. Separate records and accounting are required for individual accounts. Reports on the status of individual accounts must be provided to each individual participant at least annually. Individual participants must have online access to their accounts.

(c) Any moneys placed in these accounts may not be counted as assets for the purposes of state or local means-tested program eligibility or levels of state means-tested program eligibility.

NEW SECTION. **Sec. 4.** GOVERNING BOARD—RESPONSIBILITIES. (1) The governing board shall design and administer the program for the exclusive benefit of individual participants and beneficiaries with the care and skill of a knowledgeable, prudent individual.

(2) The governing board is comprised of nine members as follows:

(a) The state treasurer;

(b) The director of the department or the director's designee; and

(c) The following members, appointed by the governor:

(i) Three members with demonstrated financial, legal, or other relevant program experience;

(ii) One member representing the financial industry;

(iii) One member representing a retirement advocacy organization;

(iv) One member representing covered employees; and

(v) One member representing covered employers.

(3) The state treasurer shall chair the governing board.

(4) Members who are appointed by the governor serve three-year terms and may be appointed for a second three-year term at the discretion of the governor. Members who are appointed by the governor may serve up to two terms over the course of their lifetime. The governor may stagger the terms of the appointed members.

(5) The governing board may appoint work groups to support the design and administration of the program. Work groups do not serve a voting function on the governing board and may include individuals who are not members of the governing board. Any work group established by the governing board is a class one group under RCW 43.03.220. Work group members receive compensation accordingly.

(6) Other state agencies must provide appropriate and reasonable assistance to the program as needed, including gathering data and information, in order for the governing board to carry out the purposes of this chapter. The governing board may reimburse the other state agencies from the administrative account for reasonable expenses incurred in providing appropriate and reasonable assistance.

(7)(a) Beginning in 2025, the governing board shall meet at least four times annually and periodically as specified by the chair or a majority of the governing board.

(b) The governing board may conduct meetings remotely by teleconference or videoconference, including to obtain a quorum and to take votes on any measure.

(c) Each governing board member has one vote. The powers of the governing board must be exercised by a majority of all members present at the meeting of the governing board, whether in person or remotely. Four members constitute the necessary quorum to convene a meeting of the governing board and to act on any measure before the governing board.

(8) The governing board shall establish, design, develop, implement, maintain, and oversee the program in accordance with this chapter and best practices for retirement saving vehicles.

(9) Regarding investments, the governing board:

(a) Has the sole responsibility for contracting with outside firms to provide investment management for the program funds and manage the performance of investment managers under those contracts;

(b) Must adopt an investment policy statement and ensure that the investment options offered, including default investment options, are consistent with the objectives of the program. The menu of investment options may encompass a range of risk and return opportunities and must take the following into account:

(i) The nature and objectives of the program;

(ii) The diverse needs of individual participants;

(iii) The desirability of limiting investment choices under the program to a reasonable number; and

(iv) The extensive investment choices available to participants outside of the program.

(10) Regarding the design of the program, the governing board must:

(a) Ensure the program is designed and operated in a manner that will not cause it to be subject to or preempted by the federal employment retirement income security act of 1974, as amended, and that any employer that is not a covered employer shall have no reporting or registration obligation or requirement to take any action under the program other than to claim an exemption from coverage by the program;

(b) Design and operate the program to:

(i) Minimize costs to individual participants, covered employers, and the state;

(ii) Minimize the risk that covered employees will exceed applicable annual contribution limits;

(iii) Facilitate and encourage employee participation in the program and participant saving;

(iv) Maximize simplicity, including ease of administration for covered employers and ease of use for individual participants;

(v) Maximize portability of individual accounts;

(vi) Maximize financial security in retirement; and

(vii) Maximize the availability of funds to individual participants with a goal of having funds available within three business days following the remittance of payroll deductions by covered employers, if feasible;

(c) Design the program to be compliant with all applicable requirements under the internal revenue code, including requirements for favorable tax treatment of IRAs, and any other applicable law or regulation;

(d) Consult with the office, the department, the office of minority and women's business enterprises, and the office of the secretary of state to create a strategy to educate and inform covered employers about employer administrative duties under this chapter, including the development of culturally relevant and responsive approaches centered in cultural humility with outreach to employers that are considered socially vulnerable, historically marginalized, or face cultural or language barriers to participate in workplace retirement savings programs;

(e) Launch the program by January 1, 2027. The board may stagger implementation in stages after that date, which may include phasing in implementation based on the size of employers, or other factors.

(11) The governing board may adopt rules to govern the program, including to govern the following:

(a) Employee registration and enrollment process;

(b) Employee alternative election procedure including, but not limited to, the method in which a participating individual may opt out of participation, change their contribution rate, opt out of auto-escalation, make nonpayroll contributions, and make withdrawals;

(c) Contribution limits, the initial automatic default contribution rate, and the automatic default escalation rate;

(d) Outreach, marketing, and educational initiatives or publication of online resources, encouragement of participation, retirement savings, and sound investment practices. Outreach, marketing, and educational initiatives must promote cultural humility and engage culturally relevant and responsive approaches while including special consideration for socially vulnerable communities historically, or are known to often be, excluded from, marginalized by, or face barriers to participation in workplace retirement savings programs; and

(e) A process in which individuals who are not covered employees may participate in the program, including unemployed individuals, self-employed individuals, and other independent contractors.

(12) The governing board shall develop:

(a) Information regarding the program;

(b) The following disclosures:

(i) A description of the benefits and risks associated with making contributions under the program;

(ii) Instructions about how to obtain additional information about the program;

(iii) A description of the tax consequences of an IRA, which may consist of or include the disclosure statement required to be distributed by the trustee under the internal revenue code and treasury regulations thereunder;

(iv) A statement that covered employees seeking financial advice should contact their own financial advisers, that covered employers are not in a position to provide financial advice, and that covered employers are not liable for decisions covered employees make under this chapter;

(v) A statement that the program is not an employer-sponsored retirement plan;

(vi) A statement that the covered employee's IRA established under the program is not guaranteed by the state; and

(vii) A statement that neither a covered employer nor the state will monitor or has an obligation to monitor the covered employee's eligibility under the internal revenue code to make contributions to an IRA or to monitor whether the covered employee's contributions to the IRA established for the covered employee exceed the maximum permissible IRA contribution; that it is the covered employee's responsibility to monitor such matters; and that the state, the program, and the covered employer have no liability with respect to any failure of the covered employee to be eligible to make IRA contributions or any contribution in excess of the maximum IRA contribution;

(c) Information, forms, and instructions to be furnished to covered employees, at such times as the governing board determines, that provide the covered employee with the procedures for:

(i) Making contributions to the covered employee's IRA established under the program, including a description of the automatic enrollment rate, the automatic escalation rate and frequency, and the right to elect to make no contribution or to change the contribution rate under the program;

(ii) Making an investment election with respect to the covered employee's IRA established under the program, including a description of the default investment fund; and

(iii) Making transfers, rollovers, withdrawals including instructions on how to access funds, and other distributions from the covered employee's IRA.

(13) The governing board must evaluate options to assist covered employees and employers to identify private sector providers of financial advice, to the extent feasible and unless prohibited by state or federal laws. The governing board must consider options including, but not limited to, a website established and maintained by the governing board.

(14) The governing board may create or enter into, on behalf of the program, a consortium, alliance, joint venture, partnership, compact, or contract with another state or states or their programs or boards.

(15) The governing board must collect administrative fees to defray the costs of administering the program. If the governing board creates or enters into a joint program agreement, as provided in subsection (14) of this section, the rate of the administrative fee for covered employees may not exceed the rate charged to covered employees of another state participating in the same program.

(16) Members of the governing board and the office are not an insurer of the funds or assets of the investment fund or individual accounts. Neither of these two entities are liable for the action or inaction of the other.

(17) Members of the governing board and the office are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violation of law. Members of the governing board and the office may purchase liability insurance.

(18) The governing board shall submit an annual report to the appropriate committees of the legislature, in accordance with RCW 43.01.036, providing information about the program including, but not limited to, the following:

(a) Participation;

(b) Account performance;

(c) Board decisions; and

(d) Any recommendations to the legislature regarding the program.

(19) The governing board may consult with the state investment board and the department of financial institutions regarding program design and implementation.

(20) The governing board shall assure any administrative contract services for the program provide culturally responsive and relevant supports rooted in cultural humility while including special considerations for socially vulnerable communities historically, or are known to often be, excluded from, marginalized by, or face barriers to participation in workplace retirement savings programs.

NEW SECTION. **Sec. 5.** OFFICE OF THE STATE TREASURER—RESPONSIBILITIES. (1) Subject to the availability of amounts appropriated for this specific purpose, the office must provide staff and administrative support for the governing board. The office must consult with the governing board regarding staffing and administrative support needs before selecting any staff pursuant to this section.

(2) The office may initiate and manage all procurement and regulatory processes related to the program and carry out other related functions as delegated by the governing board.

NEW SECTION. **Sec. 6.** INVESTMENT MANAGER—RESPONSIBILITIES. (1)(a) After consultation with the governing board, the investment manager may invest funds associated with the program. The investment manager, after consultation with the governing board regarding any recommendations, must provide a set of options for eligible individuals to choose from for self-directed investment. Any self-directed investment options must comply with the internal revenue code.

(b) All investment and operating costs of the investment manager associated with making self-directed investments must be paid by participants and recovered under procedures agreed to by the governing board and the investment manager. All other expenses caused by self-directed investments must be paid by the participant in accordance with the rules established by the governing board. With the exception of these expenses, all earnings from self-directed investments accrue to the individual accounts.

(2) The investment manager must invest and manage the assets entrusted to it:

(a) With reasonable care, skill, prudence, and diligence under circumstances then prevailing which a prudent person acting in a like capacity and familiar with such matters would use to conduct of an activity of like character and purpose; and

(b) In accordance with the investment policy established by the governing board.

(3) The authority to establish all policies relating to implementation, design, and management of the program resides with the governing board.

(4) The investment manager must routinely consult and communicate with the governing board on the investment policy, performance of the accounts, and related needs of the program.

NEW SECTION. **Sec. 7.** LABOR AND INDUSTRIES—RESPONSIBILITIES. (1) The department has the following responsibilities related to covered employers, as provided in this chapter:

(a) Educate participating employers of their administrative duties under this chapter;

(b) In the case of noncompliance with employer administrative duties, investigate complaints, educate employers about how to come into compliance, and, in the case of willful violations, issue citations and collect penalties;

(c) In the case of impermissible withholding of amounts due to employees, investigate and enforce the complaint as an alleged violation of a wage payment requirement, as defined in RCW 49.48.082; and

(d) Facilitate a process in which employers may appeal complaints.

(2) Collections of unpaid citations assessing civil penalties by the department under this chapter must be made pursuant to RCW 49.48.086.

NEW SECTION. **Sec. 8.** LABOR AND INDUSTRIES—COMPLIANCE WITH EMPLOYER ADMINISTRATIVE DUTIES. (1) Covered employers shall comply with employer administrative duties provided under this chapter.

(2) If a complainant files a complaint with the department alleging any administrative violation, the department shall investigate the complaint and:

(a) If the complaint is filed before January 1, 2030, offer technical assistance to the employer to bring them into compliance. Civil penalties may not be assessed before January 1, 2030;

(b) If the complaint is filed on or after January 1, 2030, educate the employer on how to come into compliance and, if necessary and as provided in this section, enforce penalties for willful violations.

(3) The department may not investigate any alleged violation of rights that occurred more than three years before the date that the complainant filed the complaint.

(4)(a) If the department finds an employer administrative violation, the department must first provide an educational letter outlining the violations and provide 90 days for the employer to remedy the violations. The employer may ask for an extension for good cause. The department may extend the period by providing written notice to the employee and the employer, specifying the duration of the extension. If the employer fails to remedy the violation within 90 days, the department may issue a citation and notice of assessment with a civil penalty.

(b) Except as provided otherwise in this chapter, the maximum penalty for a first-time willful violation is $100 and $250 for a second willful violation. For the purposes of this section, "willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute. For each subsequent willful violation, the employer is subject to a maximum penalty amount of $500 for each violation.

(c) The department may not assess a civil penalty if the employer reasonably relied on: (i) A rule related to any of the requirements of this chapter; (ii) a written order, ruling, approval, opinion, advice, determination, or interpretation of the director of the department; or (iii) an interpretive or administrative policy issued by the department and filed pursuant to chapter 34.05 RCW. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department shall maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an employer is immune from civil penalties under (b) of this subsection.

(5) The department may, at any time, waive or reduce a civil penalty assessed under this section if the director of the department determines that the employer has taken corrective action to resolve the violation.

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

NEW SECTION. **Sec. 9.** LABOR AND INDUSTRIES—ADMINISTRATIVE CITATION APPEALS. (1) A person, firm, or corporation aggrieved by a citation and notice of assessment by the department under this chapter may appeal the citation and notice of assessment to the director of the department by filing a notice of appeal with the director within 30 days of the department's issuance of the citation and notice of assessment. A citation and notice of assessment not appealed within 30 days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the director of the department under this section must state the effectiveness of the citation and notice of assessment pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the director of the department must assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures must be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation and notice of assessment must be de novo. Any party who seeks to challenge an initial order must file a petition for administrative review with the director within 30 days after service of the initial order. The director must conduct administrative review in accordance with chapter 34.05 RCW.

(4) The director of the department must issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(5) Orders that are not appealed within the time period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(6) An employer who fails to allow adequate inspection of records in an investigation by the department under this section within a reasonable time period may not use such records in any appeal under this section to challenge the correctness of any determination by the department of the penalty assessed.

NEW SECTION. **Sec. 10.** LABOR AND INDUSTRIES—ENFORCEMENT OF AMOUNTS DUE. (1) Employers may not impermissibly withhold any amounts due to the employee related to the employer's obligations under section 3 of this act. If any employee files a complaint with the department alleging that the employer impermissibly withheld any amounts due to the employee related to the employer's obligations under section 3 of this act, the department shall investigate and otherwise enforce the complaint as an alleged violation of a wage payment requirement, as defined in RCW 49.48.082.

(2) During an investigation, if the department discovers information suggesting additional violations of impermissibly withheld amounts due to the employees related to the employer's obligations under section 3 of this act, the department may investigate and take appropriate enforcement action without any additional complaint. The department may also initiate an investigation on behalf of one or more employees for any such violation when the director otherwise has reason to believe that a violation has occurred or will occur.

(3) The department may conduct a consolidated investigation for any alleged withheld amounts due to the employees related to the employer's obligations under section 3 of this act when there are common questions of law or fact involving the employees. If the department consolidates such matters into a single investigation, it shall provide notice to the employer.

(4) The department may, for the purposes of enforcing this section, issue subpoenas to compel the attendance of witnesses or parties and the production of documents, administer oaths and examine witnesses under oath, take depositions, and seek affidavits or other verifications. The department may require the employer perform a self-audit of any records. The results or conclusions of the self-audit must be provided to the department within a reasonable time. The department must specify the timelines in the self-audit request. The records examined by the employer in order to perform the self-audit must be made available to the department upon request.

(5) Any citation or determination of compliance issued under this section is subject to RCW 49.48.083, 49.48.084, 49.48.085, and 49.48.086.

NEW SECTION. **Sec. 11.** PRIVATE AND CONFIDENTIAL INFORMATION. (1) Any information or records concerning an individual or employer obtained by the office or the governing board to administer this chapter are private and confidential, except as otherwise provided in this section.

(a) If information provided to the office or the governing board by a governmental agency is held private and confidential by state or federal law, the office and the governing board may not release such information, unless otherwise provided in this section.

(b) Information provided to the office or the governing board by a governmental entity conditioned upon privacy and confidentiality under a provision of law is to be held private and confidential according to the agreement between the office or the governing board and the other governmental agency, unless otherwise provided in this title.

(2) Persons requesting disclosure of information held by the office or the governing board under this section must request such disclosure from the governmental agency that provided the information to the office or the governing board, rather than from the office or the governing board.

(3) If the governing board creates or enters into, on behalf of the program, a consortium, alliance, joint venture, partnership, compact, or contract with another state or states or their programs or boards, the laws of the state that is most protective of individual and employer confidentiality governs.

(4) The governing board has the authority to adopt, amend, or rescind rules interpreting and implementing this chapter.

(5)(a) An individual must have access to all records and information concerning that individual held by the office or the governing board.

(b) An employer must have access to its own records relating to their compliance with the program and any audit conducted or penalty assessed under this chapter.

(c) The office or the governing board may disclose information and records deemed confidential under this chapter to a third party acting on behalf of an individual or employer that would otherwise be eligible to receive records under this section when the office or the governing board receives a signed release from the individual or employer. The release must include a statement:

(i) Specifically identifying the information that is to be disclosed;

(ii) The acknowledgment that state government files will be assessed to obtain that information;

(iii) The specific purpose for which the information is sought and a statement that information obtained under the release will only be used for that purpose; and

(iv) Indicating all parties who will receive the information disclosed.

(d) The office or the governing board may disclose information or records deemed private and confidential under this chapter to any private person or organization, including the trustee, and, by extension, the agents of any private person or organization, when the disclosure is necessary to permit private contracting parties to assist in the operation, management, and implementation of the program. The private person or organization may only use the information or records solely for the purpose for which the information was disclosed and are bound by the same rules of privacy and confidentiality as the office and the governing board.

(6)(a) A decision under this chapter by the office, the department, the governing board, or the appeals tribunal may not be deemed private and confidential under this section, unless the decision is based on information obtained in a closed hearing.

(b) Information or records deemed private and confidential under this section must be available to parties to judicial or formal administrative proceedings only upon a written finding by the presiding officer that the need for the information or records in the proceeding outweighs any reasons for the privacy and confidentiality of the information on record.

(7)(a) All private persons, governmental agencies, and organizations authorized to receive information from the office or the governing board under this chapter have an affirmative duty to prevent unauthorized disclosure of confidential information and are prohibited from disclosing confidential information unless expressly permitted by this section.

(b) If misuse of an unauthorized disclosure of confidential records or information occurs, all parties who are aware of the violation must inform the office immediately and must take all reasonable available actions to rectify the disclosure to the office's standards.

(c) The misuse or unauthorized release of records or information deemed private and confidential under this chapter by any private person, governmental agency, or organization will subject the person, governmental agency, or organization to a civil penalty up to $20,000 in the first year of the program. Beginning the December of the second year of the program and each December thereafter, the office must adjust the maximum civil penalty amount by multiplying the current maximum civil penalty by one plus the percentage by which the most current consumer price index available on December 1st of the current year exceeds the consumer price index for the prior 12-month period, and rounding the result to the nearest $1,000. If an adjustment under this subsection (7)(c) would reduce the maximum civil penalty, the office must not adjust the maximum civil penalty for use in the following year. Other applicable sanctions under state and federal law also apply.

(d) Suit to enforce this section must be brought by the attorney general and the amount of any penalties collected must be paid into the administrative account created in section 12 of this act. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section.

(8) This section does not contain a rule of evidence.

NEW SECTION. **Sec. 12.** WASHINGTON SAVES ADMINISTRATIVE TREASURY TRUST ACCOUNT. (1) The Washington saves administrative treasury trust account is created in the custody of the state treasurer.

(2) Expenditures from the account may be used only for the purposes of administrative and operating expenses of the program established under this chapter.

(3) Only the state treasurer or state treasurer's designee may authorize expenditures from the account. The account is exempt from appropriation and allotment provisions under chapter 43.88 RCW.

(4) The account may receive grants, gifts, or other moneys appropriated for administrative purposes from the state and the federal government.

(5) Any interest incurred by the account will be retained within the account.

NEW SECTION. **Sec. 13.** INVESTMENT ACCOUNT. (1) The Washington saves investment account is established as a trust, with the governing board created under this chapter as its trustee.

(2)(a) Moneys in the account consist of moneys received from individual participants and participating employers pursuant to automatic payroll deductions and contributions to savings made under this chapter. The governing board shall determine how the account operates, provided that the account is operated so that the individual accounts established under the program meet the requirements for IRAs under the internal revenue code.

(b) The assets of the account are not state money, common cash, or revenue to the state. Amounts in the account may not be commingled with state funds and the state has no claim to or against, or interest in, such funds.

(3) Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. An appropriation is not required for expenditures.

(4) Only the governing board or the governing board's designee may authorize expenditures from the account.

PART II
RETIREMENT MARKETPLACE

NEW SECTION. **Sec. 14.** RCW 43.330.730 (Finding—2015 c 296) is decodified.

Sec. 15. RCW 43.330.732 and 2015 c 296 s 2 are each amended to read as follows:

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

(1) "Approved plans" means retirement plans offered by private sector financial services firms that meet the requirements of this chapter to participate in the marketplace.

(2) "Balanced fund" means a mutual fund that has an investment mandate to balance its portfolio holdings. The fund generally includes a mix of stocks and bonds in varying proportions according to the fund's investment outlook.

(3) "Eligible employer" means a self-employed individual, sole proprietor, or an employer with ((~~fewer than~~))at least one ((~~hundred~~)) qualified employee((~~s~~)) at the time of enrollment.

(4) "Enrollee" means any employee who is voluntarily enrolled in an approved plan offered by an eligible employer through the Washington small business retirement marketplace.

(5) ((~~"myRA" means the myRA retirement program administered by the United States department of the treasury that is available to all employers and employees with no fees or no minimum contribution requirements. A myRA is a Roth IRA option and investments in these accounts are backed by the United States department of the treasury.~~

~~(6)~~)) "Participating employer" means any eligible employer with employees enrolled in an approved plan offered through the Washington small business retirement marketplace who chooses to participate in the marketplace and offers approved plans to employees for voluntary enrollment.

((~~(7)~~))(6) "Private sector financial services firms" or "financial services firms" mean persons or entities licensed or holding a certificate of authority and in good standing by either the department of financial institutions or the office of the insurance commissioner and meeting all federal laws and regulations to offer retirement plans.

((~~(8)~~))(7) "Qualified employee" means those workers who are defined by the federal internal revenue service to be eligible to participate in a specific qualified plan.

((~~(9)~~))(8) "Target date or other similar fund" means a hybrid mutual fund that automatically resets the asset mix of stocks, bonds, and cash equivalents in its portfolio according to a selected time frame that is appropriate for a particular investor. A target date is structured to address a projected retirement date.

((~~(10)~~))(9) "Washington small business retirement marketplace" or "marketplace" means the retirement savings program created to connect eligible employers and their employees with approved plans to increase retirement savings.

Sec. 16. RCW 43.330.735 and 2017 c 69 s 1 are each amended to read as follows:

(1) The Washington small business retirement marketplace is created.

(2) Prior to connecting any eligible employer with an approved plan in the marketplace, the director shall design a plan for the operation of the marketplace.

(3) The director shall consult with the Washington state department of retirement systems, the Washington state investment board, and the department of financial institutions in designing and managing the marketplace.

(4) The director shall approve for participation in the marketplace all private sector financial services firms ((~~that meet the requirements of~~)), as defined in RCW 43.330.732((~~(7)~~)).

(5) A range of investment options must be provided to meet the needs of investors with various levels of risk tolerance and various ages. The director must approve a diverse array of private retirement plan options that are available to employers on a voluntary basis, including but not limited to life insurance plans that are designed for retirement purposes, and plans for eligible employer participation such as((~~: (a) A~~))a SIMPLE IRA-type plan that provides for employer contributions to participating enrollee accounts((~~; and (b) a payroll deduction individual retirement account type plan or workplace-based individual retirement accounts open to all workers in which the employer does not contribute to the employees' account~~)).

(6)(a) Prior to approving a plan to be offered on the marketplace, the department must receive verification from the department of financial institutions or the office of the insurance commissioner:

(i) That the private sector financial services firm offering the plan meets the ((~~requirements of~~))definition in RCW 43.330.732((~~(7)~~)); and

(ii) That the plan meets the requirements of this section excluding subsection (9) of this section which is subject to federal laws and regulations.

(b) If the plan includes either life insurance or annuity products, or both, the office of the insurance commissioner may request that the department of financial institutions conduct the plan review as provided in (a)(ii) of this subsection prior to submitting its verification to the department.

(c) The director may remove approved plans that no longer meet the requirements of this chapter.

(7) The financial services firms participating in the marketplace must offer a minimum of two product options: (a) A target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement and (b) a balanced fund. ((~~The marketplace must offer myRA.~~))

(8) In order for the marketplace to operate, there must be at least two approved plans on the marketplace; however, nothing in this subsection shall be construed to limit the number of private sector financial services firms with approved plans from participating in the marketplace.

(9) Approved plans must meet federal law or regulation for internal revenue service approved retirement plans.

(10) The approved plans must include the option for enrollees to roll pretax contributions into a different individual retirement account or another eligible retirement plan after ceasing participation in a plan approved by the Washington small business retirement marketplace.

(11) Financial services firms selected by the department to offer approved plans on the marketplace may not charge the participating employer an administrative fee and may not charge enrollees more than one hundred basis points in total annual fees and must provide information about their product's historical investment performance. Financial services firms may charge enrollees a de minimis fee for new and/or low balance accounts in amounts negotiated and agreed upon by the department and financial services firms. The director shall limit plans to those with total fees the director considers reasonable based on all the facts and circumstances.

(12) Participation in the Washington small business retirement marketplace is voluntary for both eligible employers and qualified employees.

(13) Enrollment in any approved plan offered in the marketplace is not an entitlement.

PART III
WASHINGTON SAVES – ADMINISTRATIVE ACCOUNT – RETAIN OWN INTEREST

Sec. 17. RCW 43.79A.040 and 2023 c 389 s 8, 2023 c 387 s 2, 2023 c 380 s 6, 2023 c 213 s 9, 2023 c 170 s 19, and 2023 c 12 s 2 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, 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 behavioral health loan repayment program account, the Billy Frank Jr. national statuary hall collection 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 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 energy facility site evaluation council 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 account, the medication for people living with HIV rebate revenue account, the homeowner recovery account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the pollution liability insurance program trust 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, the Washington saves administrative treasury trust account, and the library operations account.

(c) The following accounts and funds must receive 80 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.

Sec. 18. RCW 43.79A.040 and 2023 c 389 s 8, 2023 c 387 s 2, 2023 c 380 s 6, 2023 c 213 s 9, and 2023 c 12 s 2 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, 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 behavioral health loan repayment program account, the Billy Frank Jr. national statuary hall collection 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 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 energy facility site evaluation council 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 account, the medication for people living with HIV rebate revenue account, the homeowner recovery 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, the Washington saves administrative treasury trust account, and the library operations account.

(c) The following accounts and funds must receive 80 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.

PART IV
MISCELLANEOUS

NEW SECTION. **Sec. 19.** Section 17 of this act expires July 1, 2030.

NEW SECTION. **Sec. 20.** (1) Section 17 of this act takes effect July 1, 2024.
(2) Section 18 of this act takes effect July 1, 2030.

NEW SECTION. **Sec. 21.** Sections 1 through 13 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. **Sec. 22.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state."

Correct the title.

Signed by Representatives Bergquist, Vice Chair; Berg; Callan; Chopp; Davis; Harris; Lekanoff; Pollet; Riccelli; Ryu; Sandlin; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Fitzgibbon; Rude; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

ESB 6072 Prime Sponsor, Senator Keiser: Addressing recommendations of the long-term services and supports trust commission. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; Rude; Schmick; Stokesbary; and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representative Sandlin.

Referred to Committee on Rules for second reading

February 26, 2024

ESB 6087 Prime Sponsor, Senator King: Concerning the fire service training account. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.43.944 and 2020 c 88 s 6 are each amended to read as follows:

(1) The fire service training account is hereby established in the state treasury. The primary purpose of the account is firefighter training for both volunteer and career firefighters. The fund shall consist of:

(a) All fees received by the Washington state patrol for fire service training;

(b) All grants and bequests accepted by the Washington state patrol under RCW 43.43.940;

(c) ((~~Twenty~~))Twenty-five percent of all moneys received by the state on fire insurance premiums;

(d) Revenue from penalties established under RCW 19.27.740; and

(e) General fund—state moneys appropriated into the account by the legislature.

(2) Moneys in the account may be appropriated for: (a) Fire service training; (b) school fire prevention activities within the Washington state patrol; and (c) the maintenance, operations, and capital projects of the state fire training academy. However, expenditures for purposes of (b) and (c) of this subsection may only be made to the extent that these expenditures do not adversely affect expenditures for the purpose of (a) of this subsection. The state patrol may use amounts appropriated from the fire service training account under this section to contract with the Washington state firefighters apprenticeship trust for the operation of the firefighter joint apprenticeship training program. The contract may call for payments on a monthly basis.

(3) Any general fund—state moneys appropriated into the account shall be allocated solely to the firefighter joint apprenticeship training program. The Washington state patrol may contract with outside entities for the administration and delivery of the firefighter joint apprenticeship training program."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 6092 Prime Sponsor, Ways & Means: Concerning disclosure of greenhouse gas emissions. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Rude; Sandlin; Schmick; Stokesbary; and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representative Harris.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6099 Prime Sponsor, Ways & Means: Creating the tribal opioid prevention and treatment account. 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 American Indians and Alaska Natives are affected disproportionately by the opioid crisis and that opioid overdose rates are higher for American Indians and Alaska Natives than in any other category by race and ethnicity. Therefore, it is the intent of the legislature to prioritize moneys received from opioid settlements to address specific impacts in tribal communities through the creation of a dedicated tribal opioid prevention and treatment account.

Sec. 2. RCW 43.79.483 and 2023 c 435 s 5 are each amended to read as follows:

(1) The opioid abatement settlement account is created in the state treasury. All settlement receipts and moneys that are designated to be used by the state of Washington to abate the opioid epidemic for state use must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may only be used for future opioid remediation as provided in the applicable settlement. For purposes of this account, "opioid remediation" means the care, treatment, and other programs and expenditures, designed to: (a) Address the use and abuse of opioid products; (b) treat or mitigate opioid use or related disorders; or (c) mitigate other alleged effects of, including those injured as a result of, the opioid epidemic.

(2) All money remaining in the state opioid settlement account established under RCW 43.88.195 must be transferred to the opioid abatement settlement account created in this section.

(3) Beginning July 1, 2025, and each fiscal year thereafter through June 30, 2031, the state treasurer shall transfer into the tribal opioid prevention and treatment account created in section 3 of this act from the opioid abatement settlement account an amount equal to the greater of $7,750,000 or 20 percent of the settlement receipts and moneys deposited into the opioid abatement settlement account during the prior fiscal year.

(4) Beginning July 1, 2031, and each fiscal year thereafter, the state treasurer shall transfer into the tribal opioid prevention and treatment account created in section 3 of this act from the opioid abatement settlement account an amount equal to 20 percent of the settlement receipts and moneys deposited into the opioid abatement settlement account during the prior fiscal year.

(5) No transfer shall be required if the average amount of revenue received by the account per fiscal year over the prior two fiscal years is less than $7,750,000.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.79 RCW to read as follows:

The tribal opioid prevention and treatment account is created in the state treasury. All receipts from the transfer directed in RCW 43.79.483(3) must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for addressing the impact of the opioid epidemic in tribal communities, including: (1) Prevention and recovery services; (2) treatment programs including medication-

assisted treatment; (3) peer services; (4) awareness campaigns and education; and (5) support for first responders.

Sec. 4. RCW 43.84.092 and 2023 c 435 s 14, 2023 c 431 s 10, 2023 c 389 s 10, 2023 c 377 s 7, 2023 c 340 s 10, 2023 c 110 s 3, 2023 c 73 s 10, and 2023 c 41 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the opioid abatement settlement account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the higher education retirement plan supplemental benefit fund, the Washington student loan account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 5 bridge replacement project account, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound

capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the reserve officers' relief and pension principal fund, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the second injury fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state hazard mitigation revolving loan account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the JUDY transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tribal opioid prevention and treatment account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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

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

Sec. 5. RCW 43.84.092 and 2023 c 435 s 14, 2023 c 431 s 10, 2023 c 389 s 10, 2023 c 377 s 7, 2023 c 340 s 10, 2023 c 110 s 3, 2023 c 73 s 10, and 2023 c 41 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

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(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction 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the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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

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

NEW SECTION. **Sec. 6.** Section 4 of this act expires July 1, 2028.

NEW SECTION. **Sec. 7.** (1) Except for section 5 of this act, this act takes effect July 1, 2024.

(2) Section 5 of this act takes effect July 1, 2028."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 22, 2024

SSB 6100 Prime Sponsor, Ways & Means: Making expenditures from the budget stabilization account for declared catastrophic events. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Assistant Ranking Minority Member; Dye; Harris; Rude; Sandlin; and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Schmick; and Stokesbary.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6106 Prime Sponsor, Ways & Means: Including in the public safety employees' retirement system specified workers at department of social and health services institutional and residential sites that serve civilly committed residents or serve patients under not guilty by reason of insanity findings. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 6109 Prime Sponsor, Ways & Means: Supporting children and families. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Human Services, Youth, & Early Learning.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that since 2018 there has been a significant increase in the number of child fatalities and near fatalities involving fentanyl.

(2) The legislature finds that fentanyl and other highly potent synthetic opioids pose a unique and growing threat to the safety of children in Washington state. Fentanyl is a high-

potency synthetic opioid and, according to the centers for disease control and prevention, is 50 times more potent than heroin and 100 times more potent than morphine. Even in very small quantities high-potency synthetic opioids may be lethal to a child.

(3) The legislature intends to provide clarity to judges, social workers, advocates, and families about the safety threat that high-potency synthetic opioids pose to vulnerable children. The legislature declares that the lethality of high-potency synthetic opioids and public health guidance from the department of health related to high-potency synthetic opioids should be given great weight in determining whether a child is at risk of imminent physical harm due to child abuse or neglect.

(4) The legislature recognizes the challenges for recovery and rehabilitation regarding opioid use and resolves to increase services and supports. The legislature further resolves to increase training and resources for state and judicial employees to accomplish their mission and goals in a safe and effective manner.

(5) The legislature recognizes that supporting families in crisis with interventions and services, including preventative services, voluntary services, and family assessment response, minimizes child trauma from further child welfare involvement and strengthens families.

PART I
HIGH-POTENCY SYNTHETIC OPIOIDS AND CHILD WELFARE

Sec. 101. RCW 13.34.030 and 2021 c 304 s 1 and 2021 c 67 s 2 are each reenacted and amended to read as follows:

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

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" mean:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of children, youth, and families.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of the department of social and health services to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Educational liaison" means a person who has been appointed by the court to fulfill responsibilities outlined in RCW 13.34.046.

(9) "Experiencing homelessness" means lacking a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

(10) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(11) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(12) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(13) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(14) "Guardianship" means a guardianship pursuant to chapter 13.36 RCW or a limited guardianship of a minor pursuant to RCW 11.130.215 or equivalent laws of another state or a federally recognized Indian tribe.

(15) "High-potency synthetic opioid" means an unprescribed synthetic opioid classified as a schedule II controlled substance or controlled substance analog in chapter 69.50 RCW or by the pharmacy quality assurance commission in rule including, but not limited to, fentanyl.

(16) "Housing assistance" means appropriate referrals by the department or other agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or family reunification service as described in RCW 13.34.025(2).

((~~(16)~~))(17) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

((~~(17)~~))(18) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

((~~(18)~~))(19) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

((~~(19)~~))(20) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW 26.26A.100, unless the legal rights of that person have been terminated by a judicial proceeding pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws of another state or a federally recognized Indian tribe.

((~~(20)~~))(21) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

((~~(21)~~))(22) "Prevention services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child. Prevention services include, but are not limited to, prevention and family services and programs as defined in this section.

((~~(22)~~))(23) "Qualified residential treatment program" means a program that meets the requirements provided in RCW 13.34.420, qualifies for funding under the family first prevention services act under 42 U.S.C. Sec. 672(k), and, if located within Washington state, is licensed as a group care facility under chapter 74.15 RCW.

((~~(23)~~))(24) "Relative" includes persons related to a child in the following ways:

(a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(b) Stepfather, stepmother, stepbrother, and stepsister;

(c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(d) Spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated;

(e) Relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or

(f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

((~~(24)~~))(25) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

((~~(25)~~))(26) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

((~~(26)~~))(27) "Social study" means a written evaluation of matters relevant to the disposition of the case that contains the information required by RCW 13.34.430.

((~~(27)~~))(28) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

((~~(28)~~))(29) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

Sec. 102. RCW 13.34.050 and 2021 c 211 s 6 are each amended to read as follows:

(1) The court may enter an order directing a law enforcement officer, probation counselor, or child protective services official to take a child into custody if: (a) A petition is filed with the juvenile court with sufficient corroborating evidence to establish that the child is dependent; (b) ((~~the allegations contained in the petition, if true, establish that there are reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect; and (c)~~)) an affidavit or declaration is filed by the department in support of the petition setting forth specific factual information evidencing insufficient time to serve a parent with a dependency petition and hold a hearing prior to removal; and (c) the allegations contained in the petition, if true, establish that there are reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, a pattern of severe neglect, or a high-potency synthetic opioid. The court shall give great weight to the lethality of high-potency synthetic opioids and public health guidance from the department of health related to high-potency synthetic opioids in determining whether removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect.

(2) Any petition that does not have the necessary affidavit or declaration demonstrating a risk of imminent harm requires that the parents are provided notice and an opportunity to be heard before the order may be entered.

(3) The petition and supporting documentation must be served on the parent, and if the child is in custody at the time the child is removed, on the entity with custody other than the parent. If the court orders that a child be taken into custody under subsection (1) of this section, the petition and supporting documentation must be served on the parent at the time of the child's removal unless, after diligent efforts, the parents cannot be located at the time of removal. If the parent is not served at the time of removal, the department shall make diligent efforts to personally serve the parent. Failure to effect service does not invalidate the petition if service was attempted and the parent could not be found.

Sec. 103. RCW 13.34.065 and 2021 c 211 s 9, 2021 c 208 s 1, and 2021 c 67 s 4 are each reenacted and amended to read as follows:

(1)(a) When a child is removed or when the petitioner is seeking the removal of a child from the child's parent, guardian, or legal custodian, the court shall hold a shelter care hearing within 72 hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending. The court shall hold an additional shelter care hearing within 72 hours, excluding Saturdays, Sundays, and holidays if the child is removed from the care of a parent, guardian, or legal custodian at any time after an initial shelter care hearing under this section.

(b) Any child's attorney, parent, guardian, or legal custodian who for good cause is unable to attend or adequately prepare for the shelter care hearing may request that the initial shelter care hearing be continued or that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the child's attorney, parent, guardian, or legal custodian, the court shall schedule the hearing within 72 hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means. If the parent, guardian, or legal custodian is not represented by counsel, the clerk shall provide information to the parent, guardian, or legal custodian regarding how to obtain counsel.

(2)(a) If it is likely that the child will remain in shelter care longer than 72 hours, the department shall submit a recommendation to the court as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the 72 hour

period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court, in person, or by remote means, and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make diligent efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that experiencing homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in RCW 13.38.040, whether the provisions of the federal Indian child welfare act or chapter 13.38 RCW apply, and whether there is compliance with the federal Indian child welfare act and chapter 13.38 RCW, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B)(I) Removal of the child is necessary to prevent imminent physical harm due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, a high-potency synthetic opioid, or a pattern of severe neglect, notwithstanding an order

entered pursuant to RCW 26.44.063. The evidence must show a causal relationship between the particular conditions in the home and imminent physical harm to the child. The existence of community or family poverty, isolation, single parenthood, age of the parent, crowded or inadequate housing, substance abuse, prenatal drug or alcohol exposure, mental illness, disability or special needs of the parent or child, or nonconforming social behavior does not by itself constitute imminent physical harm. The court shall give great weight to the lethality of high-potency synthetic opioids and public health guidance from the department of health related to high-potency synthetic opioids when determining whether removal of the child is necessary to prevent imminent physical harm due to child abuse or neglect;

(II) It is contrary to the welfare of the child to be returned home; and

(III) After considering the particular circumstances of the child, any imminent physical harm to the child outweighs the harm the child will experience as a result of removal; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court finds that the elements of (a)(ii)(B) of this subsection require removal of the child, the court shall further consider:

(i) Whether participation by the parents, guardians, or legal custodians in any prevention services would prevent or eliminate the need for removal and, if so, shall inquire of the parent whether they are willing to participate in such services. If the parent agrees to participate in the prevention services identified by the court that would prevent or eliminate the need for removal, the court shall place the child with the parent. The court shall give great weight to the lethality of high-potency synthetic opioids and public health guidance from the department of health related to high-potency synthetic opioids when deciding whether to place the child with the parent. The court shall not order a parent to participate in prevention services over the objection of the parent, however, parents shall have the opportunity to consult with counsel prior to deciding whether to agree to proposed prevention services as a condition of having the child return to or remain in the care of the parent; and

(ii) Whether the issuance of a temporary order of protection directing the removal of a person or persons from the child's residence would prevent the need for removal of the child.

(c)(i) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless the petitioner establishes that there is reasonable cause to believe that:

(A) Placement in licensed foster care is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, a high-potency synthetic opioid, or a pattern of severe neglect, because no relative or other suitable person is capable of ensuring the basic safety of the child; or

(B) The efforts to reunite the parent and child will be hindered.

(ii) In making the determination in (c)(i) of this subsection, the court shall:

(A) Inquire of the petitioner and any other person present at the hearing for the child whether there are any relatives or other suitable persons who are willing to care for the child. This inquiry must include whether any relative or other suitable person:

(I) Has expressed an interest in becoming a caregiver for the child;

(II) Is able to meet any special needs of the child;

(III) Is willing to facilitate the child's sibling and parent visitation if such visitation is ordered by the court; and

(IV) Supports reunification of the parent and child once reunification can safely occur; and

(B) Give great weight to the stated preference of the parent, guardian, or legal custodian, and the child.

(iii) If a relative or other suitable person expressed an interest in caring for the child, can meet the child's special needs, can support parent-child reunification, and will facilitate court-ordered sibling or parent visitation, the following must not prevent the child's placement with such relative or other suitable person:

(A) An incomplete department or fingerprint-based background check, if such relative or other suitable person appears otherwise suitable and competent to provide care and treatment, but the background checks must be completed as soon as possible after placement;

(B) Uncertainty on the part of the relative or other suitable person regarding potential adoption of the child;

(C) Disbelief on the part of the relative or other suitable person that the parent, guardian, or legal custodian presents a danger to the child, provided the caregiver will protect the safety of the child and comply with court orders regarding contact with a parent, guardian, or legal custodian; or

(D) The conditions of the relative or other suitable person's home are not sufficient to satisfy the requirements of a licensed foster home. The court may order the department to provide financial or other support to the relative or other suitable person necessary to ensure safe conditions in the home.

(d) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the department shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1).

(e) If the court does not order placement with a relative or other suitable person, the court shall place the child in licensed foster care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and

not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(f) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(g) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within 60 days of placement, hold a hearing to:

(i) Consider the assessment required under RCW 13.34.420 and submitted as part of the department's social study, and any related documentation;

(ii) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(iii) Approve or disapprove the child's placement in the qualified residential treatment program.

(h) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (c) of this subsection.

(i) If the court places with a relative or other suitable person, and that person has indicated a desire to become a licensed foster parent, the court shall order the department to commence an assessment of the home of such relative or other suitable person within 10 days and thereafter issue an initial license as provided under RCW 74.15.120 for such relative or other suitable person, if qualified, as a foster parent. The relative or other suitable person shall receive a foster care maintenance payment, starting on the date the department approves the initial license. If such home is found to be unqualified for licensure, the department shall report such fact to the court within one week of that determination. The department shall report on the status of the licensure process during the entry of any dispositional orders in the case.

(j) If the court places the child in licensed foster care:

(i) The petitioner shall report to the court, at the shelter care hearing, the location of the licensed foster placement the petitioner has identified for the child and the court shall inquire as to whether:

(A) The identified placement is the least restrictive placement necessary to meet the needs of the child;

(B) The child will be able to remain in the same school and whether any orders of the court are necessary to ensure educational stability for the child;

(C) The child will be placed with a sibling or siblings, and whether court-ordered sibling contact would promote the well-being of the child;

(D) The licensed foster placement is able to meet the special needs of the child;

(E) The location of the proposed foster placement will impede visitation with the child's parent or parents;

(ii) The court may order the department to:

(A) Place the child in a less restrictive placement;

(B) Place the child in a location in closer proximity to the child's parent, home, or school;

(C) Place the child with the child's sibling or siblings;

(D) Take any other necessary steps to ensure the child's health, safety, and well-being;

(iii) The court shall advise the petitioner that:

(A) Failure to comply with court orders while a child is in shelter care will be considered when determining whether reasonable efforts have been made by the department during a hearing under RCW 13.34.110; and

(B) Placement moves while a child is in shelter care will be considered when determining whether reasonable efforts have been made by the department during a hearing under RCW 13.34.110.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than 30 days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a)(i) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(ii) If the court previously ordered that visitation between a parent and child be supervised or monitored, there shall be a presumption that such supervision or monitoring will no longer be necessary following a continued shelter care order under (a)(i) of this subsection. To overcome this presumption, a party must provide a report to the court including evidence establishing that removing visit supervision or monitoring would create a risk to the child's safety, and the court shall make a determination as to whether visit supervision or monitoring must continue.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8) The department and its employees shall not be held liable in any civil action for complying with an order issued under this section for placement: With a parent who has agreed to accept services, a relative, or a suitable person.

(9)(a) If a child is placed out of the home of a parent, guardian, or legal custodian following a shelter care hearing, the court shall order the petitioner to provide regular visitation with the parent, guardian, or legal custodian, and siblings. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and allowing family reunification. The court shall order a visitation plan individualized to the needs of the family with a goal of providing the maximum parent, child, and sibling contact possible.

(b) Visitation under this subsection shall not be limited as a sanction for a parent's failure to comply with recommended services during shelter care.

(c) Visitation under this subsection may only be limited where necessary to ensure the health, safety, or welfare of the child.

(d) The first visit must take place within 72 hours of the child being delivered into the custody of the department, unless the court finds that extraordinary circumstances require delay.

(e) If the first visit under (d) of this subsection occurs in an in-person format, this first visit must be supervised unless the department determines that visit supervision is not necessary.

Sec. 104. RCW 13.34.130 and 2019 c 172 s 12 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition that maintains the child in his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or agency responsible for supervision of the child's placement. If the court orders that the child be placed with a caregiver over the objections of the parent or the department, the court shall articulate, on the record, his or her reasons for ordering the placement. The court may not order an Indian child, as defined in RCW 13.38.040, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department to be suitable and competent to provide care for the child, or (C) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW.

(iii) The department may also consider placing the child, subject to review and approval by the court, with a person with whom the child's sibling or half-sibling is residing or a person who has adopted the sibling or half-sibling of the child being placed as long as the person has completed all required criminal history background checks and otherwise appears to the department to be competent to provide care for the child.

(2) Absent good cause, the department shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260.

(3) The department may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a), including a placement provided for in subsection (1)(b)(iii) of this section, when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care

for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in subsection (1)(b) of this section. The court shall consider the child's existing relationships and attachments when determining placement.

(4) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

((~~(i) [(a)]~~))(a) Consider the assessment required under RCW 13.34.420 and submitted as part of the department's social study, and any related documentation;

((~~(ii) [(b)]~~))(b) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

((~~(iii) [(c)]~~))(c) Approve or disapprove the child's placement in the qualified residential treatment program.

(5) When placing an Indian child in out-of-home care, the department shall follow the placement preference characteristics in RCW 13.38.180.

(6) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that prevention services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger. The court shall give great weight to the lethality of high-potency synthetic opioids and public health guidance from the department of health related to high-potency synthetic opioids, including fentanyl, when deciding whether a manifest danger exists.

(7) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a stepbrother or stepsister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the stepsibling.

(8) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(9) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(10) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

Sec. 105. RCW 26.44.050 and 2021 c 211 s 5 are each amended to read as follows:

(1) Except as provided in RCW 26.44.030(12), upon the receipt of a report alleging that abuse or neglect has occurred, the law enforcement agency or the department must investigate

and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

(2) A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that taking the child into custody is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, a high-potency synthetic opioid, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

Sec. 106. RCW 26.44.056 and 2021 c 211 s 4 are each amended to read as follows:

(1) An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if there is probable cause to believe that detaining the child is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, a high-potency synthetic opioid, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order under RCW 13.34.050: PROVIDED, That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than ((~~seventy-two~~))72 hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than ((~~seventy-two~~))72 hours, excluding Saturdays, Sundays, and holidays.

(2) A child protective services employee, an administrator, doctor, or law enforcement officer shall not be held liable in any civil action for the decision for taking the child into custody, if done in good faith under this section.

NEW SECTION. **Sec. 107.** A new section is added to chapter 43.216 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, at least one legal liaison position shall be established within the department in each of its regions to work with both the department and the office of the attorney general for the purpose of assisting with the preparation of child abuse and neglect court cases.

(2)(a) To the extent possible, the workload of the legal liaisons shall be geographically divided to reflect where the highest risk and most vulnerable child abuse and neglect cases are filed.

(b) For the purpose of this subsection, "highest risk" and "most vulnerable" are determined by the age of the child and whether the child is particularly vulnerable given the child's medical or developmental conditions.

(3) The department may determine the necessary qualifications for the legal liaison positions established in this section.

Sec. 108. RCW 2.56.230 and 2008 c 279 s 2 are each amended to read as follows:

(1) A superior court may apply for grants from the family and juvenile court improvement grant program by submitting a local improvement plan with the administrator for the courts. To be eligible for grant funds, a superior court's local improvement plan must meet the criteria developed by the administrator for the courts and approved by the board for judicial administration. The criteria must be consistent with the principles adopted for unified family courts. At a minimum, the criteria must require that the court's local improvement plan meet the following requirements:

(a) Commit to a chief judge assignment to the family and juvenile court for a minimum of two years;

(b) Implementation of the principle of one judicial team hearing all of the proceedings in a case involving one family, especially in dependency cases;

(c) Require court commissioners and judges assigned to family and juvenile court to receive a minimum of thirty hours specialized training in topics related to family and juvenile matters within six months of assuming duties in family and juvenile court. Where possible, courts should utilize local, statewide, and national training forums. A judicial officer's recorded educational history may be applied toward the thirty-hour requirement. The topics for training must include:

(i) Parentage;

(ii) Adoption;

(iii) Domestic relations;

(iv) Dependency and termination of parental rights;

(v) Child development;

(vi) The impact of child abuse and neglect;

(vii) Domestic violence;

(viii) Substance ((~~abuse~~))use disorder, including the risk and danger presented to children and youth;

(ix) Mental health;

(x) Juvenile status offenses;
(xi) Juvenile offenders;
(xii) Self-representation issues;
(xiii) Cultural competency;
(xiv) Roles of family and juvenile court judges and commissioners;
(xv) How to apply the child safety framework to crucial aspects of dependency cases, including safety assessment, safety planning, and case planning; and
(xvi) The legal standards for removal of a child based on abuse or neglect; and
(d) As part of the application for grant funds, submit a spending proposal detailing how the superior court would use the grant funds.
(2) Courts receiving grant money must use the funds to improve and support family and juvenile court operations based on standards developed by the administrator for the courts and approved by the board for judicial administration. The standards may allow courts to use the funds to:
(a) Pay for family and juvenile court training of commissioners and judges or pay for pro tem commissioners and judges to assist the court while the commissioners and judges receive training;
(b) Pay for the training of other professionals involved in child welfare court proceedings including, but not limited to, attorneys and guardians ad litem;
(c) Increase judicial and nonjudicial staff, including administrative staff to improve case coordination and referrals in family and juvenile cases, guardian ad litem volunteers or court-appointed special advocates, security, and other staff;
((~~(c)~~))(d) Improve the court facility to better meet the needs of children and families;
((~~(d)~~))(e) Improve referral and treatment options for court participants, including enhancing court facilitator programs and family treatment court and increasing the availability of alternative dispute resolution;
((~~(e)~~))(f) Enhance existing family and children support services funded by the courts and expand access to social service programs for families and children ordered by the court; and
((~~(f)~~))(g) Improve or support family and juvenile court operations in any other way deemed appropriate by the administrator for the courts.
(3) The administrator for the courts shall allocate available grant moneys based upon the needs of the court as expressed in their local improvement plan.
(4) Money received by the superior court under this program must be used to supplement, not supplant, any other local, state, and federal funds for the court.
(5) Upon receipt of grant funds, the superior court shall submit to the administrator for the courts a spending plan detailing the use of funds. At the end of the fiscal year, the superior court shall submit to the administrator for the courts a financial report comparing the spending plan to actual expenditures. The administrator for the courts shall compile the financial reports and submit them to the appropriate committees of the legislature.

NEW SECTION. **Sec. 109.** A new section is added to chapter 43.70 RCW to read as follows:
(1) The department, in collaboration with the department of children, youth, and families and the poison information centers described under chapter 18.76 RCW, shall convene a work group on exposure of children to fentanyl to provide information for child welfare workers, juvenile courts, caregivers, and families regarding the risks of fentanyl exposure for children receiving child welfare services defined under RCW 74.13.020 or child protective services under RCW 26.44.020 and child welfare workers. The information shall be made publicly available and distributed to child welfare court professionals, including:
(a) Department of children, youth, and families employees supporting or providing child welfare services as defined in RCW 74.13.020 or child protective services as defined in RCW 26.44.020;
(b) Attorneys;
(c) Judicial officers; and
(d) Guardians ad litem.
(2) This section expires July 1, 2025.

NEW SECTION. **Sec. 110.** A new section is added to chapter 2.56 RCW to read as follows:
(1) Subject to the availability of amounts appropriated for this specific purpose, the administrative office of the courts shall develop, deliver, and regularly update training regarding child safety and the risk and danger presented to children and youth by high-potency synthetic opioids and other substances impacting families.
(2) The training established in this section must be:
(a) Informed by the information developed under section 109 of this act; and
(b) Developed for and made available to judicial officers and system partners in the dependency court system.

PART II
SERVICES FOR FAMILIES

NEW SECTION. **Sec. 201.** A new section is added to chapter 43.216 RCW to read as follows:
Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a pilot program for contracted child care slots for infants in

child protective services in locales with the historically highest rates of child welfare screened-in intake due to the exposure or presence of high-potency synthetic opioids in the home, which may be used as part of a safety plan. Unused slots under this section may be used for children who are screened in due to a parent's substance use disorder when the substance use disorder is related to a substance other than a high-potency synthetic opioid.

NEW SECTION. **Sec. 202.** A new section is added to chapter 43.216 RCW to read as follows:

(1) Home visiting established by RCW 43.216.130 has been shown to enhance child development and well-being by reducing the incidence of child abuse and neglect, promoting connection to community-based supports, and increasing school readiness for young children and their families.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department shall enter into targeted contracts with existing home visiting programs established by RCW 43.216.130 in locales with the historically highest rates of child welfare screened-in intake to serve families.

(3) Targeted contracted home visiting slots for families experiencing high-potency synthetic opioid-related substance use disorder promotes expedited access to supports that enhance strengthened parenting skills and allows home visiting providers to have predictable funding. Any targeted contracted slots the department creates under this section must meet the requirements as provided for in this act.

(4) Only existing home visiting providers are eligible to be awarded targeted contracted slots. The targeted contracted slots are reserved for programs in locales with the historically highest rates of child welfare screened-in intakes.

(5) The department shall provide training specific to substance use disorders for the home visiting providers selected for this program.

(6) Families referred to home visiting services via the process established in subsection (8) of this section must be contacted by the contracted program within seven days of referral.

(7) The department shall award the contracted slots via a competitive process. The department shall pay providers for each targeted contracted slot using the rate provided to existing home visiting providers.

(8) Eligible families shall be referred to the targeted contracted slots through a referral process developed by the department. The referral process shall include referrals from the department's child welfare staff as well as community organizations working with families meeting the criteria established in subsection (9) of this section.

(9) Priority for targeted contracted home visiting slots shall be given to:

(a) Families with child protective services open cases;

(b) Families with family assessment response open cases; and

(c) Families with family voluntary services open cases.

NEW SECTION. **Sec. 203.** A new section is added to chapter 41.05 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the authority shall expand specific treatment and services to children and youth with prenatal substance exposure who would benefit from evidence-based services impacting their behavioral and physical health.

(2) The authority shall contract for the services authorized in this section with behavioral health entities in a manner that allows leveraging of federal medicaid funds to pay for a portion of the costs.

(3) The authority shall consult with the department of children, youth, and families in the implementation of the program and services authorized under this section.

NEW SECTION. **Sec. 204.** (1) The department of children, youth, and families shall provide funding and support for two pilot programs to implement an evidence-based, comprehensive, intensive, in-home parenting services support model to serve children and families from birth to age 18 who are involved in child welfare, children's mental health, or juvenile justice systems.

(2) The pilot programs established in this section are intended to prevent or limit out-of-home placement through trauma-informed support to the child, caregivers, and families with three in-person, in-home sessions per week and provide on-call crisis support 24 hours a day, seven days a week.

(3) One pilot program established in this section will serve families west of the crest of the Cascade mountain range and one pilot program established in this section will serve families east of the crest of the Cascade mountain range. Each pilot program will build upon existing programs to avoid duplication of existing services available to children and families at risk of entering the child welfare system.

(4) This section expires July 1, 2026.

NEW SECTION. **Sec. 205.** (1) Subject to the availability of funds for this specific purpose, the department of health shall provide funding to support promotoras in at least two communities. These promotoras shall provide culturally sensitive, lay health education for the Latinx community, and act as liaisons between their community, health professionals, and human and social service organizations.

(2) In determining which communities will be served by the promotoras under this section, the department of health shall provide funding to support one community west of the crest of the Cascade mountain range and one community east of the crest of the Cascade mountain range.

NEW SECTION. **Sec. 206.** A new section is added to chapter 74.13 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a pilot program to include third-party safety plan participants and public health nurses in child protective services safety planning. The pilot program established in this section must:

(1) Include contracts in up to four department offices for third-party safety plan participants and public health nurses to support child protective services workers in safety planning; and

(2) Provide support for cases involving high-potency synthetic opioids and families who do not have natural supports to aid in safety planning.

NEW SECTION. **Sec. 207.** A new section is added to chapter 74.13 RCW to read as follows:

The department shall make available to department staff high-potency synthetic opioid testing strips that can detect the presence of high-potency synthetic opioids that may be provided to families for personal use or used by department staff to maintain their safety.

NEW SECTION. **Sec. 208.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, 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; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6115 Prime Sponsor, Transportation: Concerning speed safety camera systems. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.16A.120 and 2012 c 83 s 5 are each amended to read as follows:

(1) Each court and government agency located in this state having jurisdiction over standing, stopping, and parking violations, the use of a photo toll system under RCW 46.63.160, the use of automated traffic safety cameras under RCW 46.63.170, ((~~and~~)) the use of automated school bus safety cameras under RCW 46.63.180, and the use of speed safety camera systems under RCW 46.63.200 may forward to the department any outstanding:

(a) Standing, stopping, and parking violations;

(b) Civil penalties for toll nonpayment detected through the use of photo toll systems issued under RCW 46.63.160;

(c) Automated traffic safety camera infractions issued under RCW 46.63.030(1)(d); ((~~and~~))

(d) Automated school bus safety camera infractions issued under RCW 46.63.030(1)(e); and

(e) Speed safety camera system infractions issued under RCW 46.63.030(1)(f).

(2) Violations, civil penalties, and infractions described in subsection (1) of this section must be reported to the department in the manner described in RCW 46.20.270(3).

(3) The department shall:

(a) Record the violations, civil penalties, and infractions on the matching vehicle records; and

(b) Send notice approximately ((~~one hundred twenty~~))120 days in advance of the current vehicle registration expiration date to the registered owner listing the dates and jurisdictions in which the violations, civil penalties, and infractions occurred, the amounts of unpaid fines and penalties, and the surcharge to be collected. Only those violations, civil penalties, and infractions received by the department ((~~one hundred twenty~~))120 days or more before the current vehicle registration expiration date will be included in the notice. Violations, civil penalties, and infractions received by the department later than ((~~one hundred twenty~~))120 days before the current vehicle registration expiration date that are not satisfied will be delayed until the next vehicle registration expiration date.

(4) The department, county auditor or other agent, or subagent appointed by the director shall not renew a vehicle registration if there are any outstanding standing, stopping, and parking violations, and other civil penalties issued under RCW 46.63.160 for the vehicle unless:

(a) The outstanding standing, stopping, or parking violations and civil penalties were received by the department within ((~~one hundred twenty~~))120 days before the current vehicle registration expiration;

(b) There is a change in registered ownership; or

(c) The registered owner presents proof of payment of each violation, civil penalty, and infraction provided in this section and the registered owner pays the surcharge required under RCW 46.17.030.

(5) The department shall:

(a) Forward a change in registered ownership information to the court or government agency who reported the outstanding violations, civil penalties, or infractions; and

(b) Remove the outstanding violations, civil penalties, and infractions from the vehicle record.

Sec. 2. RCW 46.20.270 and 2015 c 189 s 1 are each amended to read as follows:

(1) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in this title which occur on federal installations within this state, shall immediately forward to the department a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, a payment of a fine, penalty, or court cost, a plea of guilty or nolo contendere or a finding of guilt, or a finding that any person has committed a traffic infraction an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

(2) Every state agency or municipality having jurisdiction over offenses committed under this chapter, or under any other act of this state or municipal ordinance adopted by a state or local authority regulating the operation of motor vehicles on highways, may forward to the department within ((~~ten~~))10 days of failure to respond, failure to pay a penalty, failure to appear at a hearing to contest the determination that a violation of any statute, ordinance, or regulation relating to standing, stopping, parking, or civil penalties issued under RCW 46.63.160 or 46.63.200 has been committed, or failure to appear at a hearing to explain mitigating circumstances, an abstract of the citation record in the form prescribed by rule of the department, showing the finding by such municipality that two or more violations of laws governing standing, stopping, and parking or one or more civil penalties issued under RCW 46.63.160 or 46.63.200 have been committed and indicating the nature of the defendant's failure to act. Such violations or infractions may not have occurred while the vehicle is stolen from the registered owner. The department may enter into agreements of reciprocity with the duly authorized representatives of the states for reporting to each other violations of laws governing standing, stopping, and parking.

(3) For the purposes of this title and except as defined in RCW 46.25.010, "conviction" means a final conviction in a state or municipal court or by any federal authority having jurisdiction over offenses substantially the same as those set forth in this title which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine or court cost, a plea of guilty or nolo contendere, or a finding of guilt on a traffic law violation charge, regardless of whether the imposition of sentence or sanctions are deferred or the penalty is suspended, but not including entry into a deferred prosecution agreement under chapter 10.05 RCW.

(4) Perfection of a notice of appeal shall stay the execution of the sentence pertaining to the withholding of the driving privilege.

(5) For the purposes of this title, "finding that a traffic infraction has been committed" means a failure to respond to a notice of infraction or a determination made by a court pursuant to this chapter. Payment of a monetary penalty made pursuant to RCW 46.63.070(2) is deemed equivalent to such a finding.

Sec. 3. RCW 46.63.110 and 2023 c 388 s 2 are each amended to read as follows:

(1)(a) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed $250 for each offense unless authorized by this chapter or title.

(b) The court may waive or remit any monetary penalty, fee, cost, assessment, or other monetary obligation associated with a traffic infraction unless the specific monetary obligation in question is prohibited from being waived or remitted by state law.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is $250 for each offense; (b) RCW 46.61.210(1) is $500 for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of $25 for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this

chapter. A local legislative body may set a monetary penalty not to exceed $25 for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines that a person is not able to pay a monetary obligation in full, the court shall enter into a payment plan with the person in accordance with RCW 46.63.190 and standards that may be set out in court rule.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of $5 per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of $10 per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the general fund; and

(c) A fee of $5 per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of $24. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) $12.50 of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as follows: $8.50 in the state general fund and $4 in the driver licensing technology support account created under RCW 46.68.067. The moneys deposited into the driver licensing technology support account must be used to support information technology systems used by the department to communicate with the judicial information system, manage driving records, and implement court orders. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the person may request a payment plan pursuant to RCW 46.63.190.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) $250 for the first violation; (b) $500 for the second violation; and (c) $750 for each violation thereafter.

(11) The additional monetary penalty for a violation of RCW 46.20.500 is not subject to assessments or fees provided under this section.

(12) The additional monetary fine for a violation of RCW 46.61.110, 46.61.145, 46.61.180, 46.61.185, 46.61.190, and 46.61.205 is not subject to assessments or fees provided under this section.

(13) The additional monetary penalties for a violation of RCW 46.61.165 are not subject to assessments or fees provided under this section.

(14) The monetary penalty for a violation of RCW 46.63.200 is not subject to assessments or fees provided under this section.

Sec. 4. RCW 46.63.200 and 2023 c 17 s 3 are each amended to read as follows:

(1) This section applies to the use of speed safety camera systems in state highway work zones.

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

(3)(a) The department of transportation is responsible for all actions related to the operation and administration of speed safety camera systems in state highway work zones including, but not limited to, the procurement and administration of contracts necessary for the implementation of speed safety camera systems ((~~and~~)), the mailing of notices of infraction, and the development and maintenance of a public-facing website for the purpose of educating the traveling public about the use of speed safety camera systems in state highway work zones. By July 1, 2024, the department of transportation, in consultation with the Washington state patrol, department of licensing, office of administrative hearings, Washington traffic safety commission, and other organizations committed to protecting civil

rights must adopt rules addressing such actions and take all necessary steps to implement this section.

(b) The Washington state patrol is responsible for all actions related to the enforcement and adjudication of speed violations under this section including, but not limited to, notice of infraction verification and issuance authorization, and determining which types of emergency vehicles are exempt from being issued notices of infraction under this section. By July 1, 2024, the Washington state patrol, in consultation with the department of transportation, department of licensing, office of administrative hearings, Washington traffic safety commission, and other organizations committed to protecting civil rights must adopt rules addressing such actions and take all necessary steps to implement this section.

(c) When establishing rules under this subsection (3), the department of transportation and the Washington state patrol may also consult with other public and private agencies that have an interest in the use of speed safety camera systems in state highway work zones.

(4) Beginning July 1, 2024:

(a) ((~~A notice of infraction may only be issued under this section if a speed safety camera system captures a speed violation in a state highway work zone when workers are present.~~))No person may drive a vehicle in a state highway work zone at a speed greater than that allowed by traffic control devices.

(b) A notice of infraction may only be issued under this section if a speed safety camera system captures a speed violation in a state highway work zone when workers are present.

(5) The penalty for a speed safety camera system violation is: (a) $0 for the first violation; and (b) $248 for the second violation, and for each violation thereafter.

(6) During the 30-day period after the first speed safety camera system is put in place, the department is required to conduct a public awareness campaign to inform the public of the use of speed safety camera systems in state highway work zones.

(7)(a) A notice of infraction issued under this section may be mailed to the registered owner of the vehicle within 30 days of the violation, or to the renter of a vehicle within 30 days of establishing the renter's name and address. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by a speed safety camera stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this section. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the violation. ((~~A person receiving a notice of infraction based on evidence detected by a speed safety camera system may, within 30 days of receiving the notice of infraction, remit payment in the amount of the penalty assessed for the violation. If a person receiving a notice of infraction fails to remit payment in the amount of the penalty assessed within 30 days of receiving the notice of infraction, or if such person wishes to dispute the violation, it must be adjudicated in accordance with (b) of this subsection.~~

~~(b) A notice of infraction that has not been timely paid or a disputed notice of infraction shall be referred to the office of administrative hearings for adjudication consistent with chapter 34.05 RCW.~~

~~(c)~~))(b) A notice of infraction represents a determination that an infraction has been committed, and the determination will be final unless contested as provided under this section.

(c) A person receiving a notice of infraction based on evidence detected by a speed safety camera system must, within 30 days of receiving the notice of infraction: (i) Except for a first violation under subsection (5)(a) of this section, remit payment in the amount of the penalty assessed for the violation; (ii) contest the determination that the infraction occurred by following the instructions on the notice of infraction; or (iii) admit to the infraction but request a hearing to explain mitigating circumstances surrounding the infraction.

(d) If a person fails to respond to a notice of infraction, a final order shall be entered finding that the person committed the infraction and assessing monetary penalties required under subsection (5)(b) of this section.

(e) If a person contests the determination that the infraction occurred or requests a mitigation hearing, the notice of infraction shall be referred to the office of administrative hearings for adjudication consistent with chapter 34.05 RCW.

(f) At a hearing to contest an infraction, the agency issuing the infraction has the burden of proving, by a preponderance of the evidence, that the infraction was committed.

(g) A person may request a payment plan at any time for the payment of any penalty or other monetary obligation associated with an infraction under this section. The agency issuing the infraction shall provide information about how to submit evidence of inability to pay, how to obtain a payment plan, and that failure to pay or enter into a payment plan may result in collection action or nonrenewal of the vehicle registration. The office of administrative hearings may authorize a payment plan if it determines that a person is not able to pay the monetary obligation, and it may modify a payment plan at any time.

(8)(a) Speed safety camera systems may only take photographs, microphotographs, or electronic images of the vehicle and vehicle license plate and only while a speed violation is occurring. The photograph, microphotograph, or electronic image must not reveal the face of the driver or any passengers in the vehicle. The department of transportation shall consider installing speed safety camera systems in a manner that minimizes the impact of camera flash on drivers.

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

((~~(e)~~))(c) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images, or any other personally identifying data prepared under this section are for the exclusive use of the Washington state patrol and department of transportation in the discharge of duties under this section and are not open to the public and may not be used in court in a pending action or proceeding unless the action or proceeding relates to a speed violation under this section. This data may be used in administrative appeal proceedings relative to a violation under this section.

((~~(f)~~))(d) All locations where speed safety camera systems are used must be clearly marked before activation of the camera system by placing signs in locations that clearly indicate to a driver that they are entering a state highway work zone where posted speed limits are monitored by a speed safety camera system. Additionally, where feasible and constructive, radar speed feedback signs will be placed in advance of the speed safety camera system to assist drivers in complying with posted speed limits. Signs placed in these locations must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW.

((~~(g) Speed violations~~))(e) Imposition of a penalty for a speed violation detected through the use of speed safety camera systems ((~~are not~~))shall not be deemed a conviction as defined in RCW 46.25.010, and shall not be part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of speed safety camera systems under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 46.16A.120 and 46.20.270(2).

((~~(h)~~))(f) If the registered owner of the vehicle is a rental car business, the department of transportation shall, before a notice of infraction may be issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within 30 days of receiving the written notice, provide to the issuing agency by return mail:

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

(B) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the speed violation occurred because the vehicle was stolen at the time of the violation. A statement provided under this subsection ((~~(4)(h)~~))(8)(f)(i)(B) must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(C) In lieu of identifying the vehicle operator, payment of the applicable penalty.

(ii) Timely mailing of a statement to the department of transportation relieves a rental car business of any liability under this chapter for the notice of infraction.

((~~(5)~~))(9) Revenue generated from the deployment of speed safety camera systems must be deposited into the highway safety fund and first used exclusively for the operating and administrative costs under this section. The operation of speed safety camera systems is intended to increase safety in state highway work zones by changing driver behavior. Consequently, any revenue generated that exceeds the operating and administrative costs under this section must be distributed for the purpose of traffic safety including, but not limited to, driver training education and local DUI emphasis patrols.

((~~(6)~~))(10) The Washington state patrol and department of transportation, in collaboration with the Washington traffic safety commission, must report to the transportation committees of the legislature by July 1, 2025, and biennially thereafter, on the data and efficacy of speed safety camera system use in state highway work zones. The final report due on July 1, 2029, must include a recommendation on whether or not to continue such speed safety camera system use beyond June 30, 2030.

((~~(7)~~))(11) For the purposes of this section:

(a) "Speed safety camera system" means employing the use of speed measuring devices and cameras synchronized to automatically record one or more sequenced photographs, microphotographs, or other electronic images of a motor vehicle that exceeds a posted state highway work zone speed limit as detected by the speed measuring devices.

(b) "State highway work zone" means an area of any highway with construction, maintenance, utility work, or incident response activities authorized by the department of transportation. A state highway work zone is identified by the placement of temporary traffic control devices that may include signs, channelizing devices, barriers, pavement markings, and/or work vehicles with warning lights. It extends from the first warning sign or high intensity rotating, flashing, oscillating, or strobe lights on a vehicle to the end road work sign or the last temporary traffic control device or vehicle.

((~~(8)~~))(12) This section expires June 30, 2030."

Correct the title.

Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; Mena; Nance; Orcutt; Ramel; Ramos; Schmidt; Volz; Walsh and Wylie.

Referred to Committee on Rules for second reading

February 26, 2024

ESB 6120 Prime Sponsor, Senator Van De Wege: Concerning the Wildland Urban Interface Code. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Local Government. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Gregerson, Vice Chair; Macri, Vice Chair.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6121 Prime Sponsor, Environment, Energy & Technology: Concerning agricultural and forestry biomass. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representative Macri, Vice Chair.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6125 Prime Sponsor, Ways & Means: Preserving records and artifacts regarding the historical treatment of people with intellectual and developmental disabilities in Washington state. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 6194 Prime Sponsor, Ways & Means: Concerning state legislative employee collective bargaining. 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 44.90.020 and 2022 c 283 s 3 are each amended to read as follows:

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

(1) "Collective bargaining" means the performance of the mutual obligations of the employer and the exclusive bargaining representative to meet at reasonable times, except that neither party may be compelled to negotiate during a legislative session or on committee assembly days, to confer and negotiate in good faith, and to execute a written agreement with respect to the subjects of bargaining specified under RCW 44.90.090. The obligation to bargain does not compel either party to agree to a proposal or to make a concession unless otherwise provided in this chapter.

(2) "Commission" means the legislative commission created in section 17 of this act at the public employment relations commission, until the legislative commission expires on December 31, 2029. After December 31, 2029, "commission" means the public employment relations commission created under RCW 41.58.010(1).

((~~(2)~~))(3) "Confidential employee" means an employee designated by the employer to assist in a confidential capacity, or serve as counsel to, persons who formulate, determine, and effectuate employer policies with regard to labor relations and personnel matters or who has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, strategies, or process to the extent that such access creates a conflict of interest, or who assists or aids an employee with managerial authority.

(4) "Director" means the director of the office of state legislative labor relations.

((~~(3)~~))(5)(a) "Employee" means:

(i) Any regular partisan employee of the house of representatives or the senate who is covered by this chapter; and

(ii) Any regular employee who is staff of the:

(A) Office of legislative support services;

(B) Legislative service center;

(C) Office of the code reviser who, during any legislative session, does not work full time on drafting and finalizing legislative bills to be included in the Revised Code of Washington; and

(D) House of representatives and senate administrations.

(b) "Employee" also includes temporary staff hired to perform substantially similar work to that performed by employees included under (a) of this subsection.

(c) All other regular employees and temporary employees, including casual employees, interns, and pages, and employees in the office of program research and senate committee services work groups of the house of representatives and the senate are excluded from the definition of "employee" for the purposes of this chapter.

(6) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

((~~(4)~~))(7) "Employee with managerial authority" means any employee designated by the employer who, regardless of job title: (a) Directs the staff who work for a legislative chamber, caucus, agency, or subdivision thereof; (b) has substantial responsibility in personnel administration, or the preparation and administration of the employer's budgets; and (c) exercises authority that is not merely routine or clerical in nature and requires the use of independent judgment.

(8) "Employer" means:

(a) The chief clerk of the house of representatives, or the chief clerk's designee, for employees of the house of representatives;

(b) The secretary of the senate, or the secretary's designee, for employees of the senate; and

(c) The chief clerk of the house of representatives and the secretary of the senate, acting jointly, or their designees, for the regular employees who are staff of the office of legislative support services, the legislative service center, and the office of the code reviser.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

((~~(5)~~))(10) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(11) "Legislative agencies" means the joint legislative audit and review committee, the statute law committee, the legislative ethics board, the legislative evaluation and accountability program committee, the office of the state actuary, the legislative service center, the office of legislative support services, the joint transportation committee, and the redistricting commission.

((~~(6)~~))(12) "Office" means the office of state legislative labor relations.

(13) "Supervisor" means an employee designated by the employer to provide supervision to and have authority over legislative employees on an ongoing basis as part of the employee's regular and usual job duties. Supervision includes the authority to direct employees, approve and deny leave, and effectively recommend decisions to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, when the exercise of the authority is not of a merely routine nature but requires the exercise of individual judgment.

NEW SECTION. **Sec. 2.** A new section is added to chapter 44.90 RCW to read as follows:

(1) This chapter does not apply to any legislative employee who has managerial authority, is a confidential employee, or who does not meet the definition of employee for the purpose of collective bargaining.

(2) This chapter also does not apply to:

(a) Elected or appointed members of the legislature;

(b) Any person appointed to office under statute, ordinance, or resolution for a specific term of office as a member of a multimember board, commission, or committee;

(c) Caucus chiefs of staff and caucus deputy chiefs of staff;

(d) The speaker's attorney, house counsel, and leadership counsel to the minority caucus of the house of representatives; and

(e) The counsel for the senate that provide direct legal advice to the administration of the senate.

(3) Notwithstanding any other provision of this chapter, the employer has the sole and exclusive authority to designate confidential employees, supervisors, and employees who have managerial authority, except that those designated employees may not, collectively, exceed 20 percent of the total employee positions of the employer.

Sec. 3. RCW 44.90.030 and 2022 c 283 s 2 are each amended to read as follows:

(1) The office of state legislative labor relations is created to assist the house of representatives, the senate, and legislative agencies in implementing and managing the process of collective bargaining for employees of the legislative branch of state government.

(2)(a) Subject to (b) of this subsection, the secretary of the senate and the chief clerk of the house of representatives shall employ a director of the office. The director serves at the pleasure of the secretary of the senate and the chief clerk of the house of representatives, who shall fix the director's salary.

(b) The secretary of the senate and the chief clerk of the house of representatives shall, before employing a director, consult with legislative employees, the senate facilities and operations committee, the house executive rules committee, and the human resources officers of the house of representatives, the senate, and legislative agencies.

(c) The director serves as the executive and administrative head of the office and may employ additional employees to assist in carrying out the duties of the office. The duties of the office include, but are not limited to, establishing bargaining teams and conducting negotiations on behalf of the employer.

((~~(d) The director shall contract with an external consultant for the purposes of gathering input from legislative employees, taking into consideration RCW 42.52.020 and rules of the house of representatives and the senate. The gathering of input must be in the form of, at a minimum, surveys.~~

~~(3) The director, in consultation with the secretary of the senate, the chief clerk of the house of representatives, and the administrative heads of legislative agencies shall:~~

~~(a) Examine issues related to collective bargaining for employees of the house of representatives, the senate, and legislative agencies; and~~

~~(b) After consultation with the external consultant, develop best practices and options for the legislature to consider in implementing and administering collective bargaining for employees of the house of representatives, the senate, and legislative agencies.~~

~~(4)(a) By December 1, 2022, the director shall submit a preliminary report to the appropriate committees of the legislature that provides a progress report on the director's considerations.~~

~~(b) By October 1, 2023, the director shall submit a final report to the appropriate committees of the legislature. At a minimum, the final report must address considerations on the following issues:~~

~~(i) Which employees of the house of representatives, the senate, and legislative agencies for whom collective bargaining may be appropriate;~~

~~(ii) Mandatory, permissive, and prohibited subjects of bargaining;~~

~~(iii) Who would negotiate on behalf of the house of representatives, the senate, and legislative agencies, and which entity or entities would be considered the employer for purposes of bargaining;~~

~~(iv) Definitions for relevant terms;~~

~~(v) Common public employee collective bargaining agreement frameworks related to grievance procedures and processes for disciplinary actions;~~

~~(vi) Procedures related to the commission certifying exclusive bargaining representatives, determining bargaining units, adjudicating unfair labor practices, determining representation questions, and coalition bargaining;~~

~~(vii) The efficiency and feasibility of coalition bargaining;~~

~~(viii) Procedures for approving negotiated collective bargaining agreements;~~

~~(ix) Procedures for submitting requests for funding to the appropriate legislative committees if appropriations are necessary to implement provisions of the collective bargaining agreements; and~~

~~(x) Approaches taken by other state legislatures that have authorized collective bargaining for legislative employees.~~

~~(5) The report must include a summary of any statutory changes needed to address the considerations listed in subsection (4) of this section related to the collective bargaining process for legislative employees.~~))

NEW SECTION. **Sec. 4.** A new section is added to chapter 44.90 RCW to read as follows:

(1) As provided by this chapter, the commission or the court shall determine all questions described by this chapter as under the commission's authority. However, such authority may not result in an order or rule that intrudes upon or interferes with the legislature's core function of efficient and effective law making or the essential operation of the legislature, including that an order or rule may not:

(a) Modify any matter relating to the qualifications and elections of members of the legislature, or the holding of office of members of the legislature;

(b) Modify any matter relating to the legislature or each house thereof choosing its officers, adopting rules for its proceedings, selecting committees necessary for the conduct of business, considering or enacting legislation, or otherwise exercising the legislative power of this state;

(c) Modify any matter relating to legislative calendars, schedules, and deadlines of the legislature; or

(d) Modify laws, rules, policies, or procedures regarding ethics or conflicts of interest.

(2) No member of the legislature may be compelled by subpoena or other means to attend a proceeding related to matters covered by this chapter during a legislative session, committee assembly days, or for 15 days before commencement of each session.

Sec. 5. RCW 44.90.050 and 2022 c 283 s 5 are each amended to read as follows:

(1) Except as may be specifically limited by this chapter, legislative employees shall have the right to self-organization, to form, join, or assist employee organizations, and to

bargain collectively through representatives of their own choosing for the purpose of collective bargaining free from interference, restraint, or coercion. Legislative employees shall also have the right to refrain from any or all such activities.

(2) Except as may be specifically limited by this chapter, the commission shall determine all questions pertaining to ascertaining exclusive bargaining representatives for legislative employees and collectively bargaining under this chapter. However, no employee organization shall be recognized or certified as the exclusive bargaining representative of a bargaining unit of employees of the legislative branch unless it receives the votes of a majority of employees in the petitioned for bargaining unit voting in a secret election ((~~by mail ballot~~)) administered by the commission. The commission's process must allow for an employee, group of employees, employee organizations, employer, or their agents to have the right to petition on any question concerning representation.

(3) ((~~The employer and the exclusive bargaining representative of a bargaining unit of legislative employees may not enter into a collective bargaining agreement that requires the employer to deduct, from the salary or wages of an employee, contributions for payments for political action committees sponsored by employee organizations with legislative employees as members.~~))The commission must adopt rules that provide for at least the following:

(a) Secret balloting;

(b) Consulting with employee organizations;

(c) Access to lists of employees, job titles, work locations, and home mailing addresses;

(d) Absentee voting;

(e) Procedures for the greatest possible participation in voting;

(f) Campaigning on the employer's property during working hours; and

(g) Election observers.

(4)(a) If an employee organization has been certified as the exclusive bargaining representative of the employees of multiple bargaining units, the employee organization may act for and negotiate a master collective bargaining agreement that includes within the coverage of the agreement all covered employees in the bargaining units.

(b) If a master collective bargaining agreement is in effect for the newly certified exclusive bargaining representative, it applies to the bargaining unit for which the new certification has been issued. Nothing in this subsection (4)(b) requires the parties to engage in new negotiations during the term of that agreement.

(5) The certified exclusive bargaining representative is responsible for representing the interests of all the employees in the bargaining unit. This section may not be construed to limit an exclusive bargaining representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.

(6) No question concerning representation may be raised if:

(a) Fewer than 12 months have elapsed since the last certification or election; or

(b) A valid collective bargaining agreement exists covering the unit, except for that period of no more than 120 calendar days nor less than 90 calendar days before the expiration of the contract.

NEW SECTION. **Sec. 6.** A new section is added to chapter 44.90 RCW to read as follows:

(1) The commission, after hearing upon reasonable notice to all interested parties, shall decide, in each application for certification as an exclusive bargaining representative, the unit appropriate for certification. In determining the new units or modifications of existing units, the commission must consider: The duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation. However, a unit is not appropriate if it includes:

(a) Both supervisors and nonsupervisory employees. A unit that includes only supervisors may be considered appropriate if a majority of the supervisory employees indicates by vote that they desire to be included in such a unit;

(b) Both house of representatives and senate employees;

(c) Both partisan and nonpartisan employees;

(d) Employees of the majority party caucus and the minority party caucus, unless a majority of the employees of each caucus indicate by vote that they desire to be included together in the same unit; or

(e) Employees of the legislative service center, office of legislative support services, and the office of the code reviser, in any combination with each other or in any combination with employees of the house of representatives or employees of the senate.

(2) If a single employee organization is the exclusive bargaining representative for two or more units, upon petition by the employee organization, the units may be consolidated into a single larger unit if the commission considers the larger unit to be appropriate. If consolidation is appropriate, the commission shall certify the employee organization as the exclusive bargaining representative of the new unit.

NEW SECTION. **Sec. 7.** A new section is added to chapter 44.90 RCW to read as follows:

(1) The parties to a collective bargaining agreement must reduce the agreement to writing and both execute it.

(2) Except as provided in this chapter, a collective bargaining agreement must contain provisions that provide for a grievance procedure of all disputes arising over the interpretation or application of the collective bargaining agreement and that is valid and enforceable under its terms when entered into in accordance with this chapter.

(3) RCW 41.56.037 applies to this chapter.

(4)(a) If a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and an employee organization representing the same bargaining units, the effective date of the collective bargaining agreement may be the day after the termination of the previous collective bargaining agreement, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date.

(b) If a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and the exclusive bargaining representative representing different bargaining units, the effective date of the collective bargaining agreement may be the day after the termination date of whichever previous collective bargaining agreement covering one or more of the units terminated first, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date.

(5) The employer and the exclusive bargaining representative of a bargaining unit of legislative employees may not enter into a collective bargaining agreement that requires the employer to deduct, from the salary or wages of an employee, contributions for payments for political action committees sponsored by employee organizations with legislative employees as members.

Sec. 8. RCW 44.90.060 and 2022 c 283 s 6 are each amended to read as follows:

((~~During a legislative session or committee assembly days, nothing~~))Nothing contained in this chapter permits or grants to any legislative employee the right to strike, participate in a work stoppage, or refuse to perform their official duties.

Sec. 9. RCW 44.90.070 and 2022 c 283 s 7 are each amended to read as follows:

(1) Collective bargaining negotiations under this chapter must commence no later than July 1st of each even-numbered year after a bargaining unit has been certified.

(2) The duration of any collective bargaining agreement shall not exceed one fiscal biennium.

(3)(a) The director must submit ratified collective bargaining agreements, with cost estimates, to the employer by October 1st before the legislative session at which the request for funds is to be considered. The transmission by the legislature to the governor under RCW 43.88.090 must include a request for funds necessary to implement the provisions of all collective bargaining agreements covering legislative employees.

(b) If the legislature or governor fails to provide the funds for a collective bargaining agreement for legislative employees, either party may reopen all or part of the agreement or the exclusive bargaining representative may seek to implement the procedures provided for in section 10 of this act.

(4) Negotiation for economic terms will be by a coalition of all exclusive bargaining representatives. Any such provisions agreed to by the employer and the coalition must be included in all collective bargaining agreements negotiated by the parties. The director and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of bargaining unit specific issues for inclusion in the collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This subsection does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(5) If a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties must immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

NEW SECTION. **Sec. 10.** A new section is added to chapter 44.90 RCW to read as follows:

(1) Should the parties fail to reach agreement in negotiating a collective bargaining agreement, either party may request of the commission the assistance of an impartial third party to mediate the negotiations. If a collective bargaining agreement previously negotiated under this chapter expires while negotiations are underway, the terms and conditions specified in the collective bargaining agreement remain in effect for a period not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(2) Nothing in this section may be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(3) The commission shall bear costs for mediator services.

Sec. 11. RCW 44.90.080 and 2022 c 283 s 8 are each amended to read as follows:

(1) It is an unfair labor practice for an employer in the legislative branch of state government:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules adopted by the commission, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment;

(d) To discharge or discriminate otherwise against an employee because that employee has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the exclusive bargaining representatives of its employees.

(2) Notwithstanding any other law, the expression of any views, arguments, or opinions, or the dissemination thereof in any form, by a member of the legislature related to this chapter or matters within the scope of representation, shall not constitute, or be evidence of, an unfair labor practice unless the employer has authorized the member to express that view, argument, or opinion on behalf of the employer or as an employer.

(3) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce an employee in the exercise of the rights guaranteed by this chapter: PROVIDED, That this subsection shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership in the employee organization or to an employer in the selection of its representatives for the purpose of bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To discriminate against an employee because that employee has filed charges or given testimony under this chapter;

(d) To refuse to bargain collectively with an employer.

((~~(3)~~))(4) The expressing of any views, arguments, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

NEW SECTION. **Sec. 12.** A new section is added to chapter 44.90 RCW to read as follows:

(1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders. However, a complaint may not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission or in Thurston county superior court. This power may not be affected or impaired by any means of adjustment, mediation, or conciliation in labor disputes that have been or may hereafter be established by law.

(2) Except as may be specifically limited by this chapter, if the commission or court determines that any person has engaged in or is engaging in an unfair labor practice, the commission or court shall issue and cause to be served upon the person an order requiring the person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages.

(3) The commission may petition the Thurston county superior court for the enforcement of its order and for appropriate temporary relief.

Sec. 13. RCW 44.90.090 and 2022 c 283 s 9 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, shall include, but not be limited to, the following:

(a) Any item listed in section 4(1) of this act;

(b) The functions and programs of the employer, the use of technology, and the structure of the organization, including the size and composition of standing committees;

((~~(b)~~))(c) The employer's budget and the size of the employer's workforce, including determining the financial basis for layoffs;

((~~(c)~~))(d) The right to direct and supervise employees;

((~~(d)~~))(e) The hours of work during legislative session and the cutoff calendar for a legislative session. This subsection (2)(e) does not prohibit bargaining over hours of work during interim and bargaining over compensation for hours of work in excess of a 40-hour workweek, except that bargaining for hours of work during interim and compensation for hours worked in excess of a 40-hour workweek may only occur for agreements that take effect after July 1, 2027; ((~~and~~

~~(e)~~))(f) The employer's authority to: (i) Lay off employees when there has been a change to the number of members in, or the makeup of, a caucus due to an election or appointment that necessitates a change in the number of staff; (ii) lay off an employee following an election, appointment, or resignation of a legislator; and (iii) terminate an employee for engaging in partisan activities that are incompatible with the employee's job duties or position;

(g) Health care benefits and other employee insurance benefits. The amount paid by a legislative employee for health care premiums must be the same as that paid by a represented state employee covered by RCW 41.80.020(3);

(h) The right to take whatever actions are deemed necessary to carry out the mission of the legislature and its agencies during emergencies; and

(i) Retirement plans and retirement benefits.

((~~(2)~~))(3) Except for an applicable code of conduct policy adopted by a chamber of the legislature or a legislative agency, if a conflict exists between policies adopted by the legislature relating to wages, hours, and terms and conditions of employment and a provision of a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with a statute or an applicable term of a code of conduct policy adopted by a chamber of the legislature or a legislative agency is invalid and unenforceable.

NEW SECTION. **Sec. 14.** A new section is added to chapter 44.90 RCW to read as follows:

(1) Upon authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.

(2)(a) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer must, as soon as practicable, forward the request to the exclusive bargaining representative.

(b) Upon receiving notice of the employee's authorization, the employer must deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(c) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(d) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(e) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer must end the deduction no later than the second payroll after receipt of the confirmation.

(f) The employer must rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

NEW SECTION. **Sec. 15.** A new section is added to chapter 44.90 RCW to read as follows:

(1) If the parties to a collective bargaining agreement negotiated under this chapter agree to final and binding arbitration under grievance procedures allowed by section 7 of this act, the parties may agree on one or more permanent umpires to serve as arbitrator, or may agree on any impartial person to serve as arbitrator, or may agree to select arbitrators from any source available to them, including federal and private agencies, in addition to the staff and list of arbitrators maintained by the commission. If the parties cannot agree to the selection of an arbitrator, the commission must supply a list of names in accordance with the procedures established by the commission.

(2) The authority of an arbitrator shall be subject to the limits and restrictions specified under section 4 of this act.

(3) Except as limited by this chapter, an arbitrator may require any person to attend as a witness and to bring with them any book, record, document, or other evidence. The fees for such attendance must be paid by the party requesting issuance of the subpoena and must be the same as the fees of witnesses in the superior court. Arbitrators may administer oaths. Subpoenas must issue and be signed by the arbitrator and must be served in the same manner as subpoenas to testify before a court of record in this state. If any person so summoned to testify refuses or neglects to obey such subpoena, upon petition authorized by the arbitrator, the superior court may compel the attendance of the person before the arbitrator or punish the person for contempt in the same manner provided for the attendance of witnesses or the punishment of them in the courts of this state.

(4) Except as limited by this chapter, the arbitrator shall appoint a time and place for the hearing and notify the parties thereof, and may adjourn the hearing from time to time as may be necessary, and, on application of either party and for good cause, may postpone the hearing to a time not extending beyond the date fixed by the collective bargaining agreement for making the award. The arbitration award must be in writing and signed by the arbitrator. The arbitrator must, promptly upon its rendition, serve a true copy of the award on each of the parties or their attorneys of record.

(5) If a party to a collective bargaining agreement negotiated under this chapter that includes final and binding arbitration refuses to submit a grievance for arbitration, the other party to the collective bargaining agreement may invoke the jurisdiction of the superior court of Thurston county and the court shall have jurisdiction to issue an order compelling arbitration. Disputes concerning compliance with grievance procedures shall be reserved for determination by the arbitrator. Arbitration shall be ordered if the grievance states a claim that on its face is covered by the collective bargaining agreement. Doubts as to the coverage of the arbitration clause shall be resolved in favor of arbitration.

(6) If a party to a collective bargaining agreement negotiated under this chapter that includes final and binding arbitration refuses to comply with the award of an arbitrator determining a grievance arising under the collective bargaining agreement, the other party to the collective bargaining agreement may invoke the jurisdiction of the superior court of Thurston county and the court shall have jurisdiction to issue an order enforcing the arbitration award.

Sec. 16. RCW 41.58.010 and 2012 c 117 s 89 are each amended to read as follows:

(1) There is hereby created the public employment relations commission (hereafter called the "commission") to administer the provisions of this chapter. ((~~The~~))Notwithstanding section 17 of this act, the commission shall consist of three members who shall be citizens appointed by the governor by and with the advice and consent of the senate. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Commission members shall be eligible for reappointment. The governor shall designate one member to serve as chair of the commission. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members shall not be eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission.

(2) In making citizen member appointments initially, and subsequently thereafter, the governor shall be cognizant of the desirability of appointing persons knowledgeable in the area of labor relations in the state.

(3) A vacancy in the commission shall not impair the right of the remaining members to exercise all of the powers of the commission, and two members of the commission shall, at all times, constitute a quorum of the commission.

(4) The commission shall at the close of each fiscal year make a report in writing to the legislature and to the governor stating the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the commission, and an account of all moneys it has disbursed.

NEW SECTION. **Sec. 17.** A new section is added to chapter 41.58 RCW to read as follows:

(1)(a) There is established a legislative commission (hereafter called "the legislative commission") exclusively for the purpose of certification of bargaining representatives, adjusting and settling complaints, grievances, and disputes arising out of employer-employee relations, and otherwise carrying out the duties required of the commission under chapter 44.90 RCW.

(b) The legislative commission shall consist of three members who shall be appointed as follows:

(i) One member shall be appointed by the speaker of the house of representatives;

(ii) One member shall be appointed by the president of the senate;

(iii) By mutual consent, the two appointed members shall appoint the third member who shall be the chair of the legislative commission.

(c) All appointments must be made by September 30, 2024. The members of the legislative commission, and any person appointed to fill a vacancy, are appointed for the entire term until the legislative commission expires under subsection (9) of this section.

(d) Until all the members of the legislative commission are appointed, the duties required of the legislative commission under chapter 44.90 RCW shall be carried out by the commission created under RCW 41.58.010(1).

(2) The commission may delegate to the executive director authority with respect to, but not limited to, representation proceedings, unfair labor practice proceedings, mediation, and, if applicable, arbitration of disputes concerning the interpretation or application of a collective bargaining agreement. Such delegation shall not eliminate a party's right of appeal to the legislative commission.

(3) Unless specifically provided, the legislative commission shall not be considered part of the commission created under RCW 41.58.010(1). The powers and duties granted in this chapter to the commission created under RCW 41.58.010(1) do not apply to the legislative commission, unless specifically provided.

(4) A member of the legislative commission may be removed by the speaker of the house of representatives and the president of the senate acting jointly, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(5) In making their appointments, the speaker of the house of representatives and the president of the senate shall be cognizant of the desirability of appointing a person who is knowledgeable in the area of labor relations and of the legislature.

(6) Members of the legislative commission are not eligible for state retirement under chapter 41.40 RCW by virtue of the member's service as a commissioner.

(7) The compensation and travel reimbursement provision under RCW 41.58.015(1) shall apply to members of the legislative commission.

(8) The legislative commission shall at the close of each fiscal year make a report in writing to the legislature stating the cases it has heard and decisions it has rendered.

(9)(a) The legislative commission expires December 31, 2029.

(b) After December 31, 2029, the duties required of the legislative commission under chapter 44.90 RCW shall be carried out by the commission created under RCW 41.58.010(1).

Sec. 18. RCW 41.58.015 and 1984 c 287 s 71 are each amended to read as follows:

(1) Each member of the commission shall be compensated in accordance with RCW 43.03.250. Members of the commission shall also be reimbursed for travel expenses incurred in the discharge of their official duties on the same basis as is provided in RCW 43.03.050 and 43.03.060.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028. The executive director shall perform such duties and have such powers as the commission shall prescribe in order to implement and enforce the provisions of this chapter. In addition to the performance of administrative duties, the commission may delegate to the executive director authority with respect to, but not limited to, representation proceedings, unfair labor practice proceedings, mediation of labor disputes, arbitration of disputes concerning the interpretation or application of a collective bargaining agreement, and, in certain cases, fact-finding or arbitration of disputes concerning the terms of a collective bargaining agreement. Such delegation shall not eliminate a party's right of appeal to the commission. The executive director, with such assistance as may be provided by the attorney general and such additional legal assistance consistent with chapter 43.10 RCW, shall have authority on behalf of the commission, when necessary to carry out or enforce any action or decision of the commission, to petition any court of competent jurisdiction for an order requiring compliance with the action or decision.

(3)(a) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties, consistent with the provisions of this chapter.

(b) The employees of the commission shall also provide staff support to the legislative commission in carrying out the legislative commission's duties under chapter 44.90 RCW until the legislative commission expires on December 31, 2029, under section 17 of this act.

(4) The payment of all of the expenses of the commission, including travel expenses incurred by the members or employees of the commission under its orders, shall be subject to the provisions of RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 19.** A new section is added to chapter 44.90 RCW to read as follows:

(1) The following activities conducted by or on behalf of legislative employees related to collective bargaining under this chapter are exempt from the restrictions contained in RCW 42.52.020 and 42.52.160:

(a) Using paid time and public resources by an employee to negotiate or administer a collective bargaining agreement when the employee is assigned to negotiate or administer the collective bargaining agreement and the use of paid time and public resources does not include state-purchased supplies or equipment, does not interfere with or distract from the conduct of state business, and is consistent with the employer's policy on the use of paid time;

(b) Lobbying conducted by an employee organization, lobbyist, association, or third party on behalf of legislative employees concerning legislation that directly impacts legislative workplace conditions;

(c) Communication with a prospective employee organization during nonwork hours and without the use of public resources; or

(d) Conducting the day-to-day work of organizing and representing legislative employees in the workplace while serving in a legislative employee organization leadership position.

(2)(a) Nothing in this section affects the application of the prohibition against the use of special privileges under RCW 42.52.070, confidentiality requirements under RCW 42.52.050, or other applicable provisions of chapter 42.52 RCW to legislative employees.

(b) Nothing in this section permits any direct lobbying by a legislative employee.

(3) As used in this section, "lobby" and "lobbyist" have the meanings provided in RCW 42.17A.005.

Sec. 20. RCW 42.52.020 and 1996 c 213 s 2 are each amended to read as follows:

(1) No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

(2) This section does not apply to activities conducted by legislative employees authorized under section 19 of this act.

Sec. 21. RCW 42.52.160 and 2023 c 91 s 3 are each amended to read as follows:

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties. It is not a violation of this section for a legislator or an appropriate legislative staff designee to engage in activities listed under RCW 42.52.070(2) or 42.52.822.

(3) This section does not prohibit de minimis use of state facilities to provide employees with information about (a) medical, surgical, and hospital care; (b) life insurance or accident and health disability insurance; or (c) individual retirement accounts, by any

person, firm, or corporation administering such program as part of authorized payroll deductions pursuant to RCW 41.04.020.

(4) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties.

(5) This section does not apply to activities conducted by legislative employees authorized under section 19 of this act.

NEW SECTION. **Sec. 22.** 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 May 1, 2024."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Harris; Rude; Sandlin; Schmick; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6197 Prime Sponsor, Ways & Means: Concerning the law enforcement officers' and firefighters' retirement system plan 2. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Part I
Statute of Limitations for Applying for the Special Death Benefit

Sec. 101. RCW 41.26.048 and 2010 c 261 s 2 are each amended to read as follows:

(1) A two hundred fourteen thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) The benefit under this section shall be paid only when death occurs: (a) As a result of injuries sustained in the course of employment; or (b) as a result of an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. There is no statute of limitations for this benefit. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(3) The department of labor and industries shall determine eligibility under subsection (2) of this section for the special death benefit for any beneficiaries who were denied the special death benefit for failing to meet the statute of limitations under Title 51 RCW. If the department of labor and industries determines the beneficiary is eligible for the special death benefit the department must provide the beneficiary an option to reelect their pension benefit under RCW 41.26.510(2) and if the member elects an ongoing pension benefit the department must pay the beneficiary retroactive to the date of the member's death.

(4)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

(i) The index for the 2008 calendar year, to be known as "index A;"

(ii) The index for the calendar year prior to the date of determination, to be known as "index B;" and

(iii) The ratio obtained when index B is divided by index A.

(b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

(i) Produce a benefit which is lower than two hundred fourteen thousand dollars;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

(c) For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index — Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

Part II
Definition of Firefighter

Sec. 201. RCW 41.26.030 and 2021 c 12 s 2 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(3) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(4)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(7) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(8) "Director" means the director of the department.

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (17) and (19) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, district, or regional fire protection service authority or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150,

any labor guild, association, or organization, which represents the firefighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or firefighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

(i) The legislative authority of any city, town, county, district, public corporation, or regional fire protection service authority established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency;

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996; or

(v) The department of social and health services or the department of corrections when employing firefighters serving at a prison or civil commitment center on an island.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(15)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer;

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member employed by the state or a local government employer during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(16) "Fire department" includes a fire station operated by the department of social and health services or the department of corrections when employing firefighters serving a prison or civil commitment center on an island.

(17) "Firefighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for firefighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time firefighter where the fire department does not have a civil service examination;

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (17)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (17)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; ((~~and~~))

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician that meets the requirements of RCW 18.71.200 or 18.73.030((~~(12)~~))(13), and whose duties include providing emergency medical services as defined in RCW 18.73.030; and

(i) Personnel serving on a full-time, fully compensated basis as an employee of a fire department in positions that necessitate experience as a firefighter to perform the essential functions of those positions.

(18) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor and cannabis board, and the state department of corrections. A general authority law enforcement agency under this chapter does not include a government contractor.

(19) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (19)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (19)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(20) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses," provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic X-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(21) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsection (17) or (19) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(22) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(23) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(24) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(25) "Regular interest" means such rate as the director may determine.

(26) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(27) "Retirement fund" means the "Washington law enforcement officers' and firefighters' retirement system fund" as provided for herein.

(28) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(29)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(iii) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(b)(i) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

(ii) Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

(iii) Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

(iv) If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit

month during any calendar month in which multiple service for less than seventy hours is rendered.

(v) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(30) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

Sec. 202. RCW 41.26.030 and 2023 c 77 s 1 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(3) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(4)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(7) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(8) "Director" means the director of the department.

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (17) and (19) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, district, or regional fire protection service authority or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the firefighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or firefighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

(i) The legislative authority of any city, town, county, district, public corporation, or regional fire protection service authority established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency;

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996; or

(v) The department of social and health services or the department of corrections when employing firefighters serving at a prison or civil commitment center on an island.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(15)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer;

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member employed by the state or a local government employer during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(16) "Fire department" includes a fire station operated by the department of social and health services or the department of corrections when employing firefighters serving a prison or civil commitment center on an island.

(17) "Firefighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for firefighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time firefighter where the fire department does not have a civil service examination;

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (17)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (17)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; ((~~and~~))

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician that meets the requirements of RCW 18.71.200 or 18.73.030(13), and whose duties include providing emergency medical services as defined in RCW 18.73.030; and

(i) Personnel serving on a full-time, fully compensated basis as an employee of a fire department in positions that necessitate experience as a firefighter to perform the essential functions of those positions.

(18) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, the government of a federally recognized tribe, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor and cannabis board, and the state department of corrections. A general authority law enforcement agency under this chapter does not include a government contractor.

(19) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (19)(d) shall not apply to plan 2 members;

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (19)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993; and

(f) The term "law enforcement officer" also includes a person who is employed on or after January 1, 2024, on a full-time basis by the government of a federally recognized tribe within the state of Washington that meets the terms and conditions of RCW 41.26.565, is employed in a police department maintained by that tribe, and who is currently certified as a general authority peace officer under chapter 43.101 RCW.

(20) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses," provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic X-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(21) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsection (17) or (19) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(22) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(23) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(24) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(25) "Regular interest" means such rate as the director may determine.

(26) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(27) "Retirement fund" means the "Washington law enforcement officers' and firefighters' retirement system fund" as provided for herein.

(28) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(29)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(iii) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(b)(i) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

(ii) Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

(iii) Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

(iv) If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(v) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(30) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

NEW SECTION. **Sec. 203.** Section 201 of this act expires July 1, 2025.

NEW SECTION. **Sec. 204.** Section 202 of this act takes effect July 1, 2025.

Part III
Pension Overpayment Responsibility

Sec. 301. RCW 41.50.130 and 1997 c 254 s 15 are each amended to read as follows:

(1) The director may at any time correct errors appearing in the records of the retirement systems listed in RCW 41.50.030. Should any error in such records result in any member, beneficiary, or other person or entity receiving more or less than he or she would have been entitled to had the records been correct, the director, subject to the conditions set forth in this section, shall adjust the payment in such a manner that the benefit to which such member, beneficiary, or other person or entity was correctly entitled shall be paid in accordance with the following:

(a) In the case of underpayments to a member or beneficiary, the retirement system shall correct all future payments from the point of error detection, and shall compute the additional payment due for the allowable prior period which shall be paid in a lump sum by the appropriate retirement system.

(b) In the case of overpayments to a retiree or other beneficiary, the retirement system shall adjust the payment so that the retiree or beneficiary receives the benefit to which he or she is correctly entitled. The retiree or beneficiary shall either repay the overpayment in a lump sum within ninety days of notification or, if he or she is entitled to a continuing benefit, elect to have that benefit actuarially reduced by an amount equal to the overpayment. The retiree or beneficiary is not responsible for repaying the overpayment if the employer is liable under RCW 41.50.139 or section 302 of this act.

(c) In the case of overpayments to a person or entity other than a member or beneficiary, the overpayment shall constitute a debt from the person or entity to the department, recovery of which shall not be barred by laches or statute of limitations.

(2) Except in the case of actual fraud or overpayments under section 302 of this act, in the case of overpayments to a member or beneficiary, the benefits shall be adjusted to reflect only the amount of overpayments made within three years of discovery of the error, notwithstanding any provision to the contrary in chapter 4.16 RCW.

(3) Except in the case of actual fraud, no monthly benefit shall be reduced by more than fifty percent of the member's or beneficiary's corrected benefit. Any overpayment not recovered due to the inability to actuarially reduce a member's benefit due to: (a) The provisions of this subsection; or (b) the fact that the retiree's monthly retirement allowance is less than the monthly payment required to effectuate an actuarial reduction, shall constitute a claim against the estate of a member, beneficiary, or other person or entity in receipt of an overpayment.

(4) Except as provided in subsection (2) of this section, obligations of employers or members until paid to the department shall constitute a debt from the employer or member to the department, recovery of which shall not be barred by laches or statutes of limitation.

NEW SECTION. **Sec. 302.** A new section is added to chapter 41.26 RCW to read as follows:

(1) If an overpayment for a law enforcement officers' and firefighters' retirement system plan 2 retiree was due to an employer erroneously reporting law enforcement officers' and firefighters' retirement system plan 2 member information to the department, and the erroneous reporting was not the result of the member's nondisclosure, fraud, misrepresentation, or other fault, the employer is liable for the resulting overpayment.

(2) Upon receipt of a billing from the department, the employer shall pay into the Washington law enforcement officers' and firefighters' system plan 2 retirement fund the amount of the overpayment plus interest as determined by the director. The employer's liability under this section shall not exceed the amount of overpayments plus interest received by the retiree within one year of the date of discovery, except in the case of fraud committed by the employer. In the case of fraud committed by the employer, the employer is liable for the entire overpayment plus interest.

NEW SECTION. **Sec. 303.** Sections 301 and 302 of this act take effect January 1, 2025.

Part IV
Disability Pension Benefits

Sec. 401. RCW 41.26.470 and 2016 c 115 s 3 are each amended to read as follows:

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three, except under subsection (7) of this section.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, the administrative procedure act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.45.060 and 41.45.067.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse or domestic partner, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse or domestic partner, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

(6) A member who becomes disabled in the line of duty, and who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent. A person in receipt of this benefit is a retiree.

(7) A member who becomes disabled in the line of duty shall be entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(8) A member who became disabled in the line of duty before January 1, 2001, and is receiving an allowance under RCW 41.26.430 or subsection (1) of this section shall be entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five, and shall have the allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three. An additional benefit shall not result in a total monthly benefit greater than that provided in subsection (1) of this section.

(9) A member who is totally disabled in the line of duty is entitled to receive a retirement allowance equal to seventy percent of the member's final average salary. The allowance provided under this subsection shall be offset by:

(a) Temporary disability wage-replacement benefits or permanent total disability benefits provided to the member under Title 51 RCW; and

(b) Federal social security disability benefits, if any;

so that such an allowance does not result in the member receiving combined benefits that exceed one hundred percent of the member's final average salary. However, the offsets shall not in any case reduce the allowance provided under this subsection below the member's accrued retirement allowance.

A member is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings in excess of eight hundred sixty dollars a month in 2006 adjusted annually as determined by the director based on federal social security disability standards. The department may require a person in receipt of an allowance under this subsection to provide any financial records that are necessary to determine continued eligibility for such an allowance. A person in receipt of an allowance under this subsection whose earnings exceed the threshold for substantial gainful activity shall have their benefit converted to a line-of-duty disability retirement allowance as provided in subsection (7) of this section.

Any person in receipt of an allowance under the provisions of this section is subject to comprehensive medical examinations as may be required by the department under subsection (2) of this section in order to determine continued eligibility for such an allowance.

(10)(a) In addition to the retirement allowance provided in subsection (9) of this section, the retirement allowance of a member who is totally disabled in the line of duty shall include reimbursement for any payments made by the member after June 10, 2010, for premiums on employer-provided medical insurance, insurance authorized by the consolidated omnibus budget reconciliation act of 1985 (COBRA), medicare part A (hospital insurance), and medicare part B (medical insurance). A member who is entitled to medicare must enroll and maintain enrollment in both medicare part A and medicare part B in order to remain eligible for the reimbursement provided in this subsection. The legislature reserves the right to amend or repeal the benefits provided in this subsection in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time.

(b) The retirement allowance of a member who is not eligible for reimbursement provided in (a) of this subsection shall include reimbursement for any payments made after June 30, 2013, for premiums on other medical insurance. However, in no instance shall the reimbursement exceed the amount reimbursed for premiums authorized by the consolidated omnibus budget reconciliation act of 1985 (COBRA).

(11) A member who has left the employ of an employer due to service in the national guard, military reserves, federal emergency management agency, or national disaster medical system of the United States department of health and human services and who becomes totally incapacitated for continued employment by an employer as determined by the director while performing service in response to a disaster, major emergency, special event, federal exercise, or official training on or after March 22, 2014, shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 except such allowance is not subject to an actuarial reduction for early retirement as provided in RCW 41.26.430. The member's retirement allowance is computed under RCW 41.26.420, except that the member shall be entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(12) A member who is in receipt of a nonduty disability benefit under subsection (1) of this section, for a disabling condition that was not considered an occupational disease by the department of labor and industries at the time the member retired but is now considered an occupational disease in accordance with the definition of posttraumatic stress disorder in RCW 51.08.165, may file a new application with the department for a determination of their eligibility for an in the line of duty disability retirement benefit under subsections (7) and (9) of this section with the current occupational disease eligibility applied to their application. If the department finds that the member is eligible for an in the line of duty disability retirement the benefit must be paid retroactive to the disabling condition being made eligible as an occupational disease under RCW 51.08.165.

Part V
Civil Service Exemption for Management and Research Personnel

Sec. 501. RCW 41.26.717 and 2018 c 272 s 2 are each amended to read as follows:

The law enforcement officers' and firefighters' plan 2 retirement board established in section 4, chapter 2, Laws of 2003 has the following duties and powers in addition to any other duties or powers authorized or required by law. The board:

(1) Shall hire an executive director, and shall fix the salary of the executive director subject to periodic review by the board and in consultation with the director of the office of financial management and shall provide notice to the chairs of the house of representatives and senate fiscal committees of changes;

(2) Shall employ a deputy director and research and policy analysts who shall be exempt from civil service under chapter 41.06 RCW. Compensation levels for the deputy director and research and policy analysts employed by the board shall be established and fixed by the board in consultation with the director of the office of financial management. When setting salaries for these positions, the board must consider comparable public sector positions using market-driven data. Once compensation levels are determined, the board shall provide notice to the chairs of the fiscal committees of the house of representatives and the senate of proposed changes to the compensation levels for the positions;

(3) Shall employ other staff as necessary to implement the purposes of chapter 2, Laws of 2003. Staff must be state employees under ((~~Title 41 RCW~~))this title;

((~~(3)~~))(4) Shall adopt an annual budget as provided in section 5, chapter 2, Laws of 2003. Expenses of the board are paid from the expense fund created in RCW 41.26.732;

((~~(4)~~))(5) May make, execute, and deliver contracts, conveyances, and other instruments necessary to exercise and discharge its powers and duties;

((~~(5)~~))(6) May contract for all or part of the services necessary for the management and operation of the board with other state or nonstate entities authorized to do business in the state; and

((~~(6)~~))(7) May contract with actuaries, auditors, and other consultants as necessary to carry out its responsibilities."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

2SSB 6228 Prime Sponsor, Ways & Means: Concerning treatment of substance use disorders. 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.** (1) The legislature finds that ensuring that individuals with substance use disorders can enter into and complete residential addiction treatment is an important public policy objective. Substance use disorder providers forcing patients to leave treatment prematurely and insurance authorization barriers both present impediments to realizing this goal.

(2) The legislature further finds that patients with substance use disorders should be provided information regarding and access to the full panoply of treatment options for their condition, as would be the case with any other life-threatening disease. Pharmacotherapies are incredibly effective and severely underutilized tools in the treatment of opioid use disorder and alcohol use disorder. The federal food and drug administration has approved three medications for the treatment of opioid use disorder and three medications for the treatment of alcohol use disorder. Only 37 percent of individuals with opioid use disorder and nine percent of individuals with alcohol use disorder receive medication to treat their condition.

(3) Therefore, it is the intent of the legislature to reduce forced patient discharges from residential addiction treatment, to remove arbitrary insurance authorization barriers to residential addiction treatment, and to ensure that patients with opioid use disorder and alcohol use disorder receive access to care that is consistent with clinical best practices.

NEW SECTION. **Sec. 2.** A new section is added to chapter 71.24 RCW to read as follows:

(1)(a) By October 1, 2024, each licensed or certified behavioral health agency providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services shall submit to the department any policies that the agency maintains regarding the transfer or discharge of a person without the person's consent from a facility providing those services. The policies that agencies must submit include any policies related to situations in which the agency transfers or discharges a person without the person's consent, therapeutic progressive disciplinary processes that the agency maintains, and procedures to assure safe transfers and discharges when a patient is discharged without the patient's consent. Behavioral health agencies that do not maintain such policies must provide an attestation to this effect.

(b) By April 1, 2025, the department shall adopt a model policy for licensed or certified behavioral health agencies providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services to consider when adopting policies related to the transfer or discharge of a person without the person's consent from a facility providing those services. In developing the model policy, the department shall consider the policies submitted by agencies under (a) of this subsection and establish factors to be used in making a decision to transfer or discharge a person without the person's consent. Factors may include, but are not limited to, the person's medical condition, the clinical determination that the person no longer requires treatment or withdrawal management services at the facility, the risk of physical injury presented by the person to the person's self or to other persons at the facility, the extent to which the person's behavior risks the recovery goals of other persons at the facility, and the extent to which the agency has applied a therapeutic progressive disciplinary process. The model policy must include provisions addressing the use of an appropriate therapeutic progressive disciplinary process and procedures to assure safe transfers and discharges of a patient who is discharged without the patient's consent.

(2)(a) Beginning July 1, 2025, every licensed or certified behavioral health agency providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services shall submit a report to the department for each instance in which a person receiving services either: (i) Was transferred or discharged from the facility by the agency without the person's consent; or (ii) released the person's self from the facility prior to a clinical determination that the person had completed treatment.

(b) The department shall adopt rules to implement the reporting requirement under (a) of this subsection, using a standard form. The rules must require that the agency provide a description of the circumstances related to the person's departure from the facility, including whether the departure was voluntary or involuntary, the extent to which a therapeutic progressive disciplinary process was applied, the patient's self-reported understanding of the reasons for discharge, efforts that were made to avert the discharge, and efforts that were made to establish a safe discharge plan prior to the patient leaving the facility.

(3) Patient health care information contained in reports submitted under subsection (2) of this section is exempt from disclosure under RCW 42.56.360.

(4) This section does not apply to hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed under chapter 71.12 RCW.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.20 RCW to read as follows:

The addictions, drug, and alcohol institute at the University of Washington shall create a patient shared decision-making tool to assist behavioral health and medical providers when

discussing medication treatment options for patients with alcohol use disorder. The institute shall distribute the tool to behavioral health and medical providers and instruct them on ways to incorporate the use of the tool into their practices. The institute shall conduct regular evaluations of the tool and update the tool as necessary.

Sec. 4. RCW 71.24.037 and 2023 c 454 s 2 are each amended to read as follows:

(1) The secretary shall license or certify any agency or facility that: (a) Submits payment of the fee established under RCW 43.70.110 and 43.70.250; (b) submits a complete application that demonstrates the ability to comply with requirements for operating and maintaining an agency or facility in statute or rule; and (c) successfully completes the prelicensure inspection requirement.

(2) The secretary shall establish by rule minimum standards for licensed or certified behavioral health agencies that must, at a minimum, establish: (a) Qualifications for staff providing services directly to persons with mental disorders, substance use disorders, or both; (b) the intended result of each service; and (c) the rights and responsibilities of persons receiving behavioral health services pursuant to this chapter and chapter 71.05 RCW. The secretary shall provide for deeming of licensed or certified behavioral health agencies as meeting state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department.

(3) The department shall review reports or other information alleging a failure to comply with this chapter or the standards and rules adopted under this chapter and may initiate investigations and enforcement actions based on those reports.

(4) The department shall conduct inspections of agencies and facilities, including reviews of records and documents required to be maintained under this chapter or rules adopted under this chapter.

(5) The department may suspend, revoke, limit, restrict, or modify an approval, or refuse to grant approval, for failure to meet the provisions of this chapter, or the standards adopted under this chapter. RCW 43.70.115 governs notice of a license or certification denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(6) No licensed or certified behavioral health agency may advertise or represent itself as a licensed or certified behavioral health agency if approval has not been granted or has been denied, suspended, revoked, or canceled.

(7) Licensure or certification as a behavioral health agency is effective for one calendar year from the date of issuance of the license or certification. The license or certification must specify the types of services provided by the behavioral health agency that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(8) Licensure or certification as a licensed or certified behavioral health agency must specify the types of services provided that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(9) The department shall develop a process by which a provider may obtain dual licensure as an evaluation and treatment facility and secure withdrawal management and stabilization facility.

(10) Licensed or certified behavioral health agencies may not provide types of services for which the licensed or certified behavioral health agency has not been certified. Licensed or certified behavioral health agencies may provide services for which approval has been sought and is pending, if approval for the services has not been previously revoked or denied.

(11) The department periodically shall inspect licensed or certified behavioral health agencies at reasonable times and in a reasonable manner.

(12) Upon petition of the department and after a hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him or her to enter and inspect at reasonable times, and examine the books and accounts of, any licensed or certified behavioral health agency refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this chapter.

(13) The department shall maintain and periodically publish a current list of licensed or certified behavioral health agencies.

(14) Each licensed or certified behavioral health agency shall file with the department or the authority upon request, data, statistics, schedules, and information the department or the authority reasonably requires. A licensed or certified behavioral health agency that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, may have its license or certification revoked or suspended.

(15) The authority shall use the data provided in subsection (14) of this section to evaluate each program that admits children to inpatient substance use disorder treatment upon application of their parents. The evaluation must be done at least once every twelve months. In addition, the authority shall randomly select and review the information on individual children who are admitted on application of the child's parent for the purpose of determining whether the child was appropriately placed into substance use disorder treatment based on an objective evaluation of the child's condition and the outcome of the child's treatment.

(16) Any settlement agreement entered into between the department and licensed or certified behavioral health agencies to resolve administrative complaints, license or certification violations, license or certification suspensions, or license or certification revocations may not reduce the number of violations reported by the department unless the department concludes, based on evidence gathered by inspectors, that the licensed or certified behavioral health agency did not commit one or more of the violations.

(17) In cases in which a behavioral health agency that is in violation of licensing or certification standards attempts to transfer or sell the behavioral health agency to a family member, the transfer or sale may only be made for the purpose of remedying license or certification violations and achieving full compliance with the terms of the license or certification. Transfers or sales to family members are prohibited in cases in which the purpose of the transfer or sale is to avoid liability or reset the number of license or certification violations found before the transfer or sale. If the department finds that the owner intends to transfer or sell, or has completed the transfer or sale of, ownership of the behavioral health agency to a family member solely for the purpose of resetting the number of violations found before the transfer or sale, the department may not renew the behavioral health agency's license or certification or issue a new license or certification to the behavioral health service provider.

(18) Every licensed or certified outpatient behavioral health agency shall display the 988 crisis hotline number in common areas of the premises and include the number as a calling option on any phone message for persons calling the agency after business hours.

(19) Every licensed or certified inpatient or residential behavioral health agency must include the 988 crisis hotline number in the discharge summary provided to individuals being discharged from inpatient or residential services.

(20)(a) Licensed or certified behavioral health agencies providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services:

(i) Must comply with the policy submission and mandatory reporting requirements established in section 2 of this act; and

(ii) May not prohibit a person from receiving services at or being admitted to the agency based solely on prior instances of the person releasing the person's self from the facility prior to a clinical determination that the person had completed treatment.

(b) This subsection (20) does not apply to hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed under chapter 71.12 RCW.

(21)(a) A licensed or certified behavioral health agency shall provide each patient seeking treatment for opioid use disorder or alcohol use disorder, whether receiving inpatient or outpatient treatment, with education related to pharmacological treatment options specific to the patient's diagnosed condition. The education must include an unbiased explanation of all recognized forms of treatment approved by the federal food and drug administration, as required under RCW 7.70.050 and 7.70.060, that are clinically appropriate for the patient and covered by the patient's insurance. Providers may use the patient shared decision-making tools for opioid use disorder and alcohol use disorder developed by the addictions, drug, and alcohol institute at the University of Washington. If the patient elects a clinically appropriate pharmacological treatment option, the behavioral health agency shall support the patient with the implementation of the pharmacological treatment either by direct provision of the medication or by a warm handoff referral, if the treating provider is unable to directly provide the medication.

(b) Unless it meets the requirements of (a) of this subsection, a behavioral health agency may not:

(i) Advertise that it treats opioid use disorder or alcohol use disorder; or

(ii) Treat patients for opioid use disorder or alcohol use disorder, regardless of the form of treatment that the patient chooses.

(c)(i) Failure to meet the education requirements of (a) of this subsection may be an element of proof in demonstrating a breach of the duty to secure an informed consent under RCW 7.70.050.

(ii) Failure to meet the education and facilitation requirements of (a) of this subsection may be the basis of a disciplinary action under this section.

(d) Subsections (b) and (c) of this subsection do not apply to licensed behavioral health agencies that are units within a hospital licensed under chapter 70.41 RCW or a psychiatric hospital licensed under chapter 71.12 RCW.

NEW SECTION. **Sec. 5.** A new section is added to chapter 70.41 RCW to read as follows:

A hospital licensed under this chapter shall provide each patient seeking treatment for opioid use disorder or alcohol use disorder with education related to pharmacological treatment options specific to the patient's diagnosed condition. The education must include an unbiased explanation of all recognized forms of treatment approved by the federal food and drug administration, as required under RCW 7.70.050 and 7.70.060, that are clinically appropriate for the patient and covered by the patient's insurance. A hospital may use the patient shared decision-making tools for opioid use disorder and alcohol use disorder developed by the University of Washington addictions, drug, and alcohol institute. If the patient elects a clinically appropriate pharmacological treatment option, the hospital shall support the patient with the implementation of the pharmacological treatment, either by direct provision of the medication or by a referral, if the hospital is unable to directly provide the medication.

NEW SECTION. **Sec. 6.** A new section is added to chapter 71.24 RCW to read as follows:

(1) If a behavioral health provider or licensed or certified behavioral health agency that provides withdrawal management services to a patient seeks to discontinue usage or reduce dosage amounts of a medication, including a psychotropic medication, that the patient has been using in accordance with the directions of a prescribing health care provider, the withdrawal management provider shall engage in individualized, patient-centered, shared decision making, using nonjudgmental and compassionate communication and, with the consent of the patient, make a good faith effort to consult the prescribing health care provider. A withdrawal management provider may not, by philosophy or practice, categorically require all patients to discontinue all psychotropic medications, including benzodiazepines and medications for attention deficit hyperactivity disorder.

(2) This section does not apply to hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed under chapter 71.12 RCW.

Sec. 7. RCW 41.05.526 and 2020 c 345 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a health plan offered to employees and their covered dependents under this chapter issued or renewed on or after January 1, 2021, may not require an enrollee to obtain prior authorization for withdrawal management services or inpatient or residential substance use disorder treatment services in a behavioral health agency licensed or certified under RCW 71.24.037.

(2)(a) A health plan offered to employees and their covered dependents under this chapter issued or renewed on or after January 1, 2021, must:

(i) Provide coverage for no less than two business days, excluding weekends and holidays, in a behavioral health agency that provides inpatient or residential substance use disorder treatment prior to conducting a utilization review; and

(ii) Provide coverage for no less than three days in a behavioral health agency that provides withdrawal management services prior to conducting a utilization review.

(b)(i) The health plan may not require an enrollee to obtain prior authorization for the services specified in (a) of this subsection as a condition for payment of services prior to the times specified in (a) of this subsection.

(ii) Once the times specified in (a) of this subsection have passed, the health plan may initiate utilization management review procedures if the behavioral health agency continues to provide services or is in the process of arranging for a seamless transfer to an appropriate facility or lower level of care under subsection (6) of this section. For a health plan issued or renewed on or after January 1, 2025, if a health plan authorizes inpatient or residential substance use disorder treatment services pursuant to (a)(i) of this subsection following the initial medical necessity review process under (c)(iii) of this subsection, the length of the initial authorization may not be less than 14 days from the date that the patient was admitted to the behavioral health agency. Any subsequent reauthorization that the health plan approves after the first 14 days must continue for no less than seven days prior to requiring further reauthorization. Nothing prohibits a health plan from requesting information to assist with a seamless transfer under this subsection.

(c)(i) The behavioral health agency under (a) of this subsection must notify an enrollee's health plan as soon as practicable after admitting the enrollee, but not later than twenty-four hours after admitting the enrollee. The time of notification does not reduce the requirements established in (a) of this subsection.

(ii) The behavioral health agency under (a) of this subsection must provide the health plan with its initial assessment and initial treatment plan for the enrollee within two business days of admission, excluding weekends and holidays, or within three days in the case of a behavioral health agency that provides withdrawal management services.

(iii) After the time period in (a) of this subsection and receipt of the material provided under (c)(ii) of this subsection, the plan may initiate a medical necessity review process. Medical necessity review must be based on the standard set of criteria established under RCW 41.05.528. In a review for inpatient or residential substance use disorder treatment services, a health plan may not make a determination that a patient does not meet medical necessity criteria based primarily on the patient's length of abstinence. If the patient's abstinence from substance use was due to incarceration, hospitalization, or inpatient treatment, a health plan may not consider the patient's length of abstinence in determining medical necessity. If the health plan determines within one business day from the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection that the admission to the facility was not medically necessary and advises the agency of the decision in writing, the health plan is not required to pay the facility for services delivered after the start of the medical necessity review period, subject to the conclusion of a filed appeal of the adverse benefit determination. If the health plan's medical necessity review is completed more than one business day after ((~~[the]~~))the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection, the health plan must pay for the services delivered from the time of admission until the time at which the medical necessity review is completed and the agency is advised of the decision in writing.

(3)(a) The behavioral health agency shall document to the health plan the patient's need for continuing care and justification for level of care placement following the current treatment period, based on the standard set of criteria established under RCW 41.05.528, with documentation recorded in the patient's medical record.

(b) For a health plan issued or renewed on or after January 1, 2025, for inpatient or residential substance use disorder treatment services, the health plan may not consider the

patient's length of stay at the behavioral health agency when making decisions regarding the authorization to continue care at the behavioral health agency.

(4) Nothing in this section prevents a health carrier from denying coverage based on insurance fraud.

(5) If the behavioral health agency under subsection (2)(a) of this section is not in the enrollee's network:

(a) The health plan is not responsible for reimbursing the behavioral health agency at a greater rate than would be paid had the agency been in the enrollee's network; and

(b) The behavioral health agency may not balance bill, as defined in RCW 48.43.005.

(6) When the treatment plan approved by the health plan involves transfer of the enrollee to a different facility or to a lower level of care, the care coordination unit of the health plan shall work with the current agency to make arrangements for a seamless transfer as soon as possible to an appropriate and available facility or level of care. The health plan shall pay the agency for the cost of care at the current facility until the seamless transfer to the different facility or lower level of care is complete. A seamless transfer to a lower level of care may include same day or next day appointments for outpatient care, and does not include payment for nontreatment services, such as housing services. If placement with an agency in the health plan's network is not available, the health plan shall pay the current agency until a seamless transfer arrangement is made.

(7) The requirements of this section do not apply to treatment provided in out-of-state facilities.

(8) For the purposes of this section "withdrawal management services" means twenty-four hour medically managed or medically monitored detoxification and assessment and treatment referral for adults or adolescents withdrawing from alcohol or drugs, which may include induction on medications for addiction recovery.

Sec. 8. RCW 48.43.761 and 2020 c 345 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a health plan issued or renewed on or after January 1, 2021, may not require an enrollee to obtain prior authorization for withdrawal management services or inpatient or residential substance use disorder treatment services in a behavioral health agency licensed or certified under RCW 71.24.037.

(2)(a) A health plan issued or renewed on or after January 1, 2021, must:

(i) Provide coverage for no less than two business days, excluding weekends and holidays, in a behavioral health agency that provides inpatient or residential substance use disorder treatment prior to conducting a utilization review; and

(ii) Provide coverage for no less than three days in a behavioral health agency that provides withdrawal management services prior to conducting a utilization review.

(b)(i) The health plan may not require an enrollee to obtain prior authorization for the services specified in (a) of this subsection as a condition for payment of services prior to the times specified in (a) of this subsection.

(ii) Once the times specified in (a) of this subsection have passed, the health plan may initiate utilization management review procedures if the behavioral health agency continues to provide services or is in the process of arranging for a seamless transfer to an appropriate facility or lower level of care under subsection (6) of this section. For a health plan issued or renewed on or after January 1, 2025, if a health plan authorizes inpatient or residential substance use disorder treatment services pursuant to (a)(i) of this subsection following the initial medical necessity review process under (c)(iii) of this subsection, the length of the initial authorization may not be less than 14 days from the date that the patient was admitted to the behavioral health agency. Any subsequent reauthorization that the health plan approves after the first 14 days must continue for no less than seven days prior to requiring further reauthorization. Nothing prohibits a health plan from requesting information to assist with a seamless transfer under this subsection.

(c)(i) The behavioral health agency under (a) of this subsection must notify an enrollee's health plan as soon as practicable after admitting the enrollee, but not later than twenty-four hours after admitting the enrollee. The time of notification does not reduce the requirements established in (a) of this subsection.

(ii) The behavioral health agency under (a) of this subsection must provide the health plan with its initial assessment and initial treatment plan for the enrollee within two business days of admission, excluding weekends and holidays, or within three days in the case of a behavioral health agency that provides withdrawal management services.

(iii) After the time period in (a) of this subsection and receipt of the material provided under (c)(ii) of this subsection, the plan may initiate a medical necessity review process. Medical necessity review must be based on the standard set of criteria established under RCW 41.05.528. In a review for inpatient or residential substance use disorder treatment services, a health plan may not make a determination that a patient does not meet medical necessity criteria based primarily on the patient's length of abstinence. If the patient's abstinence from substance use was due to incarceration, hospitalization, or inpatient treatment, a health plan may not consider the patient's length of abstinence in determining medical necessity. If the health plan determines within one business day from the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection that the admission to the facility was not medically necessary and advises the agency of the decision in writing, the health plan is not required to pay the facility for services delivered after the start of the medical necessity review period, subject to the conclusion of a filed appeal of the adverse benefit determination. If the health plan's medical necessity review is completed more than one business day after

((~~[the]~~))the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection, the health plan must pay for the services delivered from the time of admission until the time at which the medical necessity review is completed and the agency is advised of the decision in writing.

(3)(a) The behavioral health agency shall document to the health plan the patient's need for continuing care and justification for level of care placement following the current treatment period, based on the standard set of criteria established under RCW 41.05.528, with documentation recorded in the patient's medical record.

(b) For a health plan issued or renewed on or after January 1, 2025, for inpatient or residential substance use disorder treatment services, the health plan may not consider the patient's length of stay at the behavioral health agency when making decisions regarding the authorization to continue care at the behavioral health agency.

(4) Nothing in this section prevents a health carrier from denying coverage based on insurance fraud.

(5) If the behavioral health agency under subsection (2)(a) of this section is not in the enrollee's network:

(a) The health plan is not responsible for reimbursing the behavioral health agency at a greater rate than would be paid had the agency been in the enrollee's network; and

(b) The behavioral health agency may not balance bill, as defined in RCW 48.43.005.

(6) When the treatment plan approved by the health plan involves transfer of the enrollee to a different facility or to a lower level of care, the care coordination unit of the health plan shall work with the current agency to make arrangements for a seamless transfer as soon as possible to an appropriate and available facility or level of care. The health plan shall pay the agency for the cost of care at the current facility until the seamless transfer to the different facility or lower level of care is complete. A seamless transfer to a lower level of care may include same day or next day appointments for outpatient care, and does not include payment for nontreatment services, such as housing services. If placement with an agency in the health plan's network is not available, the health plan shall pay the current agency until a seamless transfer arrangement is made.

(7) The requirements of this section do not apply to treatment provided in out-of-state facilities.

(8) For the purposes of this section "withdrawal management services" means twenty-four hour medically managed or medically monitored detoxification and assessment and treatment referral for adults or adolescents withdrawing from alcohol or drugs, which may include induction on medications for addiction recovery.

Sec. 9. RCW 71.24.618 and 2020 c 345 s 4 are each amended to read as follows:

(1) Beginning January 1, 2021, a managed care organization may not require an enrollee to obtain prior authorization for withdrawal management services or inpatient or residential substance use disorder treatment services in a behavioral health agency licensed or certified under RCW 71.24.037.

(2)(a) Beginning January 1, 2021, a managed care organization must:

(i) Provide coverage for no less than two business days, excluding weekends and holidays, in a behavioral health agency that provides inpatient or residential substance use disorder treatment prior to conducting a utilization review; and

(ii) Provide coverage for no less than three days in a behavioral health agency that provides withdrawal management services prior to conducting a utilization review.

(b)(i) The managed care organization may not require an enrollee to obtain prior authorization for the services specified in (a) of this subsection as a condition for payment of services prior to the times specified in (a) of this subsection.

(ii) Once the times specified in (a) of this subsection have passed, the managed care organization may initiate utilization management review procedures if the behavioral health agency continues to provide services or is in the process of arranging for a seamless transfer to an appropriate facility or lower level of care under subsection (6) of this section. Beginning January 1, 2025, if a managed care organization authorizes inpatient or residential substance use disorder treatment services pursuant to (a)(i) of this subsection following the initial medical necessity review process under (c)(iii) of this subsection, the length of the initial authorization may not be less than 14 days from the date that the patient was admitted to the behavioral health agency. Any subsequent reauthorization that the managed care organization approves after the first 14 days must continue for no less than seven days prior to requiring further reauthorization. Nothing prohibits a managed care organization from requesting information to assist with a seamless transfer under this subsection.

(c)(i) The behavioral health agency under (a) of this subsection must notify an enrollee's managed care organization as soon as practicable after admitting the enrollee, but not later than twenty-four hours after admitting the enrollee. The time of notification does not reduce the requirements established in (a) of this subsection.

(ii) The behavioral health agency under (a) of this subsection must provide the managed care organization with its initial assessment and initial treatment plan for the enrollee within two business days of admission, excluding weekends and holidays, or within three days in the case of a behavioral health agency that provides withdrawal management services.

(iii) After the time period in (a) of this subsection and receipt of the material provided under (c)(ii) of this subsection, the managed care organization may initiate a medical necessity review process. Medical necessity review must be based on the standard set of criteria established under RCW 41.05.528. In a review for inpatient or residential

substance use disorder treatment services, a managed care organization may not make a determination that a patient does not meet medical necessity criteria based primarily on the patient's length of abstinence. If the patient's abstinence from substance use was due to incarceration, hospitalization, or inpatient treatment, a managed care organization may not consider the patient's length of abstinence in determining medical necessity. If the health plan determines within one business day from the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection that the admission to the facility was not medically necessary and advises the agency of the decision in writing, the health plan is not required to pay the facility for services delivered after the start of the medical necessity review period, subject to the conclusion of a filed appeal of the adverse benefit determination. If the managed care organization's medical necessity review is completed more than one business day after ((~~[the]~~))the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection, the managed care organization must pay for the services delivered from the time of admission until the time at which the medical necessity review is completed and the agency is advised of the decision in writing.

(3)(a) The behavioral health agency shall document to the managed care organization the patient's need for continuing care and justification for level of care placement following the current treatment period, based on the standard set of criteria established under RCW 41.05.528, with documentation recorded in the patient's medical record.

(b) Beginning January 1, 2025, for inpatient or residential substance use disorder treatment services, the managed care organization may not consider the patient's length of stay at the behavioral health agency when making decisions regarding the authorization to continue care at the behavioral health agency.

(4) Nothing in this section prevents a health carrier from denying coverage based on insurance fraud.

(5) If the behavioral health agency under subsection (2)(a) of this section is not in the enrollee's network:

(a) The managed care organization is not responsible for reimbursing the behavioral health agency at a greater rate than would be paid had the agency been in the enrollee's network; and

(b) The behavioral health agency may not balance bill, as defined in RCW 48.43.005.

(6) When the treatment plan approved by the managed care organization involves transfer of the enrollee to a different facility or to a lower level of care, the care coordination unit of the managed care organization shall work with the current agency to make arrangements for a seamless transfer as soon as possible to an appropriate and available facility or level of care. The managed care organization shall pay the agency for the cost of care at the current facility until the seamless transfer to the different facility or lower level of care is complete. A seamless transfer to a lower level of care may include same day or next day appointments for outpatient care, and does not include payment for nontreatment services, such as housing services. If placement with an agency in the managed care organization's network is not available, the managed care organization shall pay the current agency at the service level until a seamless transfer arrangement is made.

(7) The requirements of this section do not apply to treatment provided in out-of-state facilities.

(8) For the purposes of this section "withdrawal management services" means twenty-four hour medically managed or medically monitored detoxification and assessment and treatment referral for adults or adolescents withdrawing from alcohol or drugs, which may include induction on medications for addiction recovery.

NEW SECTION. **Sec. 10.** (1) The health care authority, in collaboration with the insurance commissioner, shall convene a work group consisting of commercial health carriers, medicaid managed care organizations, and behavioral health agencies that provide inpatient or residential substance use disorder treatment services. The work group shall develop recommendations for streamlining commercial health carrier and medicaid managed care organization requirements and processes related to the authorization and reauthorization of inpatient or residential substance use disorder treatment. The recommendations must include a universal format accepted by all health carriers and medicaid managed care organizations for behavioral health agencies to use for service authorization and reauthorization requests with common data requirements and a standardized form and simplified electronic process. The health care authority shall submit the recommendations of the work group to the appropriate policy committees of the legislature by December 1, 2024.

(2) This section expires June 1, 2025.

NEW SECTION. **Sec. 11.** A new section is added to chapter 41.05 RCW to read as follows:

When updated versions of the ASAM Criteria, treatment criteria for addictive, substance related, and co-occurring conditions, inclusive of adolescent and transition age youth versions, are published by the American society of addiction medicine, the health care authority and the office of the insurance commissioner shall jointly determine whether to use the updated version, and, if so, the date upon which the updated version must begin to be used by medicaid managed care organizations, carriers, and other relevant entities. Both agencies shall post notice of their decision on their websites. For purposes of the ASAM Criteria, 4th edition, medicaid managed care organizations and carriers shall begin to use the updated criteria no later than January 1, 2026, unless the health care authority and the office of the insurance commissioner jointly determine that it should not be used.

NEW SECTION. **Sec. 12.** A new section is added to chapter 48.43 RCW to read as follows:
When updated versions of the ASAM Criteria, treatment criteria for addictive, substance related, and co-occurring conditions, inclusive of adolescent and transition age youth versions, are published by the American society of addiction medicine, the health care authority and the office of the insurance commissioner shall jointly determine whether to use the updated version, and, if so, the date upon which the updated version must begin to be used by medicaid managed care organizations, carriers, and other relevant entities. Both agencies shall post notice of their decision on their websites. For purposes of the ASAM Criteria, 4th edition, medicaid managed care organizations and carriers shall begin to use the updated criteria no later than January 1, 2026, unless the health care authority and the office of the insurance commissioner jointly determine that it should not be used.

NEW SECTION. **Sec. 13.** A new section is added to chapter 71.24 RCW to read as follows:
When updated versions of the ASAM Criteria, treatment criteria for addictive, substance related, and co-occurring conditions, inclusive of adolescent and transition age youth versions, are published by the American society of addiction medicine, the health care authority and the office of the insurance commissioner shall jointly determine whether to use the updated version, and, if so, the date upon which the updated version must begin to be used by medicaid managed care organizations, carriers, and other relevant entities. Both agencies shall post notice of their decision on their websites. For purposes of the ASAM Criteria, 4th edition, medicaid managed care organizations and carriers shall begin to use the updated criteria no later than January 1, 2026, unless the health care authority and the office of the insurance commissioner jointly determine that it should not be used.

NEW SECTION. **Sec. 14.** The health care authority shall provide a gap analysis of nonemergency transportation benefits provided to medicaid enrollees in Washington, Oregon, and other comparison states selected by the health care authority and provide an analysis of the costs and benefits of available alternatives to the governor and appropriate committees of the legislature by December 1, 2024, including the option of an enhanced nonemergency transportation benefit for persons being discharged from a behavioral health emergency services provider to the next level of care in circumstances when a prudent layperson acting reasonably would believe such transportation is necessary to protect the enrollee from relapse or other discontinuity in care that would jeopardize the health or safety of the enrollee. In recognizing that some behavioral health patients are not well-served by the current nonemergency transportation system for medical assistance patients due to inflexible rules, the authority shall also evaluate the possibility of creating a network of peer-led, trauma-informed transportation providers that could provide nonemergency transportation to youth and adult medical assistance patients traveling to receive behavioral health services.

Sec. 15. RCW 43.70.250 and 2023 c 469 s 21 are each amended to read as follows:
(1) It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business.
(2) The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. Any and all fees or assessments, or both, levied on the state to cover the costs of the operations and activities of the interstate health professions licensure compacts with participating authorities listed under chapter 18.130 RCW shall be borne by the persons who hold licenses issued pursuant to the authority and procedures established under the compacts. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program and the cost of regulating licensed volunteer medical workers in accordance with RCW 18.130.360, except as provided in RCW 18.79.202. In no case may the secretary impose any certification, examination, or renewal fee upon a person seeking certification as a certified peer specialist trainee under chapter 18.420 RCW or, between July 1, 2025, and July 1, 2030, impose a certification, examination, or renewal fee of more than $100 upon any person seeking certification as a certified peer specialist under chapter 18.420 RCW. Subject to amounts appropriated for this specific purpose, between July 1, 2024, and July 1, 2029, the secretary may not impose any certification or certification renewal fee on a person seeking certification as a substance use disorder professional or substance use disorder professional trainee under chapter 18.205 RCW of more than $100.
(3) All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec. 16.** A new section is added to chapter 71.05 RCW to read as follows:
The authority must contract with an association that represents designated crisis responders in Washington to develop and begin delivering by July 1, 2025, a training program for social workers licensed under chapter 18.225 RCW who practice in an emergency department with responsibilities related to civil commitments under this chapter. The training must include instruction emphasizing standards and procedures relating to the civil commitment of persons with substance use disorders and mental illness, including which clinical presentations warrant summoning a designated crisis responder. The training must emphasize the manner in which a patient with a primary substance use disorder may present as a risk of

harm to self or others, or gravely disabled. Each hospital shall ensure that, by July 1, 2026, or within three months of hire, all social workers employed in the emergency department with responsibilities relating to civil commitments under this chapter complete the training every three years.

Sec. 17. RCW 41.05.527 and 2021 c 273 s 10 are each amended to read as follows:

(1) A health plan offered to public employees and their covered dependents under this chapter that is issued or renewed on or after January 1, 2023, must participate in the bulk purchasing and distribution program for opioid overdose reversal medication established in RCW 70.14.170 once the program is operational.

(2) For health plans issued or renewed on or after January 1, 2025, a health carrier must reimburse a hospital or psychiatric hospital that bills:

(a) For opioid overdose reversal medication dispensed or distributed to a patient under RCW 70.41.485 as a separate reimbursable expense; and

(b) For the administration of long-acting injectable buprenorphine as a separate reimbursable expense.

(3) Reimbursements provided under subsection (2) of this section must be separate from any bundled payment for hospital or emergency department services.

Sec. 18. RCW 48.43.762 and 2021 c 273 s 11 are each amended to read as follows:

(1) For health plans issued or renewed on or after January 1, 2023, health carriers must participate in the opioid overdose reversal medication bulk purchasing and distribution program established in RCW 70.14.170 once the program is operational. A health plan may not impose enrollee cost sharing related to opioid overdose reversal medication provided through the bulk purchasing and distribution program established in RCW 70.14.170.

(2) For health plans issued or renewed on or after January 1, 2025, a health carrier must reimburse a hospital or psychiatric hospital that bills:

(a) For opioid overdose reversal medication dispensed or distributed to a patient under RCW 70.41.485 as a separate reimbursable expense; and

(b) For the administration of long-acting injectable buprenorphine as a separate reimbursable expense.

(3) Reimbursements provided under subsection (2) of this section must be separate from any bundled payment for hospital or emergency department services.

NEW SECTION. **Sec. 19.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority shall establish appropriate billing codes for hospitals and psychiatric hospitals that administer long-acting injectable buprenorphine to use for billing patients enrolled in a medical assistance program.

(2) Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a managed care organization must reimburse a hospital or psychiatric hospital that bills for the administration of long-acting injectable buprenorphine as a separate reimbursable expense.

(3) Beginning January 1, 2025, for individuals enrolled in a medical assistance program that is not a medicaid managed care plan, the authority must reimburse a hospital or psychiatric hospital that bills for the administration of long-acting injectable buprenorphine administered as a separate reimbursable expense.

(4) Reimbursements provided under this section must be separate from any bundled payment for hospital or emergency department services.

Sec. 20. RCW 42.56.360 and 2023 sp.s. c 1 s 23 are each amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the pharmacy quality assurance commission as provided in RCW 69.45.090;

(b) Information obtained by the pharmacy quality assurance commission or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

(g) Information obtained by the department of health under chapter 70.225 RCW;

(h) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;

(i) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b);

(j) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual;

(k) Data and information exempt from disclosure under RCW 43.371.040;

(l) Medical information contained in files and records of members of retirement plans administered by the department of retirement systems or the law enforcement officers' and firefighters' plan 2 retirement board, as provided to the department of retirement systems under RCW 41.04.830; and

(m) Data submitted to the data integration platform under RCW 71.24.908.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as "exempt" so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

(4) Information and documents related to maternal mortality reviews conducted pursuant to RCW 70.54.450 are confidential and exempt from public inspection and copying.

(5) Patient health care information contained in reports submitted under section 2(2) of this act are confidential and exempt from public inspection.

NEW SECTION. **Sec. 21.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, 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; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Harris; Rude; Sandlin; Schmick; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SB 6247 Prime Sponsor, Senator Hunt: Concerning public employees' retirement system plan 2 service credit for officers of labor organizations. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Callan; Chopp; Davis; Fitzgibbon; Lekanoff; Pollet; Riccelli; Rude; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Couture, Assistant Ranking Minority Member; and Sandlin.

MINORITY recommendation: Without recommendation. Signed by Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Harris; Schmick; Stokesbary; and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

E2SSB 6251 Prime Sponsor, Ways & Means: Coordinating regional behavioral crisis response services. 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 71.24 RCW to read as follows:

Behavioral health administrative services organizations shall use their authorities under RCW 71.24.045 to establish coordination within the behavioral health crisis response system in each regional service area including, but not limited to, establishing comprehensive protocols for dispatching mobile rapid response crisis teams and community-based crisis teams. In furtherance of this:

(1) The behavioral health administrative services organization may convene regional behavioral health crisis response system partners and stakeholders within available resources for the purpose of establishing clear regional protocols which memorialize expectations, understandings, lines of communication, and strategies for optimizing crisis response in the regional service area. The regional protocols must describe how crisis response partners will share information consistent with data-sharing requirements under RCW 71.24.890, including real-time information sharing between 988 contact hubs, regional crisis lines, or their successors, to create a seamless delivery system that is person-centered;

(2) Behavioral health administrative services organizations shall submit regional protocols created under subsection (1) of this section to the authority for approval. If the authority does not respond within 90 days of submission, the regional protocols shall be considered approved until such time as the behavioral health administrative services organization and the authority agree to updated protocols. A behavioral health administrative services organization must notify the authority by January 1, 2025, if it does not intend to develop and submit regional protocols;

(3) A behavioral health administrative services organization may recommend to the department the 988 contact hub or hubs which it determines to be the best fit for partnership and implementation of regional protocols in its regional service area among candidates which are able to meet necessary state and federal requirements. The 988 contact hub or hubs recommended by the behavioral health administrative services organization must be able to connect to the culturally appropriate behavioral health crisis response services established under this chapter;

(4) The department may designate additional 988 contact hubs recommended by a behavioral health administrative services organization within available resources and when the addition of more hubs is consistent with the rules adopted under RCW 71.24.890 and a need identified in regional protocols. If the department declines to designate a 988 contact hub that has been recommended by a behavioral health administrative services organization, the department shall provide a written explanation of its reasons to the behavioral health administrative services organization;

(5) The department and the authority shall provide support to a behavioral health administrative services organization in the development of protocols under subsection (1) of this section upon request by the behavioral health administrative services organization;

(6) Regional protocols established under subsection (1) of this section must be in writing and, once approved, copies shall be provided to the department, authority, and state 911 coordination office. The regional protocols should be updated as needed and at intervals of no longer than three years; and

(7) For the purpose of subsection (1) of this section, partners and stakeholders in the coordinated regional behavioral health crisis response system include but are not limited to regional crisis lines, 988 contact hubs, certified public safety telecommunicators, local governments, tribal governments, first responders, co-response teams, mobile rapid response crisis teams, hospitals, organizations representing persons with lived experience, and behavioral health agencies.

Sec. 2. RCW 71.24.025 and 2023 c 454 s 1 and 2023 c 433 s 1 are each reenacted and amended to read as follows:

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

(1) "23-hour crisis relief center" means a community-based facility or portion of a facility serving adults, which is licensed or certified by the department of health and open 24 hours a day, seven days a week, offering access to mental health and substance use care for no more than 23 hours and 59 minutes at a time per patient, and which accepts all behavioral health crisis walk-ins drop-offs from first responders, and individuals referred through the 988 system regardless of behavioral health acuity, and meets the requirements under RCW 71.24.916.

(2) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

(3) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(4) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(5) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(6) "Authority" means the Washington state health care authority.

(7) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(8) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(9) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(10) "Behavioral health provider" means a person licensed under chapter 18.57, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(11) "Behavioral health services" means mental health services, substance use disorder treatment services, and co-occurring disorder treatment services as described in this chapter and chapter 71.36 RCW that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(12) "Child" means a person under the age of eighteen years.

(13) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(14) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(15) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(16) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(17) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(18) "Community-based crisis team" means a team that is part of an emergency medical services agency, a fire service agency, a public health agency, a medical facility, a nonprofit crisis response provider, or a city or county government entity, other than a law enforcement agency, that provides the on-site community-based interventions of a mobile rapid response crisis team for individuals who are experiencing a behavioral health crisis.

(19) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(20) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

(21) "Crisis stabilization services" means services such as 23-hour crisis relief centers, crisis stabilization units, short-term respite facilities, peer-run respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs, or determine the need for involuntary hospitalization of an individual.

(22) "Crisis stabilization unit" has the same meaning as under RCW 71.05.020.

(23) "Department" means the department of health.

(24) "Designated 988 contact hub" or "988 contact hub" means a state-designated contact center that streamlines clinical interventions and access to resources for people experiencing a behavioral health crisis and participates in the national suicide prevention lifeline network to respond to statewide or regional 988 contacts that meets the requirements of RCW 71.24.890.

(25) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(26) "Director" means the director of the authority.

(27) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(28) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(7).

(29) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (30) of this section.

(30) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(31) "First responders" includes ambulance, fire, mobile rapid response crisis team, coresponder team, designated crisis responder, fire department mobile integrated health team, community assistance referral and education services program under RCW 35.21.930, and law enforcement personnel.

(32) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(33) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(34) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(35) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(36) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(37) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(38) "Mental health peer-run respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(39) Mental health "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 of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(40) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (3), (13), (48), and (49) of this section.

(41) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include certified peer counselors as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(42) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(43) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (30) of this section but does not meet the full criteria for evidence-based.

(44) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(45) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(46) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(47) "Secretary" means the secretary of the department of health.

(48) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(49) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(50) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(51) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(52) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

(53) "Coordinated regional behavioral health crisis response system" means the coordinated operation of 988 call centers, regional crisis lines, certified public safety telecommunicators, and other behavioral health crisis system partners within each regional service area.

(54) "Regional crisis line" means the behavioral health crisis hotline in each regional service area which provides crisis response services 24 hours a day, seven days a week, 365 days a year including but not limited to dispatch of mobile rapid response crisis teams, community-based crisis teams, and designated crisis responders.

Sec. 3. RCW 71.24.045 and 2022 c 210 s 27 are each amended to read as follows:

(1) The behavioral health administrative services organization contracted with the authority pursuant to RCW 71.24.381 shall:

(a) Administer crisis services for the assigned regional service area. Such services must include:

(i) A behavioral health crisis hotline for its assigned regional service area;

(ii) Crisis response services twenty-four hours a day, seven days a week, three hundred sixty-five days a year;

(iii) Services related to involuntary commitments under chapters 71.05 and 71.34 RCW;

(iv) Tracking of less restrictive alternative orders issued within the region by superior courts, and providing notification to a managed care organization in the region when one of its enrollees receives a less restrictive alternative order so that the managed care organization may ensure that the person is connected to services and that the requirements of RCW 71.05.585 are complied with. If the person receives a less restrictive alternative order and is returning to another region, the behavioral health administrative services organization shall notify the behavioral health administrative services organization in the home region of the less restrictive alternative order so that the home behavioral health administrative services organization may notify the person's managed care organization or provide services if the person is not enrolled in medicaid and does not have other insurance which can pay for those services;

(v) Additional noncrisis behavioral health services, within available resources, to individuals who meet certain criteria set by the authority in its contracts with the behavioral health administrative services organization. These services may include services provided through federal grant funds, provisos, and general fund state appropriations;

(vi) Care coordination, diversion services, and discharge planning for nonmedicaid individuals transitioning from state hospitals or inpatient settings to reduce rehospitalization and utilization of crisis services, as required by the authority in contract; ((~~and~~))

(vii) Regional coordination, cross-system and cross-jurisdiction coordination with tribal governments, and capacity building efforts, such as supporting the behavioral health advisory board and efforts to support access to services or to improve the behavioral health system; and

(viii) Duties under section 1 of this act;

(b) Administer and provide for the availability of an adequate network of evaluation and treatment services to ensure access to treatment, investigation, transportation, court-related, and other services provided as required under chapter 71.05 RCW;

(c) Coordinate services for individuals under RCW 71.05.365;

(d) Administer and provide for the availability of resource management services, residential services, and community support services as required under its contract with the authority;

(e) Contract with a sufficient number, as determined by the authority, of licensed or certified providers for crisis services and other behavioral health services required by the authority;

(f) Maintain adequate reserves or secure a bond as required by its contract with the authority;

(g) Establish and maintain quality assurance processes;

(h) Meet established limitations on administrative costs for agencies that contract with the behavioral health administrative services organization; and

(i) Maintain patient tracking information as required by the authority.

(2) The behavioral health administrative services organization must collaborate with the authority and its contracted managed care organizations to develop and implement strategies to coordinate care with tribes and community behavioral health providers for individuals with a history of frequent crisis system utilization.

(3) The behavioral health administrative services organization shall:

(a) Assure that the special needs of minorities, older adults, individuals with disabilities, children, and low-income persons are met;

(b) Collaborate with local government entities to ensure that policies do not result in an adverse shift of persons with mental illness into state and local correctional facilities; and

(c) Work with the authority to expedite the enrollment or reenrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases.

(4) The behavioral health administrative services organization shall employ an assisted outpatient treatment program coordinator to oversee system coordination and legal compliance for assisted outpatient treatment under RCW 71.05.148 and 71.34.815.

Sec. 4. RCW 71.24.890 and 2023 c 454 s 5 and 2023 c 433 s 16 are each reenacted and amended to read as follows:

(1) Establishing the state designated 988 contact hubs and enhancing the crisis response system will require collaborative work between the department ((~~and~~)), the authority, and regional system partners within their respective roles. The department shall have primary responsibility for ((~~establishing and~~)) designating ((~~the designated~~)) 988 contact hubs, and shall seek recommendations from the behavioral health administrative services organizations to determine which 988 contact hubs best meet regional needs. The authority shall have primary responsibility for developing ((~~and~~)), implementing, and facilitating coordination of the crisis response system and services to support the work of the designated 988 contact hubs, regional crisis lines, and other coordinated regional behavioral health crisis response system partners. In any instance in which one agency is identified as the lead, the expectation is that agency will ((~~be communicating and collaborating~~))communicate and collaborate with the other to ensure seamless, continuous, and effective service delivery within the statewide crisis response system.

(2) The department shall provide adequate funding for the state's crisis call centers to meet an expected increase in the use of the ((~~call centers~~))988 contact hubs based on the implementation of the 988 crisis hotline. The funding level shall be established at a level anticipated to achieve an in-state call response rate of at least 90 percent by July 22, 2022. The funding level shall be determined by considering standards and cost per call predictions provided by the administrator of the national suicide prevention lifeline, call volume predictions, guidance on crisis call center performance metrics, and necessary technology upgrades. ((~~In contracting~~))Contracts with the ((~~crisis call centers, the department~~))988 contact hubs:

(a) May provide funding to support ((~~crisis call centers and~~)) designated 988 contact hubs to enter into limited ((~~on-site~~)) partnerships with the public safety answering point to increase the coordination and transfer of behavioral health calls received by certified public safety telecommunicators that are better addressed by clinic interventions provided by the 988 system. Tax revenue may be used to support ((~~on-site~~)) partnerships. These partnerships with 988 and public safety may be expanded to include regional crisis lines administered by behavioral health administrative services organizations;

(b) Shall require that ((~~crisis call centers~~))988 contact hubs enter into data-sharing agreements, when appropriate, with the department, the authority, regional crisis lines, and applicable regional behavioral health administrative services organizations to provide reports and client level data regarding 988 ((~~crisis hotline~~))contact hub calls, as allowed by and in compliance with existing federal and state law governing the sharing and use of protected health information((~~, including~~)). Data-sharing agreements with regional crisis lines must include real-time information sharing. All coordinated regional behavioral health crisis response system partners must share dispatch time, arrival time, and disposition ((~~of the outreach for each call~~))for behavioral health calls referred for outreach by each region consistent with any regional protocols developed under section 1 of this act. The department and the authority shall establish requirements ((~~that the crisis call centers~~))for 988 contact hubs to report ((~~the~~)) data ((~~identified in this subsection (2)(b)~~)) to regional

behavioral health administrative services organizations for the purposes of maximizing medicaid reimbursement, as appropriate, and implementing this chapter and chapters 71.05 and 71.34 RCW ((~~including, but not limited to,~~)). The behavioral health administrative services organization may use information received from the 988 contact hubs in administering crisis services for the assigned regional service area, contracting with a sufficient number of licensed or certified providers for crisis services, establishing and maintaining quality assurance processes, maintaining patient tracking, and developing and implementing strategies to coordinate care for individuals with a history of frequent crisis system utilization.

(3) The department shall adopt rules by January 1, 2025, to establish standards for designation of crisis call centers as designated 988 contact hubs. The department shall collaborate with the authority ((~~and~~)), other agencies, and coordinated regional behavioral health crisis response system partners to assure coordination and availability of services, and shall consider national guidelines for behavioral health crisis care as determined by the federal substance abuse and mental health services administration, national behavioral health accrediting bodies, and national behavioral health provider associations to the extent they are appropriate, and recommendations from behavioral health administrative services organizations and the crisis response improvement strategy committee created in RCW 71.24.892.

(4) The department shall designate ((~~designated~~)) 988 contact hubs considering the recommendations of behavioral health administrative services organizations by January 1, 2026. The designated 988 contact hubs shall provide connections to crisis intervention services, triage, care coordination, and referrals((~~, and connections to~~))for individuals contacting the 988 ((~~crisis hotline~~))contact hubs from any jurisdiction within Washington 24 hours a day, seven days a week, using the system platform developed under subsection (5) of this section. The department may not designate more than a total of four 988 contact hubs without legislative approval.

(a) To be designated as a ((~~designated~~)) 988 contact hub, the applicant must demonstrate to the department the ability to comply with the requirements of this section and to contract to provide ((~~designated~~)) 988 contact hub services. ((~~The department may revoke the designation of any designated 988 contact hub that fails to substantially comply with the contract~~))If a 988 contact hub fails to substantially comply with the contract, data-sharing requirements, or approved regional protocols developed under section 1 of this act, the department may revoke the designation of the 988 contact hub and, after consulting with the affected behavioral health administrative services organization, may designate a 988 contact hub recommended by a behavioral health administrative services organization which is able to meet necessary state and federal requirements.

(b) The contracts entered shall require designated 988 contact hubs to:

(i) Have an active agreement with the administrator of the national suicide prevention lifeline for participation within its network;

(ii) Meet the requirements for operational and clinical standards established by the department and based upon the national suicide prevention lifeline best practices guidelines and other recognized best practices;

(iii) Employ highly qualified, skilled, and trained clinical staff who have sufficient training and resources to provide empathy to callers in acute distress, de-escalate crises, assess behavioral health disorders and suicide risk, triage to system partners for callers that need additional clinical interventions, and provide case management and documentation. Call center staff shall be trained to make every effort to resolve cases in the least restrictive environment and without law enforcement involvement whenever possible. Call center staff shall coordinate with certified peer counselors to provide follow-up and outreach to callers in distress as available. It is intended for transition planning to include a pathway for continued employment and skill advancement as needed for experienced crisis call center employees;

(iv) Train employees on agricultural community cultural competencies for suicide prevention, which may include sharing resources with callers that are specific to members from the agricultural community. The training must prepare staff to provide appropriate assessments, interventions, and resources to members of the agricultural community. Employees may make warm transfers and referrals to a crisis hotline that specializes in working with members from the agricultural community, provided that no person contacting 988 shall be transferred or referred to another service if they are currently in crisis and in need of emotional support;

(v) Prominently display 988 crisis hotline information on their websites and social media, including a description of what the caller should expect when contacting the crisis call center and a description of the various options available to the caller, including call lines specialized in the behavioral health needs of veterans, American Indian and Alaska Native persons, Spanish-speaking persons, and LGBTQ populations. The website may also include resources for programs and services related to suicide prevention for the agricultural community;

(vi) Collaborate with the authority, the national suicide prevention lifeline, and veterans crisis line networks to assure consistency of public messaging about the 988 crisis hotline;

(vii) ((~~Develop and submit to the department protocols between the designated 988 contact hub and 911 call centers within the region in which the designated crisis call center operates and receive approval of the protocols by the department and the state 911 coordination office;~~

~~(viii) Develop, in collaboration with the region's behavioral health administrative services organizations, and jointly submit to the authority~~))Collaborate with coordinated

regional behavioral health crisis response system partners within the 988 contact hub's regional service area to develop protocols under section 1 of this act, including protocols related to the dispatching of mobile rapid response crisis teams and community-based crisis teams endorsed under RCW 71.24.903 ((~~and receive approval of the protocols by the authority~~));

((~~(ix)~~))(viii) Provide data and reports and participate in evaluations and related quality improvement activities, according to standards established by the department in collaboration with the authority; and

((~~(x)~~))(ix) Enter into data-sharing agreements with the department, the authority, regional crisis lines, and applicable ((~~regional~~)) behavioral health administrative services organizations to provide reports and client level data regarding 988 ((~~crisis hotline~~))contact hub calls, as allowed by and in compliance with existing federal and state law governing the sharing and use of protected health information, ((~~including dispatch time, arrival time, and disposition of the outreach for each call referred for outreach by each region~~))which shall include sharing real-time information with regional crisis lines. The department and the authority shall establish requirements that the designated 988 contact hubs report ((~~the~~)) data ((~~identified in this subsection (4)(b)(x)~~)) to regional behavioral health administrative services organizations for the purposes of maximizing medicaid reimbursement, as appropriate, and implementing this chapter and chapters 71.05 and 71.34 RCW including, but not limited to, administering crisis services for the assigned regional service area, contracting with a sufficient number ((~~or~~))of licensed or certified providers for crisis services, establishing and maintaining quality assurance processes, maintaining patient tracking, and developing and implementing strategies to coordinate care for individuals with a history of frequent crisis system utilization.

(c) The department and the authority shall incorporate recommendations from the crisis response improvement strategy committee created under RCW 71.24.892 in its agreements with designated 988 contact hubs, as appropriate.

(5) The department and authority must coordinate to develop the technology and platforms necessary to manage and operate the behavioral health crisis response and suicide prevention system. The department and the authority must include ((~~the crisis call centers and~~)) designated 988 contact hubs, regional crisis lines, and behavioral health administrative services organizations in the decision-making process for selecting any technology platforms that will be used to operate the system. No decisions made by the department or the authority shall interfere with the routing of the 988 ((~~crisis hotline~~))contact hubs calls, texts, or chat as part of Washington's active agreement with the administrator of the national suicide prevention lifeline or 988 administrator that routes 988 contacts into Washington's system. The technologies developed must include:

(a) A new technologically advanced behavioral health and suicide prevention crisis call center system platform for use in ((~~designated~~)) 988 contact hubs designated by the department under subsection (4) of this section. This platform, which shall be fully funded by July 1, 2024, shall be developed by the department and must include the capacity to receive crisis assistance requests through phone calls, texts, chats, and other similar methods of communication that may be developed in the future that promote access to the behavioral health crisis system; and

(b) A behavioral health integrated client referral system capable of providing system coordination information to designated 988 contact hubs and the other entities involved in behavioral health care. This system shall be developed by the authority.

(6) In developing the new technologies under subsection (5) of this section, the department and the authority must coordinate to designate a primary technology system to provide each of the following:

(a) Access to real-time information relevant to the coordination of behavioral health crisis response and suicide prevention services, including:

(i) Real-time bed availability for all behavioral health bed types and recliner chairs, including but not limited to crisis stabilization services, 23-hour crisis relief centers, psychiatric inpatient, substance use disorder inpatient, withdrawal management, peer-run respite centers, and crisis respite services, inclusive of both voluntary and involuntary beds, for use by crisis response workers, first responders, health care providers, emergency departments, and individuals in crisis; and

(ii) Real-time information relevant to the coordination of behavioral health crisis response and suicide prevention services for a person, including the means to access:

(A) Information about any less restrictive alternative treatment orders or mental health advance directives related to the person; and

(B) Information necessary to enable the designated 988 contact ((~~hub~~))hubs to actively collaborate with regional crisis lines, emergency departments, primary care providers and behavioral health providers within managed care organizations, behavioral health administrative services organizations, and other health care payers to establish a safety plan for the person in accordance with best practices and provide the next steps for the person's transition to follow-up noncrisis care. To establish information-sharing guidelines that fulfill the intent of this section the authority shall consider input from the confidential information compliance and coordination subcommittee established under RCW 71.24.892;

((~~[(b)]~~))(b) The means to track the outcome of the 988 call to enable appropriate follow-up, cross-system coordination, and accountability, including as appropriate: (i) Any immediate services dispatched and reports generated from the encounter; (ii) the validation of a safety plan established for the caller in accordance with best practices; (iii) the next steps for the caller to follow in transition to noncrisis follow-up care, including a next-

day appointment for callers experiencing urgent, symptomatic behavioral health care needs; and (iv) the means to verify and document whether the caller was successful in making the transition to appropriate noncrisis follow-up care indicated in the safety plan for the person, to be completed either by the care coordinator provided through the person's managed care organization, health plan, or behavioral health administrative services organization, or if such a care coordinator is not available or does not follow through, by the staff of the designated 988 contact hub;

(c) A means to facilitate actions to verify and document whether the person's transition to follow-up noncrisis care was completed and services offered, to be performed by a care coordinator provided through the person's managed care organization, health plan, or behavioral health administrative services organization, or if such a care coordinator is not available or does not follow through, by the staff of the designated 988 contact hub;

(d) The means to provide geographically, culturally, and linguistically appropriate services to persons who are part of high-risk populations or otherwise have need of specialized services or accommodations, and to document these services or accommodations; and

(e) When appropriate, consultation with tribal governments to ensure coordinated care in government-to-government relationships, and access to dedicated services to tribal members.

(7) The authority shall:

(a) Collaborate with county authorities and behavioral health administrative services organizations to develop procedures to dispatch behavioral health crisis services in coordination with designated 988 contact hubs to effectuate the intent of this section;

(b) Establish formal agreements with managed care organizations and behavioral health administrative services organizations by January 1, 2023, to provide for the services, capacities, and coordination necessary to effectuate the intent of this section, which shall include a requirement to arrange next-day appointments for persons contacting the 988 ((~~crisis hotline~~))contact hub or a regional crisis line experiencing urgent, symptomatic behavioral health care needs with geographically, culturally, and linguistically appropriate primary care or behavioral health providers within the person's provider network, or, if uninsured, through the person's behavioral health administrative services organization;

(c) Create best practices guidelines by July 1, 2023, for deployment of appropriate and available crisis response services by behavioral health administrative services organizations in coordination with designated 988 contact hubs to assist 988 hotline callers to minimize nonessential reliance on emergency room services and the use of law enforcement, considering input from relevant stakeholders and recommendations made by the crisis response improvement strategy committee created under RCW 71.24.892;

(d) Develop procedures to allow appropriate information sharing and communication between and across crisis and emergency response systems for the purpose of real-time crisis care coordination including, but not limited to, deployment of crisis and outgoing services, follow-up care, and linked, flexible services specific to crisis response; and

(e) Establish guidelines to appropriately serve high-risk populations who request crisis services. The authority shall design these guidelines to promote behavioral health equity for all populations with attention to circumstances of race, ethnicity, gender, socioeconomic status, sexual orientation, and geographic location, and include components such as training requirements for call response workers, policies for transferring such callers to an appropriate specialized center or subnetwork within or external to the national suicide prevention lifeline network, and procedures for referring persons who access the 988 ((~~crisis hotline~~))contact hubs to linguistically and culturally competent care.

(8) The department shall monitor trends in 988 crisis hotline caller data, as reported by designated 988 contact hubs under subsection (4)(b)((~~(x)~~))(ix) of this section, and submit an annual report to the governor and the appropriate committees of the legislature summarizing the data and trends beginning December 1, 2027.

(9) Subject to authorization by the national 988 administrator and the availability of amounts appropriated for this specific purpose, any Washington state subnetwork of the 988 crisis hotline dedicated to the crisis assistance needs of American Indian and Alaska Native persons shall offer services by text, chat, and other similar methods of communication to the same extent as does the general 988 crisis hotline. The department shall coordinate with the substance abuse and mental health services administration for the authorization."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SB 6263 Prime Sponsor, Senator Wilson, L.: Concerning death benefits provided by the 1955 act for firefighters' relief and pensions. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

Referred to Committee on Rules for second reading

February 26, 2024

SSB 6277 Prime Sponsor, Transportation: Creating a new statutory framework for the use of public-private partnerships for transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** FINDINGS. (1) The legislature finds that a full set of project procurement, contracting, and funding tools are needed to enable the delivery of transportation projects in a manner most advantageous to the public. Current public-private partnership laws have failed to spur innovative proposals from the private sector or new project delivery approaches from the department. The legislature confirms the findings from previous studies that current laws and administrative processes are the primary obstacle impairing the state's ability to utilize public-private partnerships.

(2) The legislature finds that a new public-private partnership law is needed to:

(a) Transparently demonstrate and deliver better value for the public including, but not limited to, expedited project delivery and more effective management of project life-cycle costs;

(b) Provide an additional option for delivering complex transportation projects;

(c) Incorporate private sector expertise and innovation into transportation project delivery;

(d) Allocate project risks to the parties best able to manage those risks;

(e) Allow new sources for private capital;

(f) Increase access to federal funding and financing mechanisms;

(g) Better align private sector incentives with public priorities; and

(h) Provide consistency in the review and approval processes for the full range of project delivery tools and contracting methods.

(3) The legislature further finds that a new public-private partnership law must only be used for projects where the engineer's estimate of the cost of the project is less than $500,000,000.

(4) The legislature further finds that a new public-private partnership law may not be used for rail projects.

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

(1) "Commission" means the transportation commission.

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

(3) "Eligible project" means any project eligible for development under section 4 of this act.

(4) "Private sector partner" and "private partner" means a person, entity, or organization that is not the federal government, a state, or a political subdivision of a state.

(5) "Public funds" means all moneys derived from taxes, fees, charges, tolls, or other levies of money from the public.

(6) "Public sector partner" and "public partner" means any federal or state unit of government, bistate transportation organization, or any other political subdivision of any state.

(7) "State finance committee" means the entity created in chapter 43.33 RCW.

(8) "Transportation project" means a project that is not a rail project, whether capital or operating, and where the engineer's estimate of the cost of the project is less than $500,000,000 and the state's purpose for the project is to preserve or facilitate the safe transport of people or goods via any mode of travel.

(9) "Unit of government" means any department or agency of the federal government, any state or agency, office, or department of a state, any city, county, district, commission, authority, entity, port, or other public corporation organized and existing under statutory law or under a voter-approved charter or initiative, and any intergovernmental entity created under chapter 39.34 RCW or this chapter.

NEW SECTION. **Sec. 3.** WASHINGTON STATE DEPARTMENT OF TRANSPORTATION POWERS AND DUTIES. (1) The department shall develop policies and, where appropriate, rules to carry out this chapter and govern the use of public-private partnerships for transportation projects. At a minimum, the department's policies and rules must address the following issues:

(a) Consistent with section 4 of this act, the types of projects allowed;

(b) Consistent with section 7 of this act, a process and methodology for determining whether a public-private partnership delivery model will be in the public's interest;

(c) Consistent with section 12 of this act, a process and methodology for determining whether a negotiated partnership agreement will result in greater public value to the state than if the project is delivered using other procurement and contracting methods;

(d) The types of contracts allowed, with consideration given to the best practices available;

(e) Minimum standards and criteria required of all proposals;

(f) Procedures for the proper identification, solicitation, acceptance, review, and evaluation of projects, consistent with existing project procurement and contracting requirements and practices;

(g) Criteria to be considered in the evaluation and selection of proposals that includes:

(i) Comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and

(ii) Factors such as, but not limited to: Priority, life-cycle cost, risk sharing, scheduling, innovation, and management conditions;

(h) The protection of confidential proprietary information while still meeting the need for transparency and public disclosure that is consistent with section 13 of this act;

(i) Protection for local contractors to participate in subcontracting opportunities;

(j) Specifying that maintenance issues must be resolved in a manner consistent with chapter 41.80 RCW;

(k) Guidelines to address security and performance issues.

(2) Preliminary rules, policies, and guidelines developed under this section must be submitted to the chairs and ranking members of both transportation committees by November 30, 2026, for review and comment, along with draft legislation to implement any necessary changes to govern the use of public-private partnerships for transportation projects under this chapter. The department may not adopt rules to carry out this chapter.

NEW SECTION. **Sec. 4.** ELIGIBLE PROJECTS. (1) Projects eligible for development under this chapter include transportation projects.

(2) For any project that requires the imposition of tolls on a state facility, the legislature must approve the imposition of such tolls consistent with RCW 47.56.820.

(3) For any project that requires setting or adjusting toll rates on a state facility, the commission has sole responsibility consistent with RCW 47.56.850.

NEW SECTION. **Sec. 5.** ELIGIBLE FINANCING. (1) Subject to the limitations in this section, the department may, in connection with the evaluation of eligible projects, consider any financing mechanisms from any lawful source, either integrated as part of a project proposal or as a separate, stand-alone proposal to finance a project. Financing may be considered for all or part of a proposed project. A project may be financed in whole or in part with:

(a) The proceeds of grant anticipation revenue bonds authorized under 23 U.S.C. Sec. 122 and applicable state law. Legislative authorization and appropriation are required to use this source of financing;

(b) Grants, loans, loan guarantees, lines of credit, revolving lines of credit, or other financing arrangements available under the transportation infrastructure finance and innovation act under 23 U.S.C. Sec. 181 et seq., or any other applicable federal law;

(c) Infrastructure loans or assistance from the state infrastructure bank established under RCW 82.44.195;

(d) Federal, state, or local revenues, subject to appropriation by the applicable legislative authority;

(e) User fees, tolls, fares, lease proceeds, rents, gross or net receipts from sales, proceeds from the sale of development rights, franchise fees, or any other lawful form of consideration. However, projects financed by tolls must first be authorized by the legislature under RCW 47.56.820;

(f) Loans, pledges, or contributions of funds, including equity investments, from private entities.

(2) Subject to subsection (4) of this section, the department may develop a plan of finance that would require either the state or a private partner, or both, to: Issue debt, equity, or other securities or obligations; enter into contracts, leases, concessions, and grant and loan agreements; or secure any financing with a pledge of funds to be appropriated by the legislature or with a lien or exchange of real property.

(3) As security for the payment of any financing, the revenues from the project may be pledged, but no such pledge of revenues constitutes in any manner or to any extent a general obligation of the state, unless specifically authorized by the legislature. Any financing described in this section may be structured on a senior, parity, or subordinate basis to any other financing.

(4) The department shall not execute any agreement, including any agreement that could materially impact the state's debt capacity or credit rating, without prior review and approval of the plan of finance and proposed financing terms by the state finance committee.

NEW SECTION. **Sec. 6.** USE OF FEDERAL FUNDS OR OTHER SOURCES. (1) The department may accept from the United States or any of its agencies such funds as are available to this state or to any other unit of government for carrying out the purposes of this chapter, whether the funds are made available by grant, loan, or other financing arrangement. The department may enter into such agreements and other arrangements with the United States or any of its agencies as may be necessary, proper, and convenient for carrying out the purposes of this chapter, subject to subsection (2) of this section.

(2)(a) The department may accept from any source any grant, donation, gift, or other form of conveyance of land, money, other real or personal property, or other valuable thing made to the state of Washington, the department, or a local government for carrying out the purposes of this chapter.

(b) Any eligible project may be financed in whole or in part by contribution of any funds or property made by any private entity or public sector partner that is a party to any agreement entered into under this chapter.

NEW SECTION. **Sec. 7.** PUBLIC INTEREST FINDING. (1) The department may evaluate projects that are already programmed for other delivery methods to determine their appropriateness for delivery under a public-private partnership model.

(2) Before entering into a formal solicitation or procurement to develop a project as a public-private partnership, the department must make formal findings that utilizing a public-private partnership delivery method is in the public's interest. The department must develop rules detailing the process and criteria for making such findings. At a minimum, the criteria must consider whether:

(a) Public ownership of the asset can be retained;

(b) Transparency during the consideration of a public-private partnership agreement can be provided;

(c) Public oversight of the private entity's management of the asset can be provided; and

(d) Additional criteria that reflects the legislative findings in section 1 of this act.

(3) Upon a finding of public interest pursuant to subsection (2) of this section, the department must provide written notification of their finding of public interest and intent to deliver the project as a public-private partnership to the general public, to the chairs and ranking members of the transportation committees of the legislature, and to the governor.

(4) Before commencing any solicitation to deliver the project as a public-private partnership, the department must provide an opportunity for public comment on the proposed project and delivery method.

(5) Upon a finding of public interest pursuant to subsection (2) of this section, the department may:

(a) Solicit concepts or proposals for the identified public-private partnership project from private entities and units of government;

(b) Evaluate the concepts or proposals received under this section. The evaluation under this subsection must include consultation with any appropriate unit of government; and

(c) Select potential projects based on the concepts or proposals.

NEW SECTION. **Sec. 8.** USE OF FUNDS FOR PROPOSAL PURPOSES. (1) The department may spend such moneys as may be necessary for stipends for respondents to a solicitation, the evaluation of concepts or proposals for eligible projects, and for negotiating agreements for eligible projects authorized under this chapter. Expenses incurred by the department under this section before the issuance of transportation project bonds or other financing must be paid by the department and charged to the appropriate project. The department must keep records and accounts showing each charged amount.

(2) Unless otherwise provided in the omnibus transportation appropriations act, the funds spent by the department under this section in connection with the project must be repaid from the proceeds of the bonds or other financing upon the sale of transportation project bonds or upon obtaining other financing for an eligible project, as allowed by law or contract.

NEW SECTION. **Sec. 9.** EXPERT CONSULTATION. The department may consult with legal, financial, technical, and other experts in the public and private sector in the evaluation, negotiation, and development of projects under this chapter.

NEW SECTION. **Sec. 10.** CONTRACTED STUDIES. In the absence of any direct federal funding or direction, the department may contract with a private developer of a selected project proposal to conduct environmental impact studies and engineering and technical studies.

NEW SECTION. **Sec. 11.** PARTNERSHIP AGREEMENTS. (1) The following provisions must be included in any transportation project agreement entered into under the authority of this chapter and to which the state is a party:

(a) For any project that proposes terms for stand alone maintenance or asset management services for a public facility, those services must be provided in a manner consistent with any collective bargaining agreements, chapter 41.80 RCW, and civil service laws that are in effect for the public facility;

(b) A finding of public interest, as issued by the department pursuant to section 7 of this act;

(c) If there is a tolling component to the project, it must be specified that tolling technology used in the project must be consistent with tolling technology standards adopted by the department for transportation-related projects;

(d) Provisions for bonding, financial guarantees, deposits, or the posting of other security to secure the payment of laborers, subcontractors, and suppliers who perform work or provide materials as part of the project;

(e) All projects must be financed in a manner consistent with section 6 of this act.

(2) At a minimum, agreements between the state and private sector partners entered into under this section must specifically include the following contractual elements:

(a) The point in the project at which public and private sector partners will enter the project and which partners will assume responsibility for specific project elements;

(b) How the partners will share management of the risks of the project;

(c) The compensation method and amount for the private partner, establishing a maximum rate of return, and identifying how project revenue, if any, in excess of the maximum rate of return will be distributed;

(d) How the partners will share the costs of development of the project;

(e) How the partners will allocate financial responsibility for cost overruns;

(f) The penalties for nonperformance;

(g) The incentives for performance;

(h) The accounting and auditing standards to be used to evaluate work on the project;

(i) For any project that reverts to public ownership, the responsibility for reconstruction or renovations that are required for a facility to meet all service standards and state of good repair upon reversion of the facility to the state;

(j) Provisions and remedies for default by either party, and provisions for termination of the agreement for or without cause;

(l) Provisions for public communication and participation with respect to the development of the project.

NEW SECTION. **Sec. 12.** BEST VALUE FINDING AND AGREEMENT EXECUTION. Before executing an agreement under this chapter, the department must make a formal finding that the negotiated partnership agreement is expected to result in best value for the public, and the agreement must be approved through duly enacted legislation. The department must develop and adopt a process and criteria for measuring, determining, and transparently reporting best value relevant to the proposed project. At minimum, the criteria must include:

(1) A comparison of the total cost to deliver the project, including any operations and maintenance costs, as a public-private partnership compared to traditional or other alternative delivery methods available to the department;

(2) A comparison with the department's current plan, resources, delivery capacity, and schedule to complete the project that documents the advantages of completing the project as a public-private partnership versus solely as a public venture; and

(3) Factors such as, but not limited to: Priority, cost, risk sharing, scheduling, asset and service quality, innovation, and management conditions.

NEW SECTION. **Sec. 13.** CONFIDENTIALITY. A proposer must identify those portions of a proposal that the proposer considers to be confidential, proprietary information, or trade secrets and provide any justification as to why these materials, upon request, should not be disclosed by the department. Patent information will be covered until the patent expires. Other information, such as originality of design or records of negotiation, may only be protected under this section until an agreement is reached. Disclosure must occur before final agreement and execution of the contract. Projects under federal jurisdiction or using federal funds must conform to federal regulations under the freedom of information act.

NEW SECTION. **Sec. 14.** PREVAILING WAGES. If public funds are used to pay any costs of construction of a public facility that is part of an eligible project, chapter 39.12 RCW applies to the entire eligible public works project.

NEW SECTION. **Sec. 15.** GOVERNMENT AGREEMENTS. The state may, either separately or in combination with any other public sector partner, enter into working agreements, coordination agreements, or similar implementation agreements, including the formation of bistate transportation organizations, to carry out the joint implementation and operation of a transportation project selected under this chapter. The state may enter into agreements with other units of government or Canadian provinces for transborder transportation projects.

NEW SECTION. **Sec. 16.** EMINENT DOMAIN. The state may exercise the power of eminent domain to acquire property, rights-of-way, or other rights in property for projects that are necessary to implement an eligible project developed under this chapter. Any property acquired pursuant to this section must be owned in fee simple by the state.

NEW SECTION. **Sec. 17.** FEDERAL LAWS. Applicable federal laws, rules, and regulations govern in any situation that involves federal funds if the federal laws, rules, or regulations:

(1) Conflict with any provision of this chapter;

(2) Require procedures that are additional to or different from those provided in this chapter; or

(3) Require contract provisions not authorized in this chapter. If federal funds are provided, disadvantaged business enterprise inclusion requirements as established, monitored, and administered by the department's office of equity and civil rights apply. If no federal funds are provided, state laws, rates, and rules must govern, including the small business enforceable goals program required through 49 C.F.R. Sec. 26.39 as established, monitored, and administered by the department's office of equity and civil rights.

NEW SECTION. **Sec. 18.** PUBLIC-PRIVATE PARTNERSHIPS ACCOUNT. (1) The public-private partnerships account is created in the custody of the state treasurer.

(2) The following moneys must be deposited into the account:

(a) Proceeds from bonds or other financing instruments issued under section 19 of this act;

(b) Revenues received from any transportation project developed under this chapter or developed under the general powers granted to the department; and

(c) Any other moneys that are by donation, grant, contract, law, or other means transferred, allocated, or appropriated to the account.

(3) Expenditures from the account may be used only to ensure the repayment of loan guarantees or extensions of credit made to or on behalf of private entities engaged in the planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, preservation, management, repair, or operation of any eligible project under this chapter. The lien of a pledge made under this subsection is subordinate to the lien of a pledge securing bonds payable from moneys in the motor vehicle fund created in RCW 46.68.070.

(4) The state treasurer may establish separate subaccounts within the public-private partnerships account for each transportation project that is initiated under this chapter or under the general powers granted to the department. The state may pledge moneys in the public-private partnerships account to secure revenue bonds or any other debt obligations relating to the project for which the account is established.

(5) Only the secretary or the secretary's designee may authorize distributions from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 19.** A new section is added to chapter 47.10 RCW to read as follows:

BOND ISSUANCE. (1) In addition to any authority the department has to issue and sell bonds and other similar obligations, this section establishes continuing authority for the issuance and sale of bonds and other similar obligations in a manner consistent with this section. To finance a project as authorized in chapter 47.--- RCW (the new chapter created in section 24 of this act) in whole or in part, the department may request that the state treasurer issue revenue bonds on behalf of the public sector partner. The bonds must be secured by a pledge of, and a lien on, and be payable only from moneys in the public-private partnerships account created in section 18 of this act, and any other revenues specifically pledged to repayment of the bonds. Such a pledge by the public partner creates a lien that is valid and binding from the time the pledge is made. Revenue bonds issued under this section are not general obligations of the state or local government and are not secured by or payable from any funds or assets of the state other than the moneys and revenues specifically pledged to the repayment of such revenue bonds.

(2) Moneys received from the issuance of revenue bonds or other debt obligations, including any investment earnings thereon, may be spent:

(a) For the purpose of financing the costs of the project for which the bonds are issued;

(b) To pay the costs and other administrative expenses of the bonds;

(c) To pay the costs of credit enhancement or to fund any reserves determined to be necessary or advantageous in connection with the revenue bonds; and

(d) To reimburse the public sector partners for any costs related to carrying out the projects authorized under this chapter.

Sec. 20. RCW 47.56.030 and 2023 c 429 s 6 are each amended to read as follows:

(1) Except as permitted under chapter ((~~47.29~~))47.--- RCW (the new chapter created in section 24 of this act) or 47.46 RCW:

(a) Unless otherwise delegated, and subject to RCW 47.56.820, the department of transportation shall have full charge of the planning, analysis, and construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof.

(b) The transportation commission shall determine and establish the tolls and charges thereon.

(c) Unless otherwise delegated, and subject to RCW 47.56.820, the department shall have full charge of planning, analysis, and design of all toll facilities. The department may conduct the planning, analysis, and design of toll facilities as necessary to support the legislature's consideration of toll authorization.

(d) The department shall utilize and administer toll collection systems that are simple, unified, and interoperable. To the extent practicable, the department shall avoid the use of toll booths. The department shall set the statewide standards and protocols for all toll facilities within the state, including those authorized by local authorities.

(e) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (e)(i) and (ii) of this subsection:

(i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

(ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

(f) Any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810, except as otherwise provided in RCW 47.60.826.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) When the secretary of the department of transportation determines in writing that the use of invitation for bid is either not practicable or not advantageous to the state and it may be necessary to make competitive evaluations, including technical or performance evaluations among acceptable proposals to complete the contract award, a contract may be entered into by use of a competitive sealed proposals method, and a formal request for proposals solicitation. Such formal request for proposals solicitation shall include a functional description of the needs and requirements of the state and the significant factors.

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking into consideration price and other evaluation factors set forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life-cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

(i) The ability, capacity, and skill of the proposer to perform the contract or provide the service required;

(ii) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;

(iii) Whether the proposer can perform the contract within the time specified;

(iv) The quality of performance of previous contracts or services;

(v) The previous and existing compliance by the proposer with laws relating to the contract or services;

(vi) Objective, measurable criteria defined in the request for proposal. These criteria may include but are not limited to items such as discounts, delivery costs, maintenance services costs, installation costs, and transportation costs; and

(vii) Such other information as may be secured having a bearing on the decision to award the contract.

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life-cycle cost analysis that includes an evaluation of fuel efficiency. When a life-cycle cost analysis is used, the life-cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made to the proposer whose proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

Sec. 21. RCW 47.56.031 and 2005 c 335 s 2 are each amended to read as follows:

No tolls may be imposed on new or existing highways or bridges without specific legislative authorization, or upon a majority vote of the people within the boundaries of the unit of government empowered to impose tolls. This section applies to chapter 47.56 RCW and to any tolls authorized under chapter ((~~47.29 RCW, the transportation innovative partnership act of 2005~~))47.--- RCW (the new chapter created in section 24 of this act).

Sec. 22. RCW 70A.15.4030 and 2020 c 20 s 1126 are each amended to read as follows:

(1) A county, city, or town may, as part of its commute trip reduction plan, designate existing activity centers listed in its comprehensive plan or new activity centers as growth and transportation efficiency centers and establish a transportation demand management program in the designated area.

(a) The transportation demand management program for the growth and transportation efficiency center shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(b) In order to be eligible for state funding provided for the purposes of this section, designated growth and transportation efficiency centers shall be certified by the applicable regional transportation organization to: (i) Meet the minimum land use and transportation criteria established in collaboration among local jurisdictions, transit agencies, the regional transportation planning organization, and other interested parties as part of the regional commute trip reduction plan; and (ii) have established a transportation demand management program that includes the elements identified in (c) of this subsection and is

consistent with the rules established by the department of transportation in RCW 70A.15.4060(2). If a designated growth and transportation efficiency center is denied certification, the local jurisdiction may appeal the decision to the commute trip reduction board.

(c) Transportation demand management programs for growth and transportation efficiency centers shall include, but are not limited to: (i) Goals for reductions in the proportion of single-occupant vehicle trips that are more aggressive than the state program goal established by the commute trip reduction board; (ii) a sustainable financial plan demonstrating how the program can be implemented to meet state and regional trip reduction goals, indicating resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommending any innovative financing techniques consistent with chapter ((~~47.29 RCW~~))47.--- RCW (the new chapter created in section 24 of this act), including public/private partnerships, to finance needed facilities, services, and programs; (iii) a proposed organizational structure for implementing the program; (iv) a proposal to measure performance toward the goal and implementation progress; and (v) an evaluation to which local land use and transportation policies apply, including parking policies and ordinances, to determine the extent that they complement and support the trip reduction investments of major employers. Each of these program elements shall be consistent with the rules established under RCW 70A.15.4060.

(d) A designated growth and transportation efficiency center shall be consistent with the land use and transportation elements of the local comprehensive plan.

(e) Transit agencies, local governments, and regional transportation planning organizations shall identify certified growth and transportation efficiency centers as priority areas for new service and facility investments in their respective investment plans.

(2) A county, city, or town that has established a growth and transportation efficiency center program shall support vehicle trip reduction activities in the designated area. The implementing jurisdiction shall adopt policies, ordinances, and funding strategies that will lead to attainment of program goals in those areas.

NEW SECTION. **Sec. 23.** The following acts or parts of acts are each repealed:

(1) RCW 47.29.010 (Finding—Intent) and 2006 c 334 s 48 & 2005 c 317 s 1;
(2) RCW 47.29.020 (Definitions) and 2005 c 317 s 2;
(3) RCW 47.29.030 (Transportation commission powers and duties) and 2005 c 317 s 3;
(4) RCW 47.29.040 (Purpose) and 2005 c 317 s 4;
(5) RCW 47.29.050 (Eligible projects) and 2005 c 317 s 5;
(6) RCW 47.29.060 (Eligible financing) and 2008 c 122 s 18 & 2005 c 317 s 6;
(7) RCW 47.29.070 (Use of federal funds and similar revenues) and 2005 c 317 s 7;
(8) RCW 47.29.080 (Other sources of funds or property) and 2005 c 317 s 8;
(9) RCW 47.29.090 (Project review, evaluation, and selection) and 2005 c 317 s 9;
(10) RCW 47.29.100 (Administrative fee) and 2005 c 317 s 10;
(11) RCW 47.29.110 (Funds for proposal evaluation and negotiation) and 2005 c 317 s 11;
(12) RCW 47.29.120 (Expert consultation) and 2005 c 317 s 12;
(13) RCW 47.29.130 (Contracted studies) and 2005 c 317 s 13;
(14) RCW 47.29.140 (Partnership agreements) and 2005 c 317 s 14;
(15) RCW 47.29.150 (Public involvement and participation) and 2005 c 317 s 15;
(16) RCW 47.29.160 (Approval and execution) and 2005 c 317 s 16;
(17) RCW 47.29.170 (Unsolicited proposals) and 2017 c 313 s 711, 2015 1st sp.s. c 10 s 704, 2013 c 306 s 708, 2011 c 367 s 701, 2009 c 470 s 702, 2007 c 518 s 702, 2006 c 370 s 604, & 2005 c 317 s 17;
(18) RCW 47.29.180 (Advisory committees) and 2005 c 317 s 18;
(19) RCW 47.29.190 (Confidentiality) and 2005 c 317 s 19;
(20) RCW 47.29.200 (Prevailing wages) and 2005 c 317 s 20;
(21) RCW 47.29.210 (Government agreements) and 2005 c 317 s 21;
(22) RCW 47.29.220 (Eminent domain) and 2005 c 317 s 22;
(23) RCW 47.29.230 (Transportation innovative partnership account) and 2005 c 317 s 23;
(24) RCW 47.29.240 (Use of account) and 2005 c 317 s 24;
(25) RCW 47.29.250 (Issuing bonds and other obligations) and 2005 c 317 s 25;
(26) RCW 47.29.260 (Study and report) and 2005 c 317 s 26;
(27) RCW 47.29.270 (Federal laws) and 2005 c 317 s 27;
(28) RCW 47.29.280 (Expert review panel on proposed project agreements—Creation—Authority) and 2006 c 334 s 49; and
(29) RCW 47.29.290 (Expert review panel on proposed project agreements—Execution of agreements) and 2006 c 334 s 50.

NEW SECTION. **Sec. 24.** Sections 1 through 18 of this act constitute a new chapter in Title 47 RCW.

NEW SECTION. **Sec. 25.** This act takes effect January 1, 2026."

Correct the title.

Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Berry; Chapman; Cortes; Dent; Doglio; Duerr; Goehner; Griffey; Hackney; Klicker; Mena; Nance; Orcutt; Ramel and Schmidt.

MINORITY recommendation: Without recommendation. Signed by Representatives Bronoske; Entenman; Ramos; Volz; Walsh; and Wylie.

Referred to Committee on Rules for second reading

February 26, 2024

SB 6283 Prime Sponsor, Senator Nobles: Eliminating the expiration date for the Sandy Williams connecting communities program. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Doglio; Duerr; Entenman; Griffey; Hackney; Klicker; Mena; Nance; Orcutt; Ramel; Ramos; Schmidt; Volz and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representatives Dent; Goehner; and Walsh.

Referred to Committee on Rules for second reading

February 26, 2024

ESSB 6286 Prime Sponsor, Ways & Means: Addressing the anesthesia workforce shortage by reducing barriers and expanding educational opportunities to increase the supply of certified registered nurse anesthetists in Washington. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Berg; Callan; Chopp; Davis; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stokesbary; Stonier; Tharinger and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representative Couture, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading

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

There being no objection, the House adjourned until 9:00 a.m., Tuesday, February 27, 2024, the 51st Day of the 2024 Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk