

FIFTY THIRD DAY

MORNING SESSION

Senate Chamber, Olympia
Thursday, March 5, 2020

The Senate was called to order at 9:03 a.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all senators were present.

The Sergeant at Arms Color Guard consisting of Pages Miss Karissa Broderson and Miss Claire Cook, presented the Colors. Page Miss Rosario Fernandez led the Senate in the Pledge of Allegiance. The prayer was offered by Imam Abdullah Ly of the Islamic Center, Olympia.

MOTION

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

MOTION

On motion of Senator Liias, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION TO LIMIT DEBATE

Pursuant to Rule 29, on motion of Senator Liias and without objection, senators were limited to speaking but once and for no more than three minutes on each question under debate for the remainder of the day by voice vote.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 4, 2020

SGA 9157 JACK S ENG, reappointed on March 14, 2018, for the term ending June 17, 2023, as Member of the Board of Industrial Insurance Appeals. Reported by Committee on Labor & Commerce

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Saldaña; Stanford; Walsh and Wellman.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Schoesler.

Referred to Committee on Rules for second reading.

March 4, 2020

SGA 9195 LISA VAN DER LUGT, appointed on July

1, 2018, for the term ending at the governors pleasure, as Director of the Office of Minority and Women's Business Enterprises - Agency Head. Reported by Committee on Labor & Commerce

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Saldaña; Stanford; Walsh and Wellman.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Schoesler.

Referred to Committee on Rules for second reading.

MOTIONS

On motion of Senator Liias, all measures listed on the Standing Committee report were referred to the committees as designated.

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

MOTION

Senator Liias moved adoption of the following resolution:

SENATE RESOLUTION

8694

By Senators Liias, Randall, Wilson, C., Salomon, Cleveland, Stanford, Saldaña, Dhingra, Conway, Pedersen, Takko, Das, Mullet, Frockt, Keiser, Van De Wege, Lovelett, Darneille, Hobbs, Nguyen, Kuderer, Hasegawa, McCoy, Billig, Sheldon, Hunt, Wellman, and Wagoner

WHEREAS, 2019 saw a large rise in violence targeting transgender people, especially transgender women of color, across this country; and

WHEREAS, While each case differs, it is clear that this violence has been founded on transphobia and specifically targeted towards transgender people because of their identity; and

WHEREAS, Dana Martin (31, she/her), Ashanti Carmon (27, she/her), Claire Legato (23, she/her), Muhlaysia Booker (23, she/her), Paris Cameron (20, she/her), Chynal Lindsey (26, she/her), Chanel Scurlock (23, she/her), Zoe Spears (23, she/her), Brooklyn Lindsey (32, she/her), Tracy Single (22, she/her), Kiki Fantroy (21, she/her), and many more transgender women were killed in 2019; and

WHEREAS, Nikki Kuhnhausen, a proud seventeen-year old trans woman from Vancouver, Washington, lived a life filled with empathy and love for others; and

WHEREAS, Nikki was, according to her mother, a "rainbow of light" who loved her friends and family unconditionally with all her heart and always made everyone smile even when they were feeling down; and

WHEREAS, Nikki radiated pure love and energy, approaching everyone and everything with a positive mindset to promote a world without barriers and to ensure the betterment of those around her; and

WHEREAS, Nikki had many aspirations in life, such as to win

America's Next Top Model, and to be a hair and make-up artist; and

WHEREAS, Nikki was always confident in who she was even from a young age and taught others to be themselves, to be proud of who they are, and not hide because of what others think; and

WHEREAS, Even when Nikki was in preschool, she was always the most cheerful in the room, especially when she was able to wear beaded heels, and knew from a very young age how to be herself; and

WHEREAS, Nikki's compassion even spread to strangers she encountered on the street: Giving them her jacket when they needed one, bringing food and water, washing their clothes, and welcoming them into her home; and

WHEREAS, Nikki, through her genuine care for the community, worked hard to make sure others never went without the things they needed in life and would never think twice or ask for anything in return; and

WHEREAS, Nikki had a history of helping others struggling with their gender identity, even one time spending over five hours talking to a young girl who was struggling with her own gender identity; and

WHEREAS, Nikki was not only admired for her great compassion, but also her great strength and bravery, especially in the face of extreme adversity such as when she was the victim of a hateful targeted assault in 2018, in which she survived six gunshot wounds; and

WHEREAS, In June of 2019, Nikki's life was suddenly taken when she was brutally murdered in a violent incident believed to be linked to the disclosure of her gender identity;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate mourn the loss of Nikki Kuhnhausen, remember her for the many lives she touched, and condemn the disgusting and hateful actions that took her life; and

BE IT FURTHER RESOLVED, That the Washington State Senate condemn the continuing acts of violence against the transgender community, especially transgender women of color, throughout the United States and call upon all Washingtonians to join in rejecting these hateful actions that are contrary to our state's core values of respect, nondiscrimination, and nonviolence; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the family members and friends of Nikki Kuhnhausen.

Senators Liias and Cleveland spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8694.

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

MOTION

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

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Lovelett moved that Susan Sharpe, Senate Gubernatorial Appointment No. 9217, be confirmed as a member of the Western Washington University Board of Trustees.

Senator Lovelett spoke in favor of the motion.

APPOINTMENT OF SUSAN SHARPE

The President declared the question before the Senate to be the confirmation of Susan Sharpe, Senate Gubernatorial Appointment No. 9217, as a member of the Western Washington University Board of Trustees.

The Secretary called the roll on the confirmation of Susan Sharpe, Senate Gubernatorial Appointment No. 9217, as a member of the Western Washington University Board of Trustees and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 7; Excused, 0.

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

Absent: Senators Carlyle, Conway, Ericksen, Frockt, Padden, Sheldon and Van De Wege

Susan Sharpe, Senate Gubernatorial Appointment No. 9217, having received the constitutional majority was declared confirmed as a member of the Western Washington University Board of Trustees.

MOTIONS

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

On motion of Senator Wilson, C., Senators Carlyle, Conway, Frockt and Van De Wege were excused.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pedersen moved that Deborah Cook, Senate Gubernatorial Appointment No. 9219, be confirmed as a member of the Human Rights Commission.

Senator Pedersen spoke in favor of the motion.

APPOINTMENT OF DEBORAH COOK

The President declared the question before the Senate to be the confirmation of Deborah Cook, Senate Gubernatorial Appointment No. 9219, as a member of the Human Rights Commission.

The Secretary called the roll on the confirmation of Deborah Cook, Senate Gubernatorial Appointment No. 9219, as a member of the Human Rights Commission and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

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

Excused: Senators Carlyle, Conway, Ericksen, Padden, Sheldon and Van De Wege

Deborah Cook, Senate Gubernatorial Appointment No. 9219, having received the constitutional majority was declared confirmed as a member of the Human Rights Commission.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Schoesler moved that Charles McFadden, Senate Gubernatorial Appointment No. 9222, be confirmed as a member of the Big Bend Community College Board of Trustees.

Senator Schoesler spoke in favor of the motion.

APPOINTMENT OF CHARLES MCFADDEN

The President declared the question before the Senate to be the confirmation of Charles McFadden, Senate Gubernatorial Appointment No. 9222, as a member of the Big Bend Community College Board of Trustees.

The Secretary called the roll on the confirmation of Charles McFadden, Senate Gubernatorial Appointment No. 9222, as a member of the Big Bend Community College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Carlyle, Conway, Padden and Sheldon

Charles McFadden, Senate Gubernatorial Appointment No. 9222, having received the constitutional majority was declared confirmed as a member of the Big Bend Community College Board of Trustees.

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2565, by House Committee on Environment & Energy (originally sponsored by Fitzgibbon, Doglio and Hudgins)

Concerning the labeling of disposable wipes products.

The measure was read the second time.

MOTION

On motion of Senator Liias, the senate deferred further consideration of Engrossed Substitute House Bill No. 2565 and the bill held its place on the second reading calendar.

SECOND READING

HOUSE BILL NO. 2701, by Representatives Ormsby, Eslick

and Riccelli

Concerning inspection and testing of fire and smoke control systems and dampers.

The measure was read the second time.

MOTION

Senator Takko moved that the following committee striking amendment by the Committee on Local Government be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The definitions in this section apply throughout sections 2 through 5 of this act.

(1) "Combination fire and smoke damper" has the same meaning as provided in the International Fire Code as of January 1, 2020.

(2) "Fire damper" means a device installed in ducts and air transfer openings designed to close automatically upon detection of heat and resist the passage of flame.

(3) "Hospital" has the same meaning as provided in RCW 70.41.020.

(4) "Local authority" means a fire department or code official with the authority to conduct inspections and issue infractions in a jurisdiction.

(5) "Smoke control system" means an engineered system that includes all methods that can be used singly or in combination to modify smoke movement, including engineered systems that use mechanical fans to produce pressure differences across smoke barriers to inhibit smoke movement.

(6) "Smoke damper" means a device installed in ducts and air transfer openings designed to resist the passage of smoke.

NEW SECTION. Sec. 2. (1) At a minimum, owners of buildings equipped with fire dampers, smoke dampers, combination fire and smoke dampers, or smoke control systems must:

(a) Have all newly installed fire dampers, smoke dampers, combination fire and smoke dampers, and smoke control systems tested and inspected within twelve months of installation;

(b) Have all fire dampers, smoke dampers, and combination fire and smoke dampers tested and inspected at least once every four years, or every six years for hospitals, regardless of the date of initial installation; and

(c) Have all smoke control systems tested and inspected at least once every six to twelve months, as required by the applicable national fire protection association standard.

(2) All owners of buildings subject to this act must maintain full inspection and testing reports on the property and make such reports available for inspection upon request by the local authority.

(3) Fire dampers, smoke dampers, combination fire and smoke dampers, and smoke control systems must be installed, inspected, tested, and maintained in accordance with this act, manufacturers' guidelines, and the applicable industry standards.

(4) A building owner who fails to comply with the requirements of this section may be issued a civil infraction by the local authority in accordance with section 5 of this act.

NEW SECTION. Sec. 3. (1) Inspections and tests under this section must be performed by a contractor or engineer with the following qualifications:

(a) For inspection and testing of fire dampers, smoke dampers, and combination fire and smoke dampers, such inspector must have a current and valid certification to inspect and test fire

dampers, smoke dampers, and combination fire and smoke dampers and hold certification from the international certification board as a fire life safety 1 or fire and smoke damper technician through a program accredited by the American national standards institute under the ISO/IEC 17024 standard.

(b) For inspection and testing of smoke control systems, such inspector must have a current and valid certification from the international certification board as a fire life safety 2 or smoke control system technician through a program accredited by the American national standards institute under the ISO/IEC 17024 standard.

(2) A building engineer or other person knowledgeable with the building system must be available in person or by phone to the inspector during the inspection and testing in order to provide building and systems access and information.

(3) If an inspection reveals compliance with the requirements of this section, the inspector shall issue a certificate of compliance, which includes the name of the inspector and the inspector's employer; the name of the building owner and address of the property; the location of all smoke dampers, fire dampers, combination fire and smoke dampers, and smoke control systems inspected or tested; and the date of the inspection or test.

(4) In the event an inspection or test reveals deficiencies in smoke dampers, fire dampers, combination fire and smoke dampers, or smoke control systems, the inspector shall prepare a deficiency report for the building owner identifying the nature of the deficiency and the reasons for noncompliance. The building owner shall, within one hundred twenty days of the date of the inspection, take necessary steps to ensure the defective equipment is replaced or repaired and reinspected to ensure that the deficiency is corrected and is in compliance with the requirements of all applicable standards pursuant to this act. The authority having jurisdiction shall have the authorization to extend the compliance period. The building owner shall provide documentation of when and how the deficiencies were corrected. If the building owner does not correct the deficiency within one hundred twenty days of the date of the inspection, the local authority may issue a citation as described in section 5 of this act.

(5) In addition to identifying the location and nature of a deficiency, the report shall contain the name of the inspector and the inspector's employer; the name of the building owner; address of the property; the location of all fire dampers, smoke dampers, combination fire and smoke dampers, and smoke control systems inspected or tested; and the date of the inspection or test.

(6) Tests and inspections of fire dampers, smoke dampers, combination fire and smoke dampers, and smoke control systems shall be conducted in accordance with the technical specifications and required time periods specified by national fire protection association standards 80, 90a, 90b, 92, and 105, as applicable.

NEW SECTION. Sec. 4. The state building code council shall work in conjunction with the director of fire protection to coordinate the implementation and enforcement of sections 2 and 3 of this act.

NEW SECTION. Sec. 5. (1) If a building owner has not complied with the testing schedule under section 2 of this act, or has not received a certificate of compliance within one hundred twenty days of an inspection under section 4 of this act that revealed a deficiency, then the building owner has committed a violation and may be issued a citation by the local authority. A violation of this section is a civil infraction, subject to all applicable local fees and other remedies for noncompliance. The monetary penalties in subsection (3) of this section apply when other penalties are not required by the local authority having jurisdiction.

(2) The authority having jurisdiction may require the building owner to conspicuously post the citation at all pedestrian

entrances and exits until a certificate of compliance has been issued pursuant to section 3 of this act or the citation has been dismissed.

(3) After the issuance of an initial citation, additional citations may be issued if the violations are not corrected:

(a) If the violations are not corrected within one hundred twenty days of the initial citation, a second citation may be issued with a monetary penalty of five cents per square foot of occupied space;

(b) If the violations are not corrected within two hundred forty days of the initial citation, a third citation may be issued with an additional monetary penalty of ten cents per square foot of occupied space and shall require mandatory in-person attendance by the building's head facilities manager at a four-hour fire life safety course given by the international certification board or equivalent provider of fire life safety programs accredited by the American national standards institute; and

(c) After the issuance of a citation pursuant to (b) of this subsection, additional citations may be issued every sixty days until any and all prior violations are resolved and all penalties imposed are satisfied. Each citation issued under this subsection (3)(c) shall assess a penalty of ten cents per square foot of occupied space.

(4) Revenue from the penalties in subsection (2) of this section shall be forwarded to the state treasurer for deposit in the fire service training account under RCW 43.43.944.

Sec. 6. RCW 43.43.944 and 2012 c 173 s 1 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 percent of all moneys received by the state on fire insurance premiums; ~~(and)~~

(d) Revenue from penalties established under section 5 of this act; 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.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act are each added to chapter 19.27 RCW and codified with the subchapter heading of "fire and smoke control systems testing."

NEW SECTION. Sec. 8. This act takes effect July 1, 2021."

On page 1, line 2 of the title, after "dampers;" strike the remainder of the title and insert "amending RCW 43.43.944; adding new sections to chapter 19.27 RCW; prescribing penalties;

and providing an effective date."

EFFECT: Amends reference to "fire control systems" to "smoke control systems" as applied to minimum testing and inspection requirements.

Requires that a building engineer or other person knowledgeable with the building system be available in person or by phone to the inspector during the inspection and testing in order to provide building and systems access and information.

Authorizes the authority having jurisdiction to extend the one hundred twenty day compliance period for smoke damper, fire damper, combination fire and smoke damper, or smoke control system deficiencies revealed through inspections.

Specifies that the monetary penalties for noncompliance apply when other penalties are not required by the local authority having jurisdiction.

Provides that the authority having jurisdiction may require the building owner to conspicuously post the citation at all pedestrian entrances and exits until a certificate of compliance has been issued or the citation has been dismissed.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Local Government to House Bill No. 2701.

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

MOTION

On motion of Senator Takko, the rules were suspended, House Bill No. 2701 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Takko and Short spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2701 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2701 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Ericksen

Excused: Senators Carlyle, Padden and Sheldon

HOUSE BILL NO. 2701, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Engrossed Substitute House Bill No. 2565 which had been deferred earlier in the day.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2565, by House Committee on Environment & Energy (originally sponsored by Fitzgibbon, Doglio and Hudgins)

Concerning the labeling of disposable wipes products.

MOTION

On motion of Senator Das, the rules were suspended, Engrossed Substitute House Bill No. 2565 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Das and Rivers spoke in favor of passage of the bill.

Senator Short spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2565.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2565 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 10; Absent, 0; Excused, 3.

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

Voting nay: Senators Becker, Brown, Ericksen, Fortunato, Holy, Honeyford, Schoesler, Short, Walsh and Wilson, L.

Excused: Senators Carlyle, Padden and Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2565, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2405, by House Committee on Appropriations (originally sponsored by Duerr, Barkis, Fitzgibbon, Shewmake, Hoff, Kloba, Corry, Gildon, Ybarra, Jenkin, Pollet and Doglio)

Concerning commercial property assessed clean energy and resilience.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that the efficiency and resiliency of buildings in Washington is essential for ensuring the health and safety of residents, employees, and tenants; for using water and energy more efficiently; and for economic development of our communities. Buildings in Washington have significant needs for resiliency retrofits, including seismic improvements, stormwater management, flood mitigation, wildfire and wind resistance, and for clean energy and energy efficiency improvements, but these improvements often have high up-front capital costs.

(2) This chapter authorizes the establishment of a commercial property assessed clean energy and resiliency ("C-PACER") program that jurisdictions can voluntarily implement to ensure that free and willing owners of agricultural, commercial, and industrial properties and of multifamily residential properties with five or more dwelling units can obtain low-cost, long-term financing for qualifying improvements, including energy efficiency, water conservation, renewable energy, and resiliency projects. These improvements are repaid by a voluntary assessment on the property, secured by a county lien, and assigned to a capital provider for all the administrative aspects of billing, collecting, and enforcing the lien and without the accumulation of cost to the county and without the creation of a personal debt obligation to the property owner. The obligation is instead carried by the property and remains with the property until repaid, regardless of any potential transfer of property ownership. After the adoption of a C-PACER program, a county's role is limited to the approval of an assessment and recordation of a C-PACER lien, and administration of the C-PACER program which may be contracted out to a private third party.

(3) The legislature declares that the establishment and operation of a C-PACER program under this chapter serves important public health and safety interests. A qualified improvement as defined in section 2 of this act provides benefit to the public, either in the form of energy or water resource conservation, reduced public health risk, or reduced public emergency response risk. Accordingly, the governing body of a county is authorized to determine that it is convenient and advantageous to adopt a program under this chapter.

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

(1) "Assessment" means the voluntary agreement of a property owner to allow a county to place an annual assessment on their property to repay C-PACER financing.

(2) "Capital provider" means any private entity, their designee, successor, and assigns that makes or funds C-PACER financing under this chapter.

(3) "C-PACER financing" means an investment from a capital provider to a property owner to finance or refinance a qualified project as described under this chapter.

(4) "C-PACER lien" means the lien recorded at the county on the eligible property to secure the voluntary annual assessment, which remains on the property until paid in full.

(5) "Eligible property" means privately owned commercial, industrial, or agricultural real property or multifamily residential real property with five or more dwelling units. Eligible property may be owned by any type of business, corporation, individual, or nonprofit organization permitted by state law.

(6) "Financing agreement" means the contract under which a property owner agrees to repay a capital provider for the C-PACER financing including, but not limited to, details of any finance charges, fees, debt servicing, accrual of interest and penalties, and any terms relating to treatment of prepayment and partial payment of the C-PACER financing.

(7) "Program" means a C-PACER program established under this chapter.

(8) "Program administrator" means the party designated by a county or the department of commerce to administer a C-PACER program. This may be the department of commerce, the county itself, or a third party, provided that the administration procedures used conform to the requirements of this chapter.

(9) "Program guidebook" means a comprehensive document that illustrates the applicable region for a program and establishes any appropriate guidelines, specifications, underwriting and approval criteria, and any standard application forms consistent

with the administration of a program and not detailed in this chapter.

(10) "Project application" means an application submitted to a program to demonstrate that a proposed project qualifies for C-PACER financing and for a C-PACER lien.

(11) "Qualified improvement" means a permanent improvement affixed to real property and intended to: (a) Decrease energy consumption or demand through the use of efficiency technologies, products, or activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy, including but not limited to a product, device, or interacting group of products or devices on the customer's side of the meter that generates electricity, provides thermal energy, or regulates temperature; (b) decrease water consumption or demand and address safe drinking water through the use of efficiency technologies, products, or activities that reduce or support the reduction of water consumption, allow for the reduction in demand, or reduce or eliminate lead from water which may be used for drinking or cooking; or (c) increase resilience, including but not limited to seismic retrofits, flood mitigation, stormwater management, wildfire and wind resistance, energy storage, and microgrids.

(12) "Qualified project" means a project approved by the program administrator, involving the installation or modification of a qualified improvement, including new construction or the adaptive reuse of eligible property with a qualified improvement.

(13) "Region" means a geographical area as determined by a county pursuant to section 4 of this act.

NEW SECTION. Sec. 3. (1)(a) The department of commerce may establish a voluntary statewide C-PACER program that counties may choose to participate in. A county may establish a separate voluntary countywide C-PACER program, provided that it conforms to the requirements of this chapter.

(b) A C-PACER program shall be managed efficiently and transparently, including by:

(i) Making any services that the program may choose to offer to property owners, such as estimating energy savings, overseeing project development, or evaluating alternative equipment installations, priced separately and open to purchase by the property owner from qualified third-party providers;

(ii) Making any properties participating in the program available to receiving impartial terms from all interested and qualifying third-party capital providers;

(iii) Allowing financial underwriting and evaluation to be performed by capital providers; and

(iv) Working in a collaborative working group process with capital providers and other stakeholders to develop the program guidebook and any other relevant documents or forms.

(2) The program shall establish uniform statewide criteria for which projects qualify due to their public benefit for participation in C-PACER programs including, but not limited to, criteria for measuring or determining if investments in energy will reduce greenhouse gas emissions; be effective for reducing energy demand or replacing nonrenewable energy with renewable energy; will be appropriate to meet seismic risks for each region of the state and type of structure; will reduce stormwater or pollution to be significant public benefit; or will reduce the risk of wildfire, flooding, or other natural or human-caused disaster, including how to determine if the public benefit in reduced public risk and emergency response qualifies for inclusion in C-PACER programs.

(3) The program must prepare a program guidebook that must include at minimum:

(a) A sample form bilateral or triparty agreement or agreements, as appropriate, between a county, the property

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owner, and the capital provider which details the agreement between the county and the property owner to have an assessment placed on the qualified property as repayment for C-PACER financing; an agreement by the county to place a lien on the property to secure the obligation to repay; the obligation of the property owner to repay the C-PACER financing to the capital provider; and an assignment of the C-PACER lien by the county to the capital provider;

(b) A statement that the period of the financing agreement will not exceed the useful life of the qualified project, or weighted average life if more than one qualified improvement is included in the qualified project, that is the basis for the financing agreement;

(c) A description of the application process and eligibility requirements for participation in the program;

(d) A statement explaining the lender consent requirement provided in section 8 of this act;

(e) A statement explaining the review requirement provided by section 4 of this act;

(f) A description of marketing and participant education services to be provided for the program;

(g) A statement specifying that the county has no liability as a result of the agreement; and

(h) A program guidebook need not be completed and adopted prior to accepting and approving applications by a program, so long as the program complies with the provisions of this chapter.

(4) The program administrator must make the program guidebook available for public inspection on the county's or department of commerce's web site.

(5) A county or the department of commerce may contract out the responsibilities of program administration, including the responsibilities of this section, to a public, quasi-public, or private third-party entity.

(6) Any county program guidebook established prior to a statewide program may subsequently include or incorporate by reference any aspect of a statewide program guidebook; however, upon development of a statewide program guidebook with a form agreement or agreements developed pursuant to subsection (3)(a) of this section, the form agreement or agreements shall be required to be used by all county programs from the time that the first C-PACER lien is recorded under the statewide program, or the department of commerce may incorporate by reference any portion of any county program guidebooks, including a form agreement or agreements, as its program guidebook.

(7) The department of commerce may provide grants to counties to assist in the design and implementation of C-PACER programs under this chapter.

NEW SECTION. Sec. 4. (1) A program must establish a C-PACER application and review process to review and evaluate project applications for C-PACER financing, and prescribe the form and manner of the application. At a minimum, an applicant must demonstrate:

(a) That the project provides a benefit to the public, in the form of energy or water resource conservation, reduced public health risk, or reduced public emergency response risk;

(b) For an existing building: (i) Where energy or water usage improvements are proposed, certification by a licensed professional engineer, or other professional listed in the program guidebook, stating that the proposed qualified improvements will either result in more efficient use or conservation of energy or water, the reduction of greenhouse gas emissions, or the addition of renewable sources of energy or water, or (ii) where resilience improvements are proposed, certification by a licensed professional engineer stating that the qualified improvements will result in improved resilience;

(c) For new construction, certification by a licensed professional engineer stating that the proposed qualified improvements will enable the project to exceed the energy efficiency or water efficiency or renewable energy or renewable water or resilience requirements of the current building code.

(2) The program may charge an application fee to cover the costs of establishing and conducting the application review process.

(3) Upon the denial of an application, the program administrator must provide an opportunity for an adjudicative proceeding subject to the applicable provisions of chapter 34.05 RCW.

(4) After an approved project is completed, an applicant must provide the program written verification, as defined in the program guidebook, stating that the qualified project was properly completed and is operating as intended.

(5) No later than one year after the governing body of a county establishes a program under this chapter, it must begin accepting applications and approving applications.

(6) The department of commerce may adopt rules to implement the voluntary statewide program.

NEW SECTION. Sec. 5. (1) To adopt a program under this chapter, the governing body of a county must take the following actions:

(a) Adopt a resolution or ordinance that includes:

(i) A statement that financing qualified projects, repaid by voluntary assessments on property benefited by C-PACER improvements, is in the public interest for safety, health, and other common good reasons;

(ii) A description of the region in which the program is offered, which:

(A) May include the entire county, which may include both unincorporated and incorporated territory; and

(B) Must be located wholly within the county's jurisdiction; and

(iii) A statement of the time and place for a public hearing on the proposed program; and

(b) Hold a public hearing at which the public may comment on the proposed program.

(2) A county may designate more than one region. If multiple regions are designated, the regions may be separate, overlapping, or coterminous.

(3) The resolution or ordinance adopted by a county under this section may incorporate the department of commerce program guidebook or any amended versions of that program guidebook, as appropriate, by reference.

(4) A county adopting a C-PACER program pursuant to this chapter may narrow the definition of "qualified improvements" to be consistent with the county's climate goals.

(5) Any combination of counties may agree to jointly implement a program under this chapter. If two or more counties implement a program jointly, a single public hearing held jointly by the cooperating counties is sufficient to satisfy the requirements of this chapter.

(6) If a county elects to join the statewide program administered by the department of commerce, it may adopt a resolution or ordinance in accordance with the requirements of the department.

(7) In lieu of establishing a voluntary statewide program, the department of commerce may produce a program guidebook for reference and use by county programs.

NEW SECTION. Sec. 6. (1) A county shall record each C-PACER lien in the real property records of the county in which the property is located.

(2) The recording under subsection (1) of this section must

contain:

- (a) The legal description of the eligible property;
- (b) The name of each property owner;
- (c) The date on which the lien was created;
- (d) The principal amount of the lien;
- (e) The terms and length of the lien; and
- (f) A copy of the voluntary assessment agreement between the county and the property owner.

(3) The county shall also record the assignment of the C-PACER lien from the county to the appropriate capital provider.

NEW SECTION. Sec. 7. (1) The C-PACER lien amount plus any interest, penalties, and charges accrued or accruing on the C-PACER lien:

(a) Takes precedence over all other liens or encumbrances except a lien for taxes imposed by the state, a local government, or a junior taxing district on real property, which liens for taxes shall have priority over such benefit C-PACER lien, provided existing mortgage holders, if any, have provided written consent described in section 8 of this act; and

(b) Is a first and prior lien, second only to a lien for taxes imposed by the state, a local government, or a junior taxing district against the real property on which the C-PACER lien is imposed, from the date on which the notice of the C-PACER lien is recorded until the C-PACER lien, interest, penalties, and charges accrued or accruing are paid.

(2) The C-PACER lien runs with the land, and that portion of the C-PACER lien that has not yet become due is not accelerated or eliminated by foreclosure of the C-PACER lien or any lien for taxes imposed by the state, a local government, or junior taxing district against the real property on which the C-PACER lien is imposed.

(3) Delinquent installments due on a C-PACER lien incur interest and penalties as specified in the financing agreement.

(4) After the C-PACER lien is recorded as provided in this section, the voluntary assessment and the C-PACER lien may not be contested on the basis that the improvement is not a qualified improvement or that the project is not a qualified project.

(5) Collection and enforcement of delinquent C-PACER liens or C-PACER financing installment payments, including foreclosure, shall remain the responsibility of the capital provider.

(6) The C-PACER lien shall be enforced by the capital provider at any time after one year from the date of delinquency in the same manner that the collection of delinquent real property taxes is enforced by the county under chapter 84.64 RCW, including the provisions of RCW 84.64.040, excepting that a sworn declaration by the capital provider or assignee attesting to the assessment delinquency of at least one year shall be used in lieu of the certificate required under RCW 84.64.050.

(7) The capital provider may sell or assign, for consideration, any and all liens received from the participating county. The capital provider or their assignee shall have and possess the same powers and rights at law or in equity to enforce the C-PACER lien in the same manner as described in subsection (6) of this section.

NEW SECTION. Sec. 8. (1) Before a capital provider may enter into a financing agreement to provide C-PACER financing of a qualified project to a record owner of any eligible property, the capital provider must receive written consent from any holder of a lien, mortgage, or security interest in the real property that the property may participate in the program and that the C-PACER lien will take precedence over all other liens except for a lien for taxes as described in section 7 of this act.

(2) Before a capital provider may enter into a financing agreement to provide C-PACER financing of a qualified project to the record owner of any multifamily residential real property with five or more dwelling units, the program administrator must also receive written consent from any and all holders of affordable

housing covenants, restrictions, or regulatory agreements in the real property that the property may participate in the program and that the C-PACER lien will take precedence over all other liens except for a lien for taxes as described in section 7 of this act.

NEW SECTION. Sec. 9. The C-PACER financing through a program established under this chapter may include:

- (1) The cost of materials and labor necessary for installation or modification of a qualified improvement;
- (2) Permit fees;
- (3) Inspection fees;
- (4) Lender's fees;
- (5) Program application and administrative fees;
- (6) Project development and engineering fees;
- (7) Third-party review fees, including verification review fees;
- (8) Capitalized interest;
- (9) Interest reserves;
- (10) Escrow for prepaid property taxes and insurance; or
- (11) Any other fees or costs that may be incurred by the property owner incident to the installation, modification, or improvement on a specific or pro rata basis.

NEW SECTION. Sec. 10. The proposed C-PACER financing for a qualified project may authorize the property owner to:

- (1) Purchase directly the related equipment and materials for the installation or modification of a qualified improvement; and
- (2) Contract directly, including through lease, power purchase agreement, or other service contract, for the installation or modification of a qualified improvement.

NEW SECTION. Sec. 11. A county that adopts a program and designates a program region under this chapter may not:

- (1) Make the issuance of a permit, license, or other authorization from the county to a person who owns property in the region contingent on the person entering into a written contract to repay the financing of a qualified project under this chapter; or
- (2) Otherwise compel a person who owns property in the region to enter into a written contract to repay the financing of a qualified project under this chapter.

NEW SECTION. Sec. 12. The members of the governing body of a county, employees of a county, and board members, executives, and employees under this chapter are not personally liable as a result of exercising any rights or responsibilities granted under this chapter.

NEW SECTION. Sec. 13. A county may not enforce any privately financed debt under this chapter. Neither the state nor any county may use public funds to fund or repay any loan between a capital provider and property owner. No section under this chapter shall be interpreted to pledge, offer, or encumber the full faith and credit of a local government, nor shall any local government pledge, offer, or encumber its full faith and credit for any lien amount through a program.

NEW SECTION. Sec. 14. Sections 1 through 13 of this act constitute a new chapter in Title 36 RCW."

On page 1, line 2 of the title, after "resilience;" strike the remainder of the title and insert "and adding a new chapter to Title 36 RCW."

MOTION

Senator Lovelett moved that the following floor amendment no. 1298 by Senator Lovelett be adopted:

On page 4, line 16, after "uniform" strike "statewide"

On page 7, line 33, after "located." insert "The lien and release shall be prepared in conformity with chapter 65.04 RCW."

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On page 7, line 37, after "(b)" strike "The name of each property owner" and insert "The assessor's parcel number of the property;

(c) The grantor's name, which must be the same as the property owner on the assessment agreement;

(d) The grantee's name, which must be the county in which the property is located"

Reletter the remaining subsections consecutively and correct any internal references accordingly

On page 8, after line 5, insert the following:

"(4) The lien holder or assignee will record a release upon discharge of the lien. The lien holder may also record a partial release."

Senator Lovelett spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1298 by Senator Lovelett on page 4, line 16 to the committee striking amendment.

The motion by Senator Lovelett carried and floor amendment no. 1298 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Energy & Technology as amended to Engrossed Second Substitute House Bill No. 2405.

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

MOTION

On motion of Senator Lovelett, the rules were suspended, Engrossed Second Substitute House Bill No. 2405 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Lovelett and Rivers spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2405 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2405 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 7; Absent, 0; Excused, 2.

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

Voting nay: Senators Becker, Braun, Brown, Ericksen, Holy, Honeyford and Wilson, L.

Excused: Senators Padden and Sheldon

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2405 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2755, by Representatives Schmick, Caldier and Cody

Concerning transparency regarding the cost of air ambulance services.

The measure was read the second time.

MOTION

On motion of Senator Cleveland, the rules were suspended, Engrossed House Bill No. 2755 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2755.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2755 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Padden and Sheldon

ENGROSSED HOUSE BILL NO. 2755, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1261, by House Committee on Environment & Energy (originally sponsored by Peterson, Fitzgibbon, Stanford, Tarleton, Ortiz-Self, Lekanoff, Doglio, Macri and Pollet)

Ensuring compliance with the federal clean water act by prohibiting certain discharges into waters of the state.

The measure was read the second time.

MOTION

Senator Fortunato moved that the following floor amendment no. 1246 by Senator Fortunato be adopted:

On page 3, line 9, after "RCW;" strike "or"
 On page 3, line 12, after "permit" insert "; or
 (f) Mining any claim recognized under federal mining law"

Senator Fortunato spoke in favor of adoption of the amendment.

Senator Salomon spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1246 by Senator Fortunato on page 3, line 9 to Engrossed Substitute House Bill No. 1261.

The motion by Senator Fortunato did not carry and floor amendment no. 1246 was not adopted by voice vote.

MOTION

Senator Becker moved that the following floor amendment no. 1299 by Senator Becker be adopted:

On page 10, after line 19, insert the following:

NEW SECTION. Sec. 5. A new section is added to chapter 90.48 RCW to read as follows:

Beginning January 1, 2021, any general or individual waste discharge permit or national pollution discharge elimination system permit issued or renewed by the department for any publicly owned wastewater treatment plant that directly discharges to Puget Sound must require that opioids and other pollution derived from opioids are removed or neutralized to the maximum extent that is technologically feasible.

NEW SECTION. Sec. 6. A new section is added to chapter 70.146 RCW to read as follows:

A public body that is subject to the provisions of section 5 of this act is ineligible to receive a grant or loan under this chapter if the public body is responsible for a water pollution control facility that does not comply with the terms of a permit relating to the reduction of opioid pollution.

NEW SECTION. Sec. 7. A new section is added to chapter 70.150 RCW to read as follows:

A public body that is subject to the provisions of section 5 of this act is ineligible to receive a grant or loan under this chapter if the public body is responsible for a water pollution control facility that does not comply with the terms of a permit relating to the reduction of opioid pollution.

NEW SECTION. Sec. 8. A new section is added to chapter 90.48 RCW to read as follows:

(1) A public body that is subject to the provisions of section 5 of this act is ineligible to receive a grant or loan under this chapter if the public body is responsible for a water pollution control facility that does not comply with the terms of a permit relating to the reduction of opioid pollution.

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

(a) "Public body" has the same meaning as defined in RCW 70.146.020.

(b) "Water pollution control facility" has the same meaning as defined in RCW 70.146.020.

NEW SECTION. Sec. 9. A new section is added to chapter 90.50A RCW to read as follows:

A public body that is subject to the provisions of section 5 of this act is ineligible to receive a grant or loan under this chapter if the public body is responsible for a water pollution control facility that does not comply with the terms of a permit relating to the reduction of opioid pollution."

On page 1, beginning on line 3 of the title, after "77.55.011;" strike all material through "RCW;" on line 4 and insert "adding new sections to chapter 90.48 RCW; adding a new section to chapter 70.146 RCW; adding a new section to chapter 70.150 RCW; adding a new section to chapter 90.50A RCW;"

Senator Becker spoke in favor of adoption of the amendment.

Senator Lovelett spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1299 by Senator Becker on page 10, after line 19 to Engrossed Substitute House Bill No. 1261.

The motion by Senator Becker did not carry and floor amendment no. 1299 was not adopted by voice vote.

MOTION

On motion of Senator Salomon, the rules were suspended, Engrossed Substitute House Bill No. 1261 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Salomon and Lovelett spoke in favor of passage of the bill.

Senators Short, Ericksen, Becker and Fortunato spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1261.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1261 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 10; Absent, 0; Excused, 2.

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

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Honeyford, King, Short, Wagoner and Wilson, L.

Excused: Senators Padden and Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1261, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The senate resumed consideration of Substitute House Bill No. 2614 which had been deferred on the previous legislative day.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2614, by House Committee on Labor & Workplace Standards (originally sponsored by Robinson, Doglio, Sells, Lekanoff, Tharinger and Ormsby)

Concerning paid family and medical leave.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Labor & Commerce be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 50A.05.010 and 2019 c 13 s 1 are each amended to read as follows:

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

(1)(a) "Casual labor" means work that:

(i) Is performed infrequently and irregularly; and

(ii) If performed for an employer, does not promote or advance the employer's customary trade or business.

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(b) For purposes of casual labor:

(i) "Infrequently" means work performed twelve or fewer times per calendar quarter; and

(ii) "Irregularly" means work performed not on a consistent cadence.

(2) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

~~((2))~~ (3) "Commissioner" means the commissioner of the department or the commissioner's designee.

~~((3))~~ (4) "Department" means the employment security department.

~~((4))~~ (5)(a) "Employee" means an individual who is in the employment of an employer.

(b) "Employee" does not include employees of the United States of America.

~~((5))~~ (6) "Employee's average weekly wage" means the quotient derived by dividing the employee's total wages during the two quarters of the employee's qualifying period in which total wages were highest by twenty-six. If the result is not a multiple of one dollar, the department must round the result to the next lower multiple of one dollar.

~~((6))~~ (7)(a) "Employer" means: (i) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title; (ii) the state, state institutions, and state agencies; and (iii) any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.

(b) "Employer" does not include the United States of America.

~~((7))~~ (8)(a) "Employment" means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied. The term "employment" includes an individual's entire service performed within or without or both within and without this state, if:

(i) The service is localized in this state; or

(ii) The service is not localized in any state, but some of the service is performed in this state; and

(A) The base of operations of the employee is in the state, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or

(B) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(b) "Employment" does not include:

(i) Self-employed individuals;

(ii) Casual labor;

(iii) Services for remuneration when it is shown to the satisfaction of the commissioner that:

(A)(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(III) Such individual is customarily engaged in an

independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service; or

(B) As a separate alternative:

(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or such individual has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and

(IV) On the effective date of the contract of service, such individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and

(V) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, such individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(VI) On the effective date of the contract of service, such individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting; ~~((6))~~

~~((iii))~~ (iv) Services that require registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW rendered by an individual when:

(A) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact;

(B) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(C) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes, other than that furnished by the employer for which the business has contracted to furnish services;

(D) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(E) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with

any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(F) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting; and

(G) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW or an electrical contractor license pursuant to chapter 19.28 RCW;

(v) Individuals when serving as a member of a statutory board, commission, council, committee, or other similar group classified as a class two, three, four, or five group under RCW 43.03.230, 43.03.240, 43.03.250, or 43.03.265;

(vi) Individuals when serving as an elected commissioner, with a per diem of two hundred fifty dollars or less per day, of a:

(A) Fire protection district under RCW 52.14.010, or a governing board member of a regional fire protection service authority under RCW 52.26.080;

(B) Water-sewer district under RCW 57.12.010;

(C) Cemetery district under RCW 68.52.220;

(D) Public hospital district under chapter 70.44 RCW;

(E) Special district under chapter 85.38 RCW;

(F) Park and recreation district or a joint park and recreation district under chapter 36.69 RCW; or

(G) Port district under Title 53 RCW;

(vii) Volunteer firefighters compensated on per diem or nominal sum basis consistent with the definition of volunteer contained in 29 C.F.R. Sec. 553.101, 553.104, and 553.106, as it exists on the effective date of this section;

(viii) Individuals when serving as an elected director, with a per diem of two hundred fifty dollars or less per day, of a:

(A) Weed district under chapter 17.04 RCW or an intercounty weed district under chapter 17.06 RCW;

(B) Irrigation district under chapter 87.03 RCW or an irrigation and rehabilitation district under chapter 87.84 RCW; or

(C) School district under chapter 28A.315 RCW;

(ix) Individuals when serving as an appointed director, with a compensation limit of no more than one thousand dollars per year, of an air pollution control authority under chapter 70.94 RCW; or

(x) Individuals when serving as an elected supervisor, with a per diem of two hundred fifty dollars or less per day, of a conservation district under chapter 89.08 RCW.

~~((8))~~ (9) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

~~((9))~~ (10) "Family leave" means any leave taken by an employee from work:

(a) To participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;

(b) To bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of a child under the age of eighteen with the employee; or

(c) Because of any qualifying exigency as permitted under the federal family and medical leave act, 29 U.S.C. Sec. 2612(a)(1)(E) and 29 C.F.R. Sec. 825.126(b)(1) through ~~((9))~~ (11), as they existed on October 19, 2017, for family members as defined in subsection ~~((40))~~ (11) of this section.

~~((40))~~ (11) "Family member" means a child, grandchild, grandparent, parent, sibling, or spouse of an employee.

~~((44))~~ (12) "Grandchild" means a child of the employee's child.

~~((42))~~ (13) "Grandparent" means a parent of the employee's parent.

~~((43))~~ (14) "Health care provider" means: (a) A person licensed as a physician under chapter 18.71 RCW or an osteopathic physician and surgeon under chapter 18.57 RCW; (b) a person licensed as an advanced registered nurse practitioner under chapter 18.79 RCW; or (c) any other person determined by the commissioner to be capable of providing health care services.

~~((44))~~ (15) "Medical leave" means any leave taken by an employee from work made necessary by the employee's own serious health condition.

~~((45))~~ (16) "Paid time off" includes vacation leave, personal leave, medical leave, sick leave, compensatory leave, or any other paid leave offered by an employer under the employer's established policy.

(17) "Parent" means the biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse, or an individual who stood in loco parentis to an employee when the employee was a child.

~~((46))~~ (18) "Period of incapacity" means an inability to work, attend school, or perform other regular daily activities because of a serious health condition, treatment of that condition or recovery from it, or subsequent treatment in connection with such inpatient care.

~~((47))~~ (19) "Premium" or "premiums" means the payments required by RCW 50A.10.030 and paid to the department for deposit in the family and medical leave insurance account under RCW 50A.05.070.

~~((48))~~ (20) "Qualifying period" means the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application for leave.

~~((49))~~ (21)(a) "Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash.

(b) Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, is considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

(c) Remuneration also includes settlements or other proceeds received by an individual as a result of a negotiated settlement for termination of an individual written employment contract prior to its expiration date. The proceeds are deemed assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract.

(d) Remuneration does not include:

(i) The payment of tips;

(ii) Supplemental benefit payments made by an employer to an employee in addition to any paid family or medical leave benefits received by the employee; or

(iii) Payments to members of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

~~((20))~~ (22)(a) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

(i) Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or

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(ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(A) A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(I) Treatment two or more times, within thirty days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services, such as a physical therapist, under orders of, or on referral by, a health care provider; or

(II) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;

(B) Any period of incapacity due to pregnancy, or for prenatal care;

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(I) Requires periodic visits, defined as at least twice a year, for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;

(II) Continues over an extended period of time, including recurring episodes of a single underlying condition; and

(III) May cause episodic rather than a continuing period of incapacity, including asthma, diabetes, and epilepsy;

(D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider, including Alzheimer's, a severe stroke, or the terminal stages of a disease; or

(E) Any period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for: (I) Restorative surgery after an accident or other injury; or (II) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

(b) The requirement in (a)(i) and (ii) of this subsection for treatment by a health care provider means an in-person visit to a health care provider. The first, or only, in-person treatment visit must take place within seven days of the first day of incapacity.

(c) Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty-day period shall be determined by the health care provider.

(d) The term extenuating circumstances in (a)(ii)(A)(I) of this subsection means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example, extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the thirty-day period, but the health care provider does not have any available appointments during that time period.

(e) Treatment for purposes of (a) of this subsection includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under (a)(ii)(A)(II) of this subsection, a regimen of continuing treatment includes, but is not limited to, a course of prescription medication, such as an antibiotic, or

therapy requiring special equipment to resolve or alleviate the health condition, such as oxygen. A regimen of continuing treatment that includes taking over-the-counter medications, such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of this title.

(f) Conditions for which cosmetic treatments are administered, such as most treatments for acne or plastic surgery, are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that are not serious health conditions and do not qualify for leave under this title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this section are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(g)(i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this title.

(ii) Treatment for substance abuse does not prevent an employer from taking employment action against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take medical leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking medical leave. An employee may also take family leave to care for a covered family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a covered family member receiving treatment for substance abuse.

(h) Absences attributable to incapacity under (a)(ii)(B) or (C) of this subsection qualify for leave under this title even though the employee or the family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

~~((21))~~ (23) "Service is localized in this state" has the same meaning as described in RCW 50.04.120.

~~((22))~~ (24) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

~~((23))~~ (25) "State average weekly wage" means the most recent average weekly wage calculated under RCW 50.04.355 and available on January 1st of each year.

~~((24))~~ (26) "Supplemental benefit payments" means payments made by an employer to an employee as salary continuation or as paid time off. Such payments must be in addition to any paid family or medical leave benefits the

employee is receiving.

(27) "Typical workweek hours" means:

(a) For an hourly employee, the average number of hours worked per week by an employee ~~((since the beginning of))~~ within the qualifying period; and

(b) Forty hours for a salaried employee, regardless of the number of hours the salaried employee typically works.

~~((25))~~ (28) "Wage" or "wages" means:

(a) For the purpose of premium assessment, the remuneration paid by an employer to an employee. The maximum wages subject to a premium assessment are those wages as set by the commissioner under RCW 50A.10.030;

(b) For the purpose of payment of benefits, the remuneration paid by one or more employers to an employee for employment during the employee's qualifying period. At the request of an employee, wages may be calculated on the basis of remuneration payable. The department shall notify each employee that wages are calculated on the basis of remuneration paid, but at the employee's request a redetermination may be performed and based on remuneration payable; and

(c) For the purpose of a self-employed person electing coverage under RCW 50A.10.010, the meaning is defined by rule.

Sec. 2. RCW 50A.10.010 and 2019 c 13 s 19 are each amended to read as follows:

(1) For benefits payable beginning January 1, 2020, any self-employed person, including a sole proprietor, independent contractor, partner, or joint venturer, may elect coverage under this title for an initial period of not less than three years and subsequent periods of not less than one year immediately following a period of coverage. Those electing coverage under this section must elect coverage for both family leave and medical leave and are responsible for payment of one hundred percent of all premiums assessed to an employee under RCW 50A.10.030. The self-employed person must file a notice of election in writing with the department, in a manner as required by the department in rule. The self-employed person is eligible for family and medical leave benefits after working eight hundred twenty hours in the state during the qualifying period following the date of filing the notice.

(2) A self-employed person who has elected coverage may withdraw from coverage within thirty days after the end of each period of coverage, or at such other times as the commissioner may adopt by rule, by filing a notice of withdrawal in writing with the commissioner, such withdrawal to take effect not sooner than thirty days after filing the notice with the commissioner.

(3) The department may cancel elective coverage if the self-employed person fails to make required payments or file reports. The department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage. The cancellation shall be effective no later than thirty days from the date of the notice in writing advising the self-employed person of the cancellation.

(4) Those electing coverage are considered employers or employees where the context so dictates.

(5) For the purposes of this section, "independent contractor" means an individual excluded from employment under RCW 50A.05.010~~((7))~~ (8)(b) ~~((ii) and)~~ (iii) and (iv).

(6) In developing and implementing the requirements of this section, the department shall adopt government efficiencies to improve administration and reduce costs. These efficiencies may include, but are not limited to, requiring that payments be made in a manner and at intervals unique to the elective coverage program.

(7) The department shall adopt rules for determining the hours worked and the wages of individuals who elect coverage under this section and rules for enforcement of this section.

Sec. 3. RCW 50A.10.040 and 2019 c 13 s 22 are each amended to read as follows:

(1) An employer may file an application with the department for a conditional waiver for the payment of family and medical leave premiums, assessed under RCW 50A.10.030, for any employee who ~~((is))~~:

(a) ~~((Physically based))~~ Primarily performs work outside of the state;

(b) Is employed in the state on a limited or temporary work schedule; and

(c) Is not expected to be employed in the state for eight hundred twenty hours or more in a ~~((qualifying))~~ period of four consecutive completed calendar quarters.

(2) ~~((The department must approve an application that has been signed by))~~ Both the employee and employer must sign the application verifying their belief that the conditions in ~~((this))~~ subsection (1) of this section will be met ~~((during the qualifying period))~~.

(3) If the ~~((employee exceeds the eight hundred twenty hours or more in a period of four consecutive complete calendar quarters))~~ department finds any of the conditions in subsection (1) of this section are no longer satisfied, or were not satisfied at any point after a conditional waiver was approved and is in effect, the department will consider the conditional waiver ~~((expires))~~ expired and the employer and employee will be responsible for their shares of all premiums that would have been paid during this period had the waiver not been granted. Upon payment of the missed premiums, the employee will be credited for the hours worked and will be eligible for benefits under this title as if the premiums were originally paid.

Sec. 4. RCW 50A.15.020 and 2019 c 13 s 3 are each amended to read as follows:

(1)~~((a))~~ Beginning January 1, 2020, family and medical leave are available and benefits are payable to a qualified employee under this section.

(a) Following a waiting period consisting of the first seven consecutive calendar days, benefits are payable when family or medical leave is required. However, no waiting period is required for leave for the birth or placement of a child, or for leave because of any qualifying exigency as defined under RCW 50A.05.010(10)(c). The waiting period begins the previous Sunday of the week when an otherwise eligible employee takes leave for the minimum claim duration under subsection (2)(c) of this section. Eligible employees may satisfy the waiting period requirement while simultaneously receiving paid time off for any part of the waiting period.

(b) Benefits may continue during the continuance of the need for family ~~((and))~~ or medical leave, subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in this title. ~~((Successive periods of family and medical leave caused by the same or related injury or sickness are deemed a single period of family and medical leave only if separated by less than four months.))~~

(2) The weekly benefit shall be prorated by the percentage of hours on leave compared to the number of hours provided as the typical workweek hours as defined in RCW 50A.05.010.

(a) The benefits in this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar.

(b) Hours on leave claimed for benefits under this title, if not a multiple of one hour, shall be reduced to the next lower multiple of one hour.

(c) The minimum claim duration payment is for eight consecutive hours of leave.

(3)(a) The maximum duration of paid family leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks.

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(b) The maximum duration of paid medical leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks. This leave may be extended an additional two times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(c) An employee is not entitled to paid family and medical leave benefits under this title that exceeds a combined total of sixteen times the typical workweek hours. The combined total of family and medical leave may be extended to eighteen times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(4) The weekly benefit for family and medical leave shall be determined as follows: If the employee's average weekly wage is: (a) Equal to or less than one-half of the state average weekly wage, then the benefit amount is equal to ninety percent of the employee's average weekly wage; or (b) greater than one-half of the state average weekly wage, then the benefit amount is the sum of: (i) Ninety percent of one-half of the state average weekly wage; and (ii) fifty percent of the difference of the employee's average weekly wage and one-half of the state average weekly wage.

(5)(a) The maximum weekly benefit for family and medical leave that occurs on or after January 1, 2020, shall be one thousand dollars. By September 30, 2020, and by each subsequent September 30th, the commissioner shall adjust the maximum weekly benefit amount to ninety percent of the state average weekly wage. The adjusted maximum weekly benefit amount takes effect on the following January 1st.

(b) The minimum weekly benefit shall not be less than one hundred dollars per week except that if the employee's average weekly wage at the time of family ~~((and))~~ or medical leave is less than one hundred dollars per week, the weekly benefit shall be the employee's full wage.

Sec. 5. RCW 50A.15.060 and 2019 c 13 s 8 are each amended to read as follows:

(1) An employee is not entitled to paid family or medical leave benefits under this title:

(a) For any absence occasioned by the willful intention of the employee to bring about injury to or the sickness of the employee or another, or resulting from any injury or sickness sustained in the perpetration by the employee of an illegal act;

(b) For any family or medical leave commencing before the employee becomes qualified for benefits under this title;

(c) For an employee who is on suspension from his or her employment; or

(d) For any period of time during which an employee works for remuneration or profit.

(2) An employer may offer supplemental benefit payments to an employee on family or medical leave in addition to any paid family or medical leave benefits the employee is receiving. ~~((Supplemental benefit payments include, but are not limited to, vacation, sick, or other paid time off.))~~

(a) Supplemental benefit payments are not considered remuneration under RCW 50A.05.010(21) and the department will not prorate or reduce an employee's weekly benefit amount due to the receipt of supplemental benefit payments.

(b) The choice to receive supplemental benefit payments lies with the employee. Nothing in this section shall be construed as requiring an employee to receive or an employer to provide supplemental benefit payments.

(3) An individual is disqualified for benefits for any week he or she has knowingly and willfully made a false statement or representation involving a material fact or knowingly and willfully failed to report a material fact and, as a result, has

obtained or attempted to obtain any benefits under the provisions of this title. An individual disqualified for benefits under this subsection (3) for the:

(a) First time is disqualified for an additional twenty-six weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of fifteen percent of the amount of benefits overpaid or deemed overpaid;

(b) Second time is also disqualified for an additional fifty-two weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of twenty-five percent of the amount of benefits overpaid or deemed overpaid;

(c) Third time and any time thereafter is also disqualified for an additional one hundred four weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of fifty percent of the amount of benefits overpaid or deemed overpaid.

(4) All penalties collected under this section must be deposited in the family and medical leave enforcement account created under RCW 50A.05.080.

Sec. 6. RCW 50A.15.080 and 2019 c 13 s 10 are each amended to read as follows:

(1) If ~~((an))~~ the department determines an employee is qualified for benefits and that the employee owes child support obligations ~~((under RCW 50A.15.040 and))~~, the department ~~((determines that the employee is qualified for benefits, the department shall notify the applicable state or local child support enforcement agency and deduct and withhold an amount from benefits in a manner consistent with RCW 50.40.050.))~~ shall notify the applicable state or local child support enforcement agency and deduct and withhold an amount from benefits in a manner consistent with RCW 50.40.050.

(2) For the purposes of this section, "child support obligations" means only those obligations that are being enforced pursuant to a plan described in section 454 of the social security act which has been approved by the secretary of health and human services under Title IV-D of the social security act (42 U.S.C. Sec. 651 et seq.).

(3) Consistent with ~~((RCW 50A.15.040(1)(e)))~~ chapter 50A.25 RCW, the department may verify child support obligations with the department of social and health services.

Sec. 7. RCW 50A.15.100 and 2019 c 13 s 38 are each amended to read as follows:

(1) Leave from employment under this title is in addition to leave from employment during which benefits are paid or are payable under Title 51 RCW or other applicable federal or state industrial insurance laws.

(2) ~~((An))~~ An employee is disqualified from receiving family or medical leave benefits under this title for any week in which ~~((an))~~ the employee is ~~((eligible to receive benefits))~~ receiving, has received, or will receive compensation, as determined by the governing state or federal agency under:

(a) Title 50 ~~((or 51))~~ RCW ~~((or 51))~~;

(b) RCW 51.32.060;

(c) RCW 51.32.090; or

(d) Any other applicable federal ~~((or state))~~ unemployment compensation, industrial insurance, or disability insurance laws ~~((; the employee is disqualified from receiving family or medical leave benefits under this title)).~~

Sec. 8. RCW 50A.25.070 and 2019 c 13 s 76 are each amended to read as follows:

(1) The department may enter into data-sharing contracts and may disclose records and information deemed confidential to state or local government agencies under this chapter only if

permitted under subsection (2) of this section and RCW 50A.25.090. A state or local government agency must need the records or information for an official purpose and must also provide:

(a) An application in writing to the department for the records or information containing a statement of the official purposes for which the state or local government agency needs the information or records and specifically identify the records or information sought from the department; and

(b) A written verification of the need for the specific information from the director, commissioner, chief executive, or other official of the requesting state or local government agency either on the application or on a separate document.

(2) The department may disclose information or records deemed confidential under this chapter to the following state or local government agencies:

(a) To the department of social and health services to identify child support obligations as defined in RCW 50A.15.080;

(b) To the department of revenue to determine potential tax liability or employer compliance with registration and licensing requirements;

(c) To the department of labor and industries to compare records or information to detect improper or fraudulent claims;

(d) To the office of financial management for the purpose of conducting periodic salary or fringe benefit studies pursuant to law;

(e) To the office of the state treasurer and any financial or banking institutions deemed necessary by the office of the state treasurer and the department for the proper administration of funds;

(f) To the office of the attorney general for purposes of legal representation;

(g) To a county clerk for the purpose of RCW 9.94A.760 if requested by the county clerk's office;

(h) To the office of administrative hearings for the purpose of administering the administrative appeal process;

(i) To the department of enterprise services for the purpose of agency administration and operations; and

(j) To the consolidated technology services agency for the purpose of enterprise technology support.

Sec. 9. RCW 50A.30.010 and 2019 c 13 s 56 are each amended to read as follows:

(1) An employer may apply to the commissioner for approval of a voluntary plan for the payment of either family leave benefits or medical leave benefits, or both. The application must be submitted on a form and in the manner as prescribed by the commissioner in rule. The fee for the department's review of each application for approval of a voluntary plan is two hundred fifty dollars.

(2) The benefits payable as indemnification for loss of wages under any voluntary plan must be separately stated and designated separately and distinctly in the plan from other benefits, if any.

(3) Neither an employee nor his or her employer are liable for any premiums for benefits covered by an approved voluntary plan.

(4) An employee may only receive payment of benefits for family leave, medical leave, or both from one approved plan at a time. An employee who qualifies for benefits and is simultaneously covered by more than one plan under this title will receive benefits under the plan for which the employee has worked the most hours during the employee's qualifying period. The commissioner must adopt rules to allow benefits or prevent duplication of benefits to employees simultaneously covered by one or more approved voluntary plans and the state program.

(5) The commissioner must approve any voluntary plan as to which the commissioner finds that there is at least one employee

in employment and all of the following exist:

(a) The benefits afforded to the employees must be at least equivalent to the benefits the employees are entitled to as part of the state's family and medical leave program, including but not limited to the duration of leave. The employer must offer at least one-half of the length of leave as provided in RCW 50A.15.020(3) with pay and provide a monetary payment in an amount equal to or higher than the total amount of monetary benefits the employee would be entitled to receive as part of the state-run program. The employer may offer the same duration of leave and monetary benefits as offered under the state program.

(b) The sick leave an employee is entitled to under RCW 49.46.210 is in addition to the employer's provided benefits and is in addition to any family ~~((and))~~ or medical leave benefits.

(c) The plan is available to all of the eligible employees of the employer employed in this state, including future employees.

(d) The employer has agreed to make ~~((the))~~ all required payroll deductions ~~((required, if any, and transmit the proceeds to the department for any portions not collected for the voluntary plan))~~, including that:

(i) In the case of plan termination or withdrawal, the employer must remit to the department all required moneys under RCW 50A.30.045 and 50A.30.065(3); and

(ii) If the employer has an approved voluntary plan for either medical leave or family leave but not both, the employer is still obligated to remit to the department premiums owed to the state plan for the portions not covered by the employer's approved voluntary plan.

(e) The plan will be in effect for a period of not less than one year and, thereafter, continuously unless the commissioner finds that the employer has given notice of withdrawal from the plan in a manner specified by the commissioner in rule. The plan may be withdrawn by the employer on the date of any law increasing the benefit amounts or the date of any change in the rate of employee premiums, if notice of the withdrawal from the plan is transmitted to the commissioner not less than thirty days prior to the date of that law or change. If the plan is not withdrawn, it must be amended to conform to provide the increased benefit amount or change in the rate of the employee's premium on the date of the increase or change.

(f) The amount of payroll deductions from the wages of an employee in effect for any voluntary plan may not exceed the maximum payroll deduction for that employee as authorized under RCW 50A.10.030. The deductions may not be increased on other than an anniversary of the effective date of the plan, except to the extent that any increase in the deductions from the wages of an employee do not exceed the maximum rate authorized under the state program.

(g) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, is eligible for the plan benefits if the employee meets the requirements of RCW 50A.15.010 and has worked at least three hundred forty hours for the employer during the twelve months immediately preceding the date leave will commence.

(h) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, who takes leave under the voluntary plan is entitled to the employment protection provisions contained in RCW 50A.35.010 if the employee has worked for the employer for at least nine months and nine hundred sixty-five hours during the twelve months immediately preceding the date leave will commence.

(i) The voluntary plan provides that the employer maintains the employee's existing health benefits as provided under RCW 50A.35.020.

(6)(a) The department must conduct a review of the expenses

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incurred in association with the administration of the voluntary plans during the first three years after implementation and report its findings to the legislature.

(b) The review must include an analysis of the adequacy of the fee in subsection (1) of this section to cover the department's administrative expenses related to reviewing and approving or denying the applications and administering appeals related to voluntary plans. The review must include an estimate of the next year's projected administrative costs related to the voluntary plans. The legislature shall adjust the fee in subsection (1) of this section as needed to ensure the department's administrative expenses related to the voluntary plans are covered by the fee.

(c) If the current receipts from the fee in subsection (1) of this section are inadequate to cover the department's administrative expenses related to the voluntary plans, the department may use funds from the family and medical leave insurance account under RCW 50A.05.070 to pay for these expenses.

Sec. 10. RCW 50A.30.035 and 2017 3rd sp.s. c 5 s 25 are each amended to read as follows:

An employer with a voluntary plan must provide a notice prepared by or approved by the commissioner regarding the voluntary plan consistent with the provisions of RCW ~~((50A.04.075))~~ 50A.20.020.

Sec. 11. RCW 50A.40.010 and 2019 c 13 s 15 are each amended to read as follows:

(1) It is unlawful for any employer to:

(a) Interfere with, restrain, or deny the exercise of, or the attempt to exercise, any valid right provided under this title; or

(b) Discharge or in any other manner discriminate against any employee for opposing any practice made unlawful by this title.

(2) It is unlawful for any person to discharge or in any other manner discriminate against any employee because the employee has:

(a) Filed any complaint, or has instituted or caused to be instituted any proceeding, under or related to this title;

(b) Given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(c) Testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

(3) As provided in RCW 50A.40.020 and 50A.40.030, the department will investigate allegations of unlawful acts and determine damages, as necessary.

Sec. 12. RCW 50A.40.020 and 2019 c 13 s 17 are each amended to read as follows:

(1) An employee who alleges one or more unlawful acts under RCW 50A.40.010 have occurred may file a complaint with the department. The department may not investigate any alleged violation of RCW 50A.40.010 that occurred more than three years before the date the employee filed the complaint.

(2) Upon receipt of a complaint ((by an employee)) under subsection (1) of this section, the commissioner shall investigate to determine if ((there has been compliance with RCW 50A.40.010 and the related rules. The department will issue a determination including the findings of the investigation and whether a violation may have occurred. Determinations are appealable under chapter 50A.50 RCW. If the investigation indicates that a violation may have occurred, a hearing may be held if requested by an interested party in accordance with chapter 34.05 RCW. The commissioner must issue a written determination including the commissioner's findings after the hearing. A judicial appeal from the commissioner's determination may be taken in accordance with chapter 34.05 RCW)) a violation occurred and the amount of any liquidated damages, unless the employee terminates the complaint under section 16 of this act.

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(3) Upon completing an investigation, the commissioner shall issue a determination, unless the complaint is otherwise resolved upon agreement by all parties and in compliance with section 16(6) of this act or withdrawn under section 16(5) of this act. If the department determines a violation occurred, the department may order the employer to pay liquidated damages under RCW 50A.40.030.

Sec. 13. RCW 50A.40.030 and 2019 c 13 s 18 are each amended to read as follows:

(1) Any employer who violates RCW 50A.40.010 is liable for damages ~~((equal to:~~

~~(1) The amount of:~~
~~(a))~~.

(2) Damages are owed to the employee and must be paid by the employer to the employee directly.

(3)(a) Damages include:

(i) Any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

~~((b))~~ (ii) In a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to wages or salary for the employee for up to sixteen weeks, or eighteen weeks if the employee experiences a serious health condition with a pregnancy that results in incapacity.

~~((2)(a) The interest on the amount described in subsection (1) of this section calculated at the prevailing rate; and))~~

(b) Any employer who violates RCW 50A.40.010 is also liable for interest accrued on the damages assessed in this subsection.

(4) For a willful violation, the employer is also liable for an additional amount as liquidated damages equal to the sum of the amount described in subsection ~~((4))~~ (3)(a) of this section and the interest described in ~~((this))~~ subsection ~~((2))~~ (3)(b) of this section. For purposes of this section, "willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute. All liquidated damages are owed to the employee and must be paid to the employee directly.

(5) Interest in this section is calculated at the prevailing rate.

Sec. 14. RCW 50A.50.010 and 2018 c 141 s 3 are each amended to read as follows:

(1) Any aggrieved ~~((person))~~ party may file an appeal from any determination or redetermination with the commissioner within thirty days after the date of notification or mailing, whichever is earlier, of such determination or redetermination to the ~~((person's))~~ party's last known address. If an appeal with respect to any determination is pending as of the date when a redetermination is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination.

(2) Any appeal from a determination of denial of benefits shall be deemed to be an appeal as to all weeks subsequent to the effective date of the denial for which benefits have already been denied. If no appeal is taken from any determination, or redetermination, within the time allowed by the provisions of this section for appeal, the determination or redetermination, as the case may be, shall be conclusively deemed to be correct except as provided in respect to reconsideration by the commissioner of any determination.

(3) Upon receipt of a notice of appeal, the commissioner shall request the assignment of an administrative law judge under chapter 34.12 RCW to conduct a hearing in accordance with chapter 34.05 RCW and issue a proposed order.

Sec. 15. RCW 26.23.060 and 2019 c 13 s 66 are each amended to read as follows:

(1) The division of child support may issue a notice of payroll deduction:

(a) As authorized by a support order that contains a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or

(b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW.

(2) The division of child support shall serve a notice of payroll deduction upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW or from the paid family and medical leave program under Title 50A RCW:

(a) In the manner prescribed for the service of a summons in a civil action;

(b) By certified mail, return receipt requested;

(c) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means; or

(d) By regular mail to a responsible parent's employer unless the division of child support reasonably believes that service of process in the manner prescribed in (a) or (b) of this subsection is required for initiating an action to ensure employer compliance with the withholding requirement.

(3) Service of a notice of payroll deduction upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or ~~((unemployment compensation))~~ benefits paid by the employment security department. The employer or employment security department shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.

(4) A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

(5) The notice of payroll deduction shall be in writing and include:

(a) The name and social security number of the responsible parent;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings;

(d) The address to which the payments are to be mailed or delivered; and

(e) A notice to the responsible parent warning the responsible parent that, despite the payroll deduction, the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as defined in RCW 74.20A.320.

(6) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.

(7) An employer or employment security department that receives a notice of payroll deduction shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state

support registry within seven working days of the date the earnings are payable to the responsible parent.

(8) An employer, or the employment security department, upon whom a notice of payroll deduction is served, shall make an answer to the division of child support within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives ~~((unemployment compensation benefits))~~ benefit payments from the employment security department, whether the employer or employment security department anticipates paying earnings or ~~((unemployment compensation))~~ benefits and the amount of earnings or benefit payments. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving ~~((unemployment compensation benefits))~~ benefit payments from the employment security department, the answer shall state the present employer's name and address, if known.

The returned answer or a payment remitted to the division of child support by the employer constitutes proof of service of the notice of payroll deduction in the case where the notice was served by regular mail.

(9) The employer may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(10) The notice of payroll deduction shall remain in effect until released by the division of child support, the court enters an order terminating the notice and approving an alternate arrangement under RCW 26.23.050, or until the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent. The employer shall promptly notify the office of support enforcement when the employer no longer employs the parent subject to the notice. For the employment security department, the notice of payroll deduction shall remain in effect until released by the division of child support or until the court enters an order terminating the notice.

(11) The division of child support may use uniform interstate withholding forms adopted by the United States department of health and human services to take withholding actions under this section whether the responsible parent is receiving earnings or unemployment compensation in this state or in another state.

NEW SECTION. Sec. 16. A new section is added to chapter 50A.40 RCW to read as follows:

(1) If the department issues a determination under RCW 50A.40.020 that an employer owes liquidated damages, the employer must, within thirty calendar days, either pay all damages owed or file an appeal as provided in this title. Thereafter, all parties owed moneys may initiate collection action against the employer by filing a warrant with the clerk of any county within the state.

(a) The warrant may include all damages awarded to the employee plus reasonable attorneys' fees for the collection action, reasonable expert witness fees, and other reasonable costs of the action.

(b) For purposes of this section, thirty calendar days begins the day the determination is issued.

(2) The department is not responsible for collection action against an employer that has defaulted the payment of an award

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established under RCW 50A.40.030.

NEW SECTION. Sec. 17. A new section is added to chapter 50A.40 RCW to read as follows:

(1) A private action to recover damages under RCW 50A.40.030 may be brought against any employer by any one or more employees for and on behalf of:

- (a) The employee or employees; or
- (b) The employees and other employees similarly situated.

(2) Any action under subsection (1) of this section must be filed with a court of competent jurisdiction within the state. Any private action for an alleged violation of RCW 50A.40.010 must be commenced within three years of the date of the alleged violation.

(3) In an action under subsection (1) of this section the court shall, in addition to any judgment awarded to a prevailing plaintiff, award reasonable attorneys' fees, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) A private right of action is only available to an employee who either has not filed a complaint with the department, has withdrawn a filed complaint under subsection (5) of this section, or has resolved a complaint under subsection (6) of this section.

(5) An employee who has filed a complaint with the department under RCW 50A.40.020 may elect to withdraw the complaint by providing written notice to the department within ten business days after filing the complaint with the department. Withdrawing a complaint terminates the department's administrative action.

(6) A complaint may be resolved upon agreement by all parties. Resolution of a complaint must be communicated to the department prior to the department's issuance of a determination. Resolution of a complaint terminates the department's administrative action.

(7) In the event the department's administrative action is terminated under subsection (5) or (6) of this section:

(a) The department will immediately discontinue its investigation and any action against the employer; and

(b) The determination, if already issued, along with any related findings of fact and conclusions of law, and any payments or offers of payment made by the employer including interest, are not admissible in any court action or other judicial or administrative proceeding.

(8) Nothing in this section shall be construed to limit or affect:

(a) Except as provided in subsection (4) of this section, the right of any employee to pursue any judicial, administrative, or other action available with respect to an employer;

(b) The right of the department to pursue any judicial, administrative, or other action available with respect to an employee that is identified as a result of a complaint under RCW 50A.40.020; or

(c) The right of the department to pursue any judicial, administrative, or other action available with respect to an employer in the absence of a complaint.

NEW SECTION. Sec. 18. A new section is added to chapter 50A.05 RCW to read as follows:

(1) In the discharge of the duties imposed by this title, the appeal tribunal and any duly authorized representative of the commissioner shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with any dispute or the administration of this title. It shall be unlawful for any person, without just cause, to fail to comply with subpoenas issued pursuant to the provisions of this section.

(2)(a) Any authorized representative of the commissioner may

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apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

- (i) State that an order is sought pursuant to this subsection;
- (ii) Adequately specify the records, documents, or testimony; and

(iii) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the department to subpoena the records or testimony.

(c) Any authorized representative of the commissioner may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(3) Subsection (2) of this section is intended to comply with the holdings of *State v. Miles*, 160 Wn.2d 236 (2007) and *State v. Reeder*, 184 Wn.2d 805 (2015), and Article I, section 7 of the state Constitution. These provisions collectively require judicial review of investigative subpoenas under certain circumstances. The department is not required to receive court approval under subsection (2) of this section unless otherwise required by law.

NEW SECTION. Sec. 19. A new section is added to chapter 50A.10 RCW to read as follows:

(1) Any employee exempt from the rights and responsibilities of this title under RCW 50A.05.090 may elect coverage. Elective coverage lasts until the collective bargaining agreement, under RCW 50A.05.090, is reopened, renegotiated by the parties, or expired. An employee who elects coverage under this section must elect coverage for both family leave and medical leave and are responsible for payment of one hundred percent of all premiums assessed to an employee under RCW 50A.10.030. An employer may elect to pay all or any portion of the employee's premium for family leave or medical leave benefits, or both. The employee must file a notice of election in writing with the department and their employer, in a manner as prescribed by the department in rule.

(2) To be eligible for benefits, an employee electing coverage under this section must have worked at least eight hundred twenty hours during the qualifying period. If the employee's qualifying period includes any quarter prior to the election of coverage, the department will request the employee's qualifying period wages and hours from the employer. The employer must provide the wages and hours to the department within ten calendar days.

(3) For employee's electing coverage under this section, the employer must collect the premiums and any surcharges provided under RCW 50A.10.030 through payroll deductions and remit the amounts collected to the department as part of the employer requirements under RCW 50A.20.030(1).

(4) This section takes effect July 1, 2020.

NEW SECTION. Sec. 20. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "leave;" strike the remainder of the title and insert "amending RCW 50A.05.010, 50A.10.010, 50A.10.040, 50A.15.020, 50A.15.060, 50A.15.080, 50A.15.100,

50A.25.070, 50A.30.010, 50A.30.035, 50A.40.010, 50A.40.020, 50A.40.030, 50A.50.010, and 26.23.060; adding new sections to chapter 50A.40 RCW; adding a new section to chapter 50A.05 RCW; adding a new section to chapter 50A.10 RCW; providing an effective date; and declaring an emergency."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor & Commerce to Substitute House Bill No. 2614.

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

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2614 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2614 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2614 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Muzzall, Padden, Schoesler, Short and Wilson, L.

Excused: Senator Sheldon

SUBSTITUTE HOUSE BILL NO. 2614, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2588, by House Committee on Local Government (originally sponsored by Pollet, Leavitt, Valdez, Senn, Duerr, Ryu, Frame, Boehnke, Hudgins and Kraft)

Improving openness, accountability, and transparency of special purpose districts.

The measure was read the second time.

MOTION

Senator Takko moved that the following committee striking amendment by the Committee on Local Government be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.09.230 and 1995 c 301 s 12 are each amended to read as follows:

(1) As used in this section:

(a) "Special purpose district" means every municipal and quasi-municipal corporation other than counties, cities, and towns. Such special purpose districts include, but are not limited to, water-sewer districts, fire protection districts, port districts, public utility districts, special districts as defined in RCW 85.38.010, lake and beach management districts, conservation districts, and irrigation districts.

(b) "Unauditable" means a special purpose district that the state auditor has determined to be incapable of being audited because the special purpose district has improperly maintained, failed to maintain, or failed to submit adequate accounts, records, files, or reports for an audit to be completed.

(2) The state auditor shall require from every local government financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the state auditor within one hundred fifty days after the close of each fiscal year.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: ~~((1))~~ (a) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a local government; ~~((2))~~ (b) a statement of the entire public debt of every local government, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; ~~((3))~~ (c) a classified statement of all receipts and expenditures by any public institution; and ~~((4))~~ (d) a statement of all expenditures for labor relations consultants, with the identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement; together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certification.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document.

(3)(a)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify the legislative authority of a county if any special purpose districts, located wholly or partially within the county, have been determined to be unauditable. If the boundaries of the special purpose district are located within more than one county, the state auditor must notify all legislative authorities of the counties within which the boundaries of the special purpose district lie.

(ii) If a county has been notified as provided in (a)(i) of this subsection (3), the special purpose district and the county auditor, acting on behalf of the special purpose district, are prohibited from issuing any warrants against the funds of the special purpose district until the district has had its report certified by the state auditor.

(iii) Notwithstanding (a)(ii) of this subsection (3), a county may authorize the special purpose district and the county auditor to issue warrants against the funds of the special purpose district:

(A) In order to prevent the discontinuation or interruption of any district services;

(B) For emergency or public health purposes; or

(C) To allow the district to carry out any district duties or responsibilities.

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(b)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify the state treasurer if any special purpose districts have been determined to be unauditable.

(ii) If the state treasurer has been notified as provided in (b)(i) of this subsection (3), the state treasurer may not distribute any local sales and use taxes imposed by a special purpose district to the district until the district has had its report certified by the state auditor.

Sec. 2. RCW 36.96.010 and 1999 c 153 s 50 are each amended to read as follows:

~~(As used in this chapter.)~~ The definitions in this section apply throughout this chapter unless the context requires otherwise:

(1) "Special purpose district" means every municipal and quasi-municipal corporation other than counties, cities, and towns. Such special purpose districts shall include, but are not limited to, water-sewer districts, fire protection districts, port districts, public utility districts, county park and recreation service areas, flood control zone districts, diking districts, drainage improvement districts, and solid waste collection districts, but shall not include industrial development districts created by port districts, and shall not include local improvement districts, utility local improvement districts, and road improvement districts;

(2) "Governing authority" means the commission, council, or other body which directs the affairs of a special purpose district;

(3) "Inactive" means that a special purpose district ~~((other than a public utility district,))~~ is characterized by ~~((either))~~ any of the following criteria:

(a) Has not carried out any of the special purposes or functions for which it was formed within the preceding consecutive five-year period; ~~((or))~~

(b) No election has been held for the purpose of electing a member of the governing body within the preceding consecutive seven-year period or, in those instances where members of the governing body are appointed and not elected, where no member of the governing body has been appointed within the preceding seven-year period; or

(c) The special purpose district has been determined to be unauditable by the state auditor;

(4) "Unauditable" means a special purpose district that the state auditor has determined to be incapable of being audited because the special purpose district has improperly maintained, failed to maintain, or failed to submit adequate accounts, records, files, or reports for an audit to be completed.

~~(A public utility district is inactive when it is characterized by both criteria (a) and (b) of this subsection.)~~

Sec. 3. RCW 36.96.030 and 1979 ex.s. c 5 s 3 are each amended to read as follows:

(1) Upon receipt of notice from the county auditor as provided in RCW 36.96.020, the county legislative authority within whose boundaries all or the greatest portion of such special purpose district lies shall hold one or more public hearings on or before September 1st of the same year to determine whether or not such special purpose district or districts meet ~~((either))~~ any of the criteria for being "inactive" as provided in RCW 36.96.010 ~~((PROVIDED, That if such a special purpose district is a public utility district, the county legislative authority shall determine whether or not the public utility district meets both criteria of being "inactive" as provided in RCW 36.96.010))~~. In addition, at any time a county legislative authority may hold hearings on the dissolution of any special purpose district that appears to meet the criteria of being "inactive" and dissolve such a district pursuant to the proceedings provided for in RCW 36.96.030 through 36.96.080.

(2) Notice of such public hearings shall be given by publication

at least once each week for not less than three successive weeks in a newspaper that is in general circulation within the boundaries of the special purpose district or districts. Notice of such hearings shall also be mailed to each member of the governing authority of such special purpose districts, if such members are known, and to all persons known to have claims against any of the special purpose districts. Notice of such public hearings shall be posted in at least three conspicuous places within the boundaries of each special purpose district that is a subject of such hearings. Whenever a county legislative authority that is conducting such a public hearing on the dissolution of one or more of a particular kind of special purpose district is aware of the existence of an association of such special purpose districts, it shall also mail notice of the hearing to the association. In addition, whenever a special purpose district that lies in more than one county is a subject of such a public hearing, notice shall also be mailed to the legislative authorities of all other counties within whose boundaries the special purpose district lies. All notices shall state the purpose, time, and place of such hearings, and that all interested persons may appear and be heard.

Sec. 4. RCW 36.96.070 and 2001 c 299 s 13 are each amended to read as follows:

Any moneys or funds of the dissolved special purpose district and any moneys or funds received by the board of trustees from the sale or other disposition of any property of the dissolved special purpose district shall be used, to the extent necessary, for the payment or settlement of any outstanding obligations of the dissolved special purpose district. Any remaining moneys or funds shall be used to pay the county legislative authority for all costs and expenses incurred in the dissolution and liquidation of the dissolved special purpose district. Thereafter, any remaining moneys, funds, or property shall become that of the county in which the dissolved special purpose district was located. However, if the territory of the dissolved special purpose district was located within more than one county, the remaining moneys, funds, and personal property shall be apportioned and distributed to each county in the proportion that the geographical area of the dissolved special purpose district within the county bears to the total geographical area of the dissolved special purpose district, and any remaining real property or improvements to real property shall be transferred to the county within whose boundaries it lies. A county to which real property or improvements to real property are transferred under this section may, but does not have an obligation to use the property or improvements for the purposes for which the dissolved special purpose district used the property or improvements and the county does not assume the obligations or liabilities of the dissolved special purpose district as a result of the transfer unless the county expressly assumes such obligations or liabilities through the adoption of a resolution.

NEW SECTION. Sec. 5. A new section is added to chapter 36.96 RCW to read as follows:

A county that dissolves a special purpose district under this chapter may impose a separate regular property tax levy or a special assessment as provided in section 6 of this act if that county assumes responsibility of the services previously provided by the special purpose district.

NEW SECTION. Sec. 6. A new section is added to chapter 84.55 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, if a county dissolves a special purpose district under chapter 36.96 RCW, the county may impose a separate property tax levy or special assessment on the property lying within the former boundaries of the dissolved special purpose district beginning in the first calendar year following dissolution if:

(a) The county assumes responsibility of the services

previously provided by the special purpose district; and

(b) The property tax levy or special assessment does not exceed any legally authorized property tax levy rate or special assessment for the dissolved special purpose district.

(2) If a county discontinues providing the services of a dissolved special purpose district for which the county imposed a separate property tax levy or special assessment as provided in subsection (1) of this section, the county must cease imposing that property tax levy or special assessment beginning in the first calendar year after the discontinuation of the provision of services by the county.

(3) For purposes of RCW 84.52.010 and 84.52.043, a property tax levy authorized by a county under this section is subject to the same provisions as the county's general property tax levy.

(4) The limitation in RCW 84.55.010 does not apply to the first property tax levy imposed under this section.

(5) For purposes of this section, "special assessment" means any special assessment, benefit assessment, or rates and charges imposed by a special purpose district."

On page 1, line 2 of the title, after "districts;" strike the remainder of the title and insert "amending RCW 43.09.230, 36.96.010, 36.96.030, and 36.96.070; adding a new section to chapter 36.96 RCW; and adding a new section to chapter 84.55 RCW."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Local Government to Engrossed Substitute House Bill No. 2588.

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

MOTION

On motion of Senator Takko, the rules were suspended, Engrossed Substitute House Bill No. 2588 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Takko and Short spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2588 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2588 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

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

Voting nay: Senators Lovelett and Wagoner

Excused: Senator Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2588, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2008, by Representatives Hudgins, Gregerson and Tarleton

Concerning alternate methods of ballot security.

The measure was read the second time.

MOTION

Senator O'Ban moved that the following floor amendment no. 1222 by Senators O'Ban and Zeiger be adopted:

On page 1, line 14, after "~~removed.~~" insert "For presidential primaries, the county auditor shall include an additional envelope so that the voter's declaration and party preference under RCW 29A.56.040(4) remain private during transit."

Senators O'Ban, Zeiger and Schoesler spoke in favor of adoption of the amendment.

Senator Hunt spoke against adoption of the amendment.

MOTION

On motion of Senator Liias, the senate deferred further consideration of Engrossed House Bill No. 2008 and the bill held its place on the second reading calendar.

SECOND READING

HOUSE BILL NO. 2230, by Representatives Gregerson, Stokesbary, Entenman, Walsh, Sullivan, Leavitt, Gildon, Ormsby, Santos, Lekanoff and Pollet

Subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe.

The measure was read the second time.

MOTION

Senator Rivers moved that the following floor amendment no. 1300 by Senator Rivers be adopted:

On page 2, after line 26, insert the following:

"**Sec. 2.** RCW 82.29A.055 and 2014 c 207 s 8 are each amended to read as follows:

(1) Property owned exclusively by a federally recognized Indian tribe that is exempt from property tax under RCW 84.36.010 is subject to payment in lieu of leasehold excise taxes, if:

(a) The tax exempt property is used exclusively for economic development, as defined in RCW 84.36.010;

(b) There is no taxable leasehold interest in the tax exempt property;

(c) The property is located outside of the tribe's reservation; and

(d) The property is not otherwise exempt from taxation by federal law.

(2) The amount of the payment in lieu of leasehold excise taxes must be determined jointly and in good faith negotiation between the tribe that owns the property and the county and any city in which the property is located. However, the amount may not exceed the leasehold excise tax amount that would otherwise be

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owed by a taxable leasehold interest in the property. If the tribe and the county and any city cannot agree to terms on the amount of payment in lieu of taxes, the department may determine the rate, provided that the amount may not exceed the leasehold excise tax amount that would otherwise be owed by a taxable leasehold interest in the property.

(3) Payment must be made by the tribe to the county. The county treasurer must distribute all such money collected solely to the local taxing districts, including cities, in the same proportion that each local taxing district would have shared if a leasehold excise tax had been levied."

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

On page 1, line 3 of the title, after "84.36.010" insert "and 82.29A.055"

Senators Rivers and Hunt spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1300 by Senator Rivers on page 2, after line 26 to House Bill No. 2230.

The motion by Senator Rivers carried and floor amendment no. 1300 was adopted by voice vote.

MOTION

On motion of Senator Hunt, the rules were suspended, House Bill No. 2230 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hunt spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2230 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2230 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

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

Voting nay: Senator McCoy

Excused: Senator Sheldon

HOUSE BILL NO. 2230, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1347, by Representatives Barkis, Kirby, Volz, Vick and Springer

Concerning vehicle reseller permits.

The measure was read the second time.

MOTION

On motion of Senator Mullet, the rules were suspended, House Bill No. 1347 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Mullet spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1347.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1347 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Sheldon

HOUSE BILL NO. 1347, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2265, by House Committee on Environment & Energy (originally sponsored by Doglio, Leavitt, Shewmake, Duerr, Fey, Peterson and Pollet)

Eliminating exemptions from restrictions on the use of perfluoroalkyl and polyfluoroalkyl substances in firefighting foam.

The measure was read the second time.

MOTION

On motion of Senator Van De Wege, the rules were suspended, Engrossed Substitute House Bill No. 2265 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Van De Wege and Ericksen spoke in favor of passage of the bill.

Senators Short, Becker and Wagoner spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2265.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2265 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Pedersen,

Randall, Rivers, Rolfes, Saldaña, Salomon, Stanford, Takko, Van De Wege, Walsh and Wilson, C.

Voting nay: Senators Becker, Brown, Holy, Honeyford, Padden, Schoesler, Short, Wagoner, Warnick, Wellman, Wilson, L. and Zeiger

Excused: Senator Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2265, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1622, by House Committee on Rural Development, Agriculture, & Natural Resources (originally sponsored by Blake, Kretz, Springer, Chandler, Chapman, Dent and Shewmake)

Concerning drought preparedness and response.

The measure was read the second time.

MOTION

Senator Van De Wege moved that the following committee striking amendment by the Committee on Agriculture, Water, Natural Resources & Parks be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.83B RCW to read as follows:

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

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

(2) "Drought condition" means that the water supply for a geographic area, or for a significant portion of a geographic area, is below seventy-five percent of normal and the water shortage is likely to create undue hardships for water users or the environment.

(3) "Normal" water supply, for the purpose of determining drought conditions, means the median amount of water available to a geographical area, relative to the most recent thirty-year base period used to define climate normals.

Sec. 2. RCW 43.83B.400 and 1989 c 171 s 1 are each amended to read as follows:

~~((It is the intent of))~~ The legislature ((to provide emergency powers to the department of ecology to enable it to take actions, in a timely and expeditious manner, that are designed to alleviate hardships and reduce burdens on various water users and users arising from drought conditions. As used in this chapter, "drought condition" means that the water supply for a geographical area or for a significant portion of a geographical area is below seventy-five percent of normal and the water shortage is likely to create undue hardships for various water uses and users.)) recognizes that drought and water shortages can place a significant hardship on Washington communities, farms, and the natural environment. Rising temperatures due to climate change may cause water supply shortages to be more frequent and severe in the future. Therefore, the ability to respond to drought and water shortage emergencies is critical to the long-term prosperity of our state. It is the intent of the legislature to provide the department with the authority to effectively and efficiently take actions when a drought emergency occurs to alleviate hardship on water users and our natural environment.

The legislature also recognizes that effective emergency drought response is predicated on building resiliency and preparedness before water shortages occur. Therefore, it is also the intent of the legislature that the department assist water users by supporting measures to strengthen the resiliency and preparedness of water users to drought conditions in the long term.

Sec. 3. RCW 43.83B.405 and 1989 c 171 s 2 are each amended to read as follows:

(1) Whenever it appears to the department, based on the definitions of drought condition and normal water supply set forth in section 1 of this act, that drought conditions may develop, the department may issue a drought advisory. The drought advisory should seek to increase the awareness and readiness of affected water users and may recommend voluntary actions to alleviate drought impacts.

(2)(a) Whenever it appears to the department ((of ecology)), based on the definitions of drought condition and normal water supply set forth in section 1 of this act, that a drought condition either exists or is forecast to occur within the state or portions thereof, the department ((of ecology)) is authorized to issue orders of drought emergency, pursuant to adopted rules ((previously adopted)), to implement the powers as set forth in RCW 43.83B.410 through 43.83B.420. ((The department shall, immediately upon the issuance of an order under this section, cause said order to be published in newspapers of general circulation in the areas of the state to which the order relates.))

(b) Prior to the issuance of an order of drought emergency, the department shall ((a)):

(i) Consult with ((and obtain the views of)) the federal and state government entities identified in the drought contingency plan periodically revised by the department pursuant to ((RCW 43.83B.410(4), and

((b))) section 7 of this act and consult with affected federally recognized tribes;

(ii) Consider input from local water users, including nursery and landscape professionals, in the determination of undue hardship under section 1(2) of this act; and

(iii) Obtain the written approval of the governor.

(c) Upon issuance of an order of drought emergency, the department shall notify the public of the order consistent with rules adopted by the department.

(d) Orders of drought emergency issued under ((this section)) (a) of this subsection shall be deemed orders for the purposes of chapter 34.05 RCW.

(e) A person may petition the department to declare a drought emergency for the state or portions of the state. The department may review a petition, but any order of drought emergency issued after receipt of a petition must be based on the definitions of drought condition and normal water supply set forth in section 1 of this act, and must be issued according to the procedure set forth in this section. The department must not rely exclusively on information presented in a petition when determining whether to issue an order of drought emergency.

((2)) (3)(a) Any order issued under subsection ((4)) (2) of this section shall contain a termination date for the order. The termination date shall be not later than one calendar year from the date the order is issued. Although the department may, with the written approval of the governor, change the termination date by amending the order, no such amendment or series of amendments may have the effect of extending its termination to a date which is later than two calendar years after the issuance of the order.

((3)) (b) The provisions of ((subsection (2) of)) this section do not preclude the issuance of more than one order under subsection ((4)) (2) of this section for different areas of the state, or sequentially for the same area, as the need arises ((for such an

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~~order or orders~~)).

Sec. 4. RCW 43.83B.410 and 1989 c 171 s 3 are each amended to read as follows:

Upon the issuance of an order of drought emergency under RCW 43.83B.405(2), the department ~~((of ecology is empowered to))~~ may:

(1)(a) Authorize emergency withdrawal of public surface and ground waters, including dead storage within reservoirs, on a temporary basis and authorize temporary or permanent associated physical works ~~((which may be either temporary or permanent))~~. The department shall prioritize the approval of emergency withdrawal authorizations in order to address those most affected by the water deficit to ensure the survival of irrigated crops, the state's fisheries, and the provision of water for small communities.

(b) The termination date for ~~((the authority to make such an))~~ emergency withdrawal ~~s~~ may not be later than the termination date of the order issued under RCW 43.83B.405(2) ~~((under which the power to authorize the withdrawal is established))~~.

(c) The department ~~((of ecology))~~ may issue ~~((such))~~ emergency withdrawal authorizations only when, after investigation and after providing appropriate federal, state, and local governmental bodies and affected federally recognized tribes an opportunity to comment, the following are found:

(i) The waters proposed for withdrawal are to be used for a beneficial use involving a previously established activity or purpose;

(ii) The previously established activity or purpose was furnished water through rights applicable to the use of a public body of water that cannot be exercised due to the lack of water arising from natural drought conditions; and

(iii) The proposed withdrawal will not reduce flows or levels below essential minimums necessary ~~((A))~~ to ~~((B))~~ ensure the maintenance of fisheries requirements~~(s)~~ and ~~((B))~~ to protect federal and state interests including, among others, power generation, navigation, and existing water rights~~(s)~~.

~~((B))~~ (d) All emergency withdrawal authorizations issued under this section shall contain provisions that allow for termination of withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in ~~((A))~~ (c)(iii) of this subsection. ~~((Domestic and irrigation uses of public surface and ground waters shall be given priority in determining "beneficial uses."))~~

(e) As to water withdrawal and associated works authorized under this subsection, the requirements of chapter 43.21C RCW and public bidding requirements as otherwise provided by law are waived and inapplicable. All state and local agencies with authority to issue permits or other authorizations for such works shall, to the extent possible, expedite the processing of the permits or authorizations in keeping with the emergency nature of the requests and shall provide a decision to the applicant within fifteen calendar days of the date of application. All state departments or other agencies having jurisdiction over state or other public lands, if such lands are necessary to effectuate the withdrawal authorizations issued under this subsection, shall provide short-term easements or other appropriate property interest upon the payment of the fair market value. This mandate shall not apply to any lands of the state that are reserved for a special purpose or use that cannot properly be carried out if the property interest were conveyed;

(2) Approve a temporary change in purpose, place of use, ~~((or))~~ point of diversion, or point of withdrawal, consistent with existing state policy allowing transfer or lease of waters between willing parties, as provided for in RCW 90.03.380, 90.03.390, and 90.44.100. However, compliance with any requirements of ~~((A))~~ notice of newspaper publication of these sections or ~~((B))~~ the

state environmental policy act~~(s)~~ under chapter 43.21C RCW, is not required when such changes are necessary to respond to drought conditions as determined by the department ~~((of ecology))~~. An approval of a temporary change of a water right as authorized under this subsection is not admissible as evidence in either supporting or contesting the validity of water claims in ~~((State of Washington, Department of Ecology v. Aequavella, Yakima county superior court number 77-2-01484-5))~~ a general adjudication under RCW 90.03.210 or any similar proceeding where the existence of a water right is at issue~~(s)~~;

(3) Employ additional persons for specified terms of time, consistent with the term of a drought condition, as are necessary to ensure the successful performance of the activities associated with implementing the emergency drought program of this chapter~~(s)~~;

(4) ~~((Revise the drought contingency plan previously developed by the department; and~~

~~(S))~~ Acquire needed emergency drought-related equipment;

(5) Enter into agreements with applicants receiving emergency withdrawal authorizations established under this section to recover the costs, or a portion thereof, of mitigation for emergency withdrawal authorizations, provided that mitigation is done to protect instream flows, federally regulated flows, or senior water rights. The department may establish the specifics of cost recovery by rule, based on the amount of water used in the emergency withdrawal, which shall not exceed the cost of mitigation; and

(6) Enter into interagency agreements as authorized under chapter 39.34 RCW to partner in emergency drought response.

Sec. 5. RCW 43.83B.415 and 1989 c 171 s 4 are each amended to read as follows:

(1)(a) The department ~~((of ecology is authorized to make loans, grants, or combinations of loans and grants from emergency agricultural water supply funds when necessary to provide water to alleviate emergency drought conditions in order to ensure the survival of irrigated crops and the state's fisheries. For the purposes of this section, "emergency agricultural water supply funds" means funds appropriated from the state emergency water projects revolving account created under RCW 43.83B.360. The department of ecology may make the loans, grants, or combinations of loans and grants as matching funds in any case where federal, local, or other funds have been made available on a matching basis. The department may make a loan of up to ninety percent of the total eligible project cost or combination loan and grant up to one hundred percent of the total single project cost. The grant portion for any single project shall not exceed twenty percent of the total project cost except that, for activities forecast to have fifty percent or less of normal seasonal water supply, the grant portion for any single project or entity shall not exceed forty percent of the total project cost. No single entity shall receive more than ten percent of the total emergency agricultural water supply funds available for drought relief. These funds shall not be used for nonagricultural drought relief purposes unless there are no other capital budget funds available for these purposes. In any biennium the total expenditures of emergency agricultural water supply funds for nonagricultural drought relief purposes may not exceed ten percent of the total of such funds available during that biennium.~~

(2)(a) Except as provided in (b) of this subsection, after June 30, 1989, emergency agricultural water supply funds, including the repayment of loans and any accrued interest, shall not be used for any purpose except during drought conditions as determined under RCW 43.83B.400 and 43.83B.405.

(b) ~~Emergency agricultural water supply funds may be used on a one-time basis for the development of procedures to be used by~~

~~state governmental entities to implement the state's drought contingency plan~~) is authorized to issue grants to eligible public entities to reduce current or future hardship caused by water unavailability stemming from drought conditions. No single entity may receive more than twenty-five percent of the total funds available. The department is not obligated to fund projects that do not provide sufficient benefit to alleviating hardship caused by drought or water unavailability. Projects must show substantial benefit from securing water supply, availability, or reliability relative to project costs.

(b) Except for projects for public water systems serving economically disadvantaged communities, the department may only fund up to fifty percent of the total eligible cost of the project. Money used by applicants as a cash match may not originate from other state funds.

(c) For the purposes of this chapter, eligible public entities include only:

- (i) Counties, cities, and towns;
- (ii) Water and sewer districts formed under chapter 57.02 RCW;
- (iii) Public utility districts formed under chapter 54.04 RCW;
- (iv) Port districts formed under chapter 53.04 RCW;
- (v) Conservation districts formed under chapter 89.08 RCW;
- (vi) Irrigation districts formed under chapter 87.03 RCW;
- (vii) Watershed management partnerships formed under RCW 39.34.200; and
- (viii) Federally recognized tribes.

(2) Grants may be used to develop projects that enhance the ability of water users to effectively mitigate for the impacts of water unavailability arising from drought. Project applicants must demonstrate that the projects will increase their resiliency, preparedness, or ability to withstand drought conditions when they occur. Projects may include, but are not limited to:

- (a) Creation of additional water storage;
- (b) Implementation of source substitution projects;
- (c) Development of alternative, backup, or emergency water supplies or interties;
- (d) Installation of infrastructure or creation of educational programs that improve water conservation and efficiency or promote use of reclaimed water;
- (e) Development or update of local drought contingency plans if not already required by state rules adopted under chapter 246-290 WAC;
- (f) Mitigation of emergency withdrawals authorized under RCW 43.83B.410(1);
- (g) Projects designed to mitigate for the impacts of water supply shortages on fish and wildlife; and
- (h) Emergency construction or modification of water recreational facilities.

(3) During a drought emergency order pursuant to RCW 43.83B.405(2), the department shall prioritize funding for projects designed to relieve the immediate hardship caused by water unavailability.

Sec. 6. RCW 43.83B.430 and 2016 sp.s. c 36 s 933 are each amended to read as follows:

The state drought preparedness and response account is created in the state treasury. All receipts from appropriated funds designated for the account and ~~((funds transferred from the state emergency water projects revolving account))~~ all cost recovery revenues collected under RCW 43.83B.410(5) must be deposited into the account. Expenditures from the account may be used for drought preparedness and response activities under this chapter, including grants issued under RCW 43.83B.415. Moneys in the account may be spent only after appropriation. ((Expenditures from the account may be used only for drought preparedness. During the 2009-2011 fiscal biennium, the legislature may

~~transfer from the state drought preparedness account to the state general fund such amounts as reflect the excess fund balance of the account. For the 2015-2017 fiscal biennium, the account may also accept revenue collected from emergency drought well-related water service contracts and may be used for drought response.))~~

NEW SECTION. Sec. 7. A new section is added to chapter 43.83B RCW to read as follows:

In collaboration with affected governments, the department may revise the existing drought contingency plan. The department shall notify interested parties of any updates to the drought contingency plan.

NEW SECTION. Sec. 8. A new section is added to chapter 43.83B RCW to read as follows:

(1) The department shall initiate a pilot program in a selected basin or basins to explore the cost, feasibility, and benefits of entering into long-term water right lease agreements. The purpose of the agreements is to alleviate water supply conditions that may affect public health and safety, drinking water supplies, agricultural activities, or fish and wildlife survival. Under this program, the department is authorized to negotiate and enter into contractual agreements before a drought emergency is declared under RCW 43.83B.405(2) that identify projects, measures, sources of water, and other resources that may be accessed during times of water shortage. Water right changes executed under agreement under this section are subject to the requirements of RCW 90.03.380.

(2) The department shall submit a report to the legislature by December 31, 2024, on the results of the pilot program. The department shall include a summary of the contracts entered into pursuant to this section and recommendations to the legislature.

(3) This section expires June 30, 2025.

NEW SECTION. Sec. 9. The following sections are decodified:

- (1) RCW 43.83B.005 (Transfer of duties to the department of health);
- (2) RCW 43.83B.200 (Deposit of proceeds from repayment of loans, interest, gifts, grants, etc., in state and local improvements revolving account—water supply facilities—Use);
- (3) RCW 43.83B.210 (Loans or grants from department of ecology—Authorized—Limitations);
- (4) RCW 43.83B.300 (Legislative findings—General obligation bonds authorized—Issuance, terms—Appropriation required);
- (5) RCW 43.83B.345 (Rates of charges for water—Payment into bond redemption fund—Grants and loans—Contracts);
- (6) RCW 43.83B.360 (State emergency water projects revolving account—Proceeds from sale of bonds);
- (7) RCW 43.83B.380 (Appropriations to department of health—Authorized projects—Conditions); and
- (8) RCW 43.83B.385 (Appropriations to department of ecology—Authorized projects—Findings).

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

- (1) RCW 43.83B.220 (Contractual agreements) and 2009 c 549 s 5159, 1989 c 11 s 17, & 1975 1st ex.s. c 295 s 5; and
- (2) RCW 43.83B.336 (Civil penalties)."

On page 1, line 1 of the title, after "response;" strike the remainder of the title and insert "amending RCW 43.83B.400, 43.83B.405, 43.83B.410, 43.83B.415, and 43.83B.430; adding new sections to chapter 43.83B RCW; decodifying RCW 43.83B.005, 43.83B.200, 43.83B.210, 43.83B.300, 43.83B.345, 43.83B.360, 43.83B.380, and 43.83B.385; repealing RCW 43.83B.220 and 43.83B.336; and providing an expiration date."

The President declared the question before the Senate to be the

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adoption of the committee striking amendment by the Committee on Agriculture, Water, Natural Resources & Parks to Engrossed Substitute House Bill No. 1622.

The motion by Senator Van De Wege carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Van De Wege, the rules were suspended, Engrossed Substitute House Bill No. 1622 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Van De Wege, Warnick, Ericksen, Honeyford and Fortunato spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1622 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1622 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1622, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced students from St. Brendan Catholic School, Bothell, who were seated in the gallery, guests of Senator Stanford.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2116, by House Committee on Education (originally sponsored by Callan, Eslick, Frame, Klippert, Blake, Ramos, Lovick, Davis, Doglio, Leavitt, Senn, Pollet and Santos)

Establishing a task force on improving institutional education programs and outcomes.

The measure was read the second time.

MOTION

Senator Wellman moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that the federal every student succeeds act of 2015, P.L. 114-95, reauthorized and amended the elementary and secondary education act of 1965, the federal policy and funding assistance framework for the nation's public education system.

Two of the stated purposes of the every student succeeds act are to provide all children with a significant opportunity to receive a fair, equitable, and high quality education, and to close educational achievement gaps.

The legislature further recognizes that Article IX of the state Constitution provides that it is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.

While the partnership of federal and state law is critical in ensuring that the civil and education rights of students are upheld, efforts in Washington to fully realize state and federal objectives, especially with respect to the delivery of education services in institutional facilities, remain unfinished.

The legislature, therefore, intends to establish a task force on improving institutional education programs and outcomes, with tasks and duties generally focused on educational programs in the juvenile justice system. In so doing, the legislature intends to examine issues that have not been significantly explored in recent years, build a shared understanding of past and present circumstances, and develop recommendations for improving the delivery of education services, and associated outcomes, for youth in institutional facilities.

NEW SECTION. Sec. 2. (1)(a) The task force on improving institutional education programs and outcomes is established, with members as provided in this subsection.

(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate, with each member serving on the committee with jurisdiction over education issues, and one member serving on the committee with jurisdiction over basic education funding.

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives, with one member serving on the committee with jurisdiction over education issues, and one member serving on the committee with jurisdiction over basic education funding.

(iii) The governor shall appoint one member each from the state board of education and the department of children, youth, and families, and one member representing an organization that provides free legal advice to youth who are involved in, or at risk of being involved in, the juvenile justice system.

(iv) The superintendent of public instruction shall appoint three members: One member representing the superintendent of public instruction; one member who is a principal from a school district with at least twenty thousand enrolled students that provides education services to a juvenile rehabilitation facility; and one member who is a teacher with expertise in providing education services to residents of a juvenile rehabilitation facility.

(v) The task force must also include one member representing the educational opportunity gap oversight and accountability committee, selected by the educational opportunity gap oversight and accountability committee.

(b) The task force shall choose its cochair from among its legislative membership. One cochair must be from a minority caucus in one of the two chambers of the legislature. A member from the majority caucus of the house of representatives shall convene the initial meeting of the task force by May 1, 2020.

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

(a) Goals and strategies for improving the coordination and delivery of education services to youth involved with the juvenile

justice system, especially youth in juvenile rehabilitation facilities, and children receiving education services, including home or hospital instruction, under RCW 28A.155.090;

(b) The transmission of student records, including individualized education programs and plans developed under section 504 of the rehabilitation act of 1973, for students in institutional facilities, and recommendations for ensuring that those records are available to the applicable instructional staff within two business days of a student's admission to the institution;

(c) Goals and strategies for increasing the graduation rate of youth in institutional facilities, and in recognition of the transitory nature of youth moving through the juvenile justice system, issues related to grade level progression and academic credit reciprocity and consistency to ensure that:

(i) Core credits earned in an institutional facility are considered core credits by public schools that the students subsequently attend; and

(ii) Public school graduation requirements, as they applied to a student prior to entering an institutional facility, remain applicable for the student upon returning to a public school;

(d) Goals and strategies for assessing adverse childhood experiences of students in institutional education and providing trauma-informed care;

(e) An assessment of the level and adequacy of basic and special education funding for institutional facilities. The examination required by this subsection (2)(e) must include information about the number of students receiving special education services in institutional facilities, and a comparison of basic and special education funding in institutional facilities and public schools during the previous ten school years;

(f) An assessment of the delivery methods, and their adequacy, that are employed in the delivery of special education services in institutional facilities, including associated findings;

(g) School safety, with a focus on school safety issues that are applicable in institutional facilities; and

(h) Special skills and services of faculty and staff, including associated professional development and nonacademic supports necessary for addressing social emotional and behavioral health needs presenting as barriers to learning for youth in institutional facilities.

(3) The task force, in completing the duties prescribed by this section, shall solicit and consider information and perspectives provided by the department of corrections and persons and entities with relevant interest and expertise, including from persons with experience reintegrating youth from institutional facilities into school and the community at large, and from persons who provide education services in secure facilities housing persons under the age of twenty-five, examples of which include county jails, juvenile justice facilities, and community facilities as defined in RCW 72.05.020.

(4) Staff support for the task force must be provided by the senate committee services and the house of representatives office of program research. The office of financial management, the office of the superintendent of public instruction, the department of children, youth, and families, and the department of corrections shall cooperate with the task force and provide information as the cochairs may reasonably request.

(5) Legislative members of the task force are to 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, government entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(6) In accordance with RCW 43.01.036, the task force shall

report its findings and recommendations to the governor and the appropriate committees of the house of representatives and the senate by December 15, 2020, in time for the legislature to take action on legislation that is consistent with the findings and recommendations during the 2021 legislative session.

(7) This section expires June 30, 2021.

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."

On page 1, line 2 of the title, after "outcomes;" strike the remainder of the title and insert "creating new sections; providing an expiration date; and declaring an emergency."

MOTION

Senator Wellman moved that the following floor amendment no. 1250 by Senator Wellman be adopted:

On page 2, after line 34, insert the following:

"(c) The task force must meet no less than six times prior to reporting its findings and recommendations as required in subsection (6) of this section."

On page 4, beginning on line 8, after "(4)" strike all material through "research." on line 10 and insert "Staff support for the task force must be provided by the office of the superintendent of public instruction, with additional support provided by the department of children, youth, and families and the department of corrections."

Senator Wellman spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1250 by Senator Wellman on page 2, after line 34 to the striking amendment by the Committee on Ways & Means.

The motion by Senator Wellman carried and floor amendment no. 1250 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Substitute House Bill No. 2116.

The motion by Senator Wellman carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

On motion of Senator Wellman, the rules were suspended, Engrossed Substitute House Bill No. 2116 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wellman, Hawkins and Mullet spoke in favor of passage of the bill.

Senator Schoesler spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2116 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2116 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle,

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

and the same is herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

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Voting nay: Senator Schoesler
Excused: Senator Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2116 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:18 a.m., on motion of Senator Lias, the Senate was declared to be at ease subject to the call of the President.

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

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

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SENATE BILL NO. 5165,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5522,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5591,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6028,
SUBSTITUTE SENATE BILL NO. 6029,
SUBSTITUTE SENATE BILL NO. 6037,
SENATE BILL NO. 6038,
SUBSTITUTE SENATE BILL NO. 6048,
SUBSTITUTE SENATE BILL NO. 6051,
SUBSTITUTE SENATE BILL NO. 6052,
SUBSTITUTE SENATE BILL NO. 6061,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6063,
SENATE BILL NO. 6131,
SENATE BILL NO. 6136,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6261,
SENATE BILL NO. 6326,
SENATE BILL NO. 6374,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6378,
SUBSTITUTE SENATE BILL NO. 6409,
SUBSTITUTE SENATE BILL NO. 6500,
SUBSTITUTE SENATE BILL NO. 6526,
SENATE BILL NO. 6551,
SUBSTITUTE SENATE BILL NO. 6670,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

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

AFTERNOON SESSION

The Senate was called to order at 1:36 p.m. by President Habib.

MOTION

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

MESSAGES FROM THE HOUSE

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MR. PRESIDENT:

The House has passed:

SECOND SUBSTITUTE SENATE BILL NO. 5144,
SUBSTITUTE SENATE BILL NO. 5867,
SENATE BILL NO. 6034,
SENATE BILL NO. 6096,
SECOND SUBSTITUTE SENATE BILL NO. 6139,
SENATE BILL NO. 6170,
SUBSTITUTE SENATE BILL NO. 6208,
SUBSTITUTE SENATE BILL NO. 6210,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6217,
SENATE BILL NO. 6218,
SENATE BILL NO. 6229,
SUBSTITUTE SENATE BILL NO. 6267,
SENATE BILL NO. 6286,
SECOND SUBSTITUTE SENATE BILL NO. 6309,
ENGROSSED SENATE BILL NO. 6421,
SUBSTITUTE SENATE BILL NO. 6483,
SENATE BILL NO. 6493,
SUBSTITUTE SENATE BILL NO. 6495,
SUBSTITUTE SENATE BILL NO. 6663,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

March 4, 2020

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2804,

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Saldaña moved that Guadalupe Gamboa, Senate Gubernatorial Appointment No. 9373, be confirmed as a member of the Human Rights Commission.

Senator Saldaña spoke in favor of the motion.

APPOINTMENT OF GUADALUPE GAMBOA

The President declared the question before the Senate to be the confirmation of Guadalupe Gamboa, Senate Gubernatorial Appointment No. 9373, as a member of the Human Rights Commission.

The Secretary called the roll on the confirmation of Guadalupe Gamboa, Senate Gubernatorial Appointment No. 9373, as a member of the Human Rights Commission and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Stanford, Takko, Van De

Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Absent: Senator Carlyle

Excused: Senator Sheldon

Guadalupe Gamboa, Senate Gubernatorial Appointment No. 9373, having received the constitutional majority was declared confirmed as a member of the Human Rights Commission.

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2409, by House Committee on Labor & Workplace Standards (originally sponsored by Kilduff, Pollet, Sells, Gregerson, Valdez and Ormsby)

Concerning industrial insurance employer penalties, duties, and the licensing of third-party administrators.

The measure was read the second time.

WITHDRAWAL OF AMENDMENT

On motion of Senator Keiser and without objection, the committee striking amendment by the Committee on Labor & Commerce to Substitute House Bill No. 2409 was withdrawn.

MOTION

Senator Keiser moved that the following floor amendment no. 1302 by Senator Keiser be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 51.48.010 and 1985 c 347 s 2 are each amended to read as follows:

Every employer shall be liable for the penalties described in this title and may also be liable if an injury or occupational disease has been sustained by a worker prior to the time he or she has secured the payment of such compensation to a penalty in a sum not less than fifty percent nor more than one hundred percent of the cost for such injury or occupational disease. Any employer who has failed to secure payment of compensation for his or her workers covered under this title may also be liable to a maximum penalty in a sum of ~~((five hundred))~~ one thousand dollars or in a sum double the amount of premiums incurred prior to securing payment of compensation under this title, whichever is greater, for the benefit of the medical aid fund.

Sec. 2. RCW 51.48.017 and 2010 c 8 s 14011 are each amended to read as follows:

~~((#))~~ (1) Every time a self-insurer unreasonably delays or refuses to pay benefits as they become due ~~((there shall be paid by))~~, the self-insurer ~~((upon order of the director an additional amount equal to five hundred dollars or twenty-five percent of the amount then due, whichever is greater, which shall accrue for the benefit of the claimant and shall be paid to him or her with the benefits which may be assessed under this title.))~~ shall pay a penalty not to exceed the greater of one thousand dollars or twenty-five percent of: (a) The amount due or (b) each underpayment made to the claimant. For purposes of this section, "the amount due" means the total amount of payments due at the time of the calculation of the penalty.

(2) In making the determination of the penalty amount, the department shall weigh at least the following factors: The amount of any payment delayed, employer communication of the basis for or calculation of the payment, history or past practice of underpayments by the employer, department orders directing the payment, and any required adjustments to the amount of the payment.

(3) The director shall issue an order determining whether there was an unreasonable delay or refusal to pay benefits and the penalty amount owed within thirty days upon the request of the claimant. Such an order shall conform to the requirements of RCW 51.52.050.

(4) The penalty shall accrue for the benefit of the claimant and shall be paid to the claimant with the benefits which may be assessed under this title.

(5) This section applies to all requests for penalties made after September 1, 2020.

Sec. 3. RCW 51.48.030 and 1986 c 9 s 8 are each amended to read as follows:

(1) Every employer who fails to keep and preserve the records required by this title or fails to make the reports provided in this title shall be subject to a penalty determined by the director but not to exceed ~~((two))~~ five hundred ~~((fifty))~~ dollars or two hundred percent of the quarterly tax for each such offense, whichever is greater. Any employer who fails to keep and preserve the records adequate to determine taxes due shall be forever barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department based on any period for which such records have not been kept and preserved.

(2) The department may waive penalties for first-time or de minimis violations of this section. Any penalty that is waived under this section may be reinstated and imposed in addition to any additional penalties associated with a subsequent violation or failure within a year to correct the previous violation as required by the department.

Sec. 4. RCW 51.48.040 and 2003 c 53 s 282 are each amended to read as follows:

(1) The books, records and payrolls of the employer pertinent to the administration of this title shall always be open to inspection by the department or its traveling auditor, agent or assistant, for the purpose of ascertaining the correctness of the payroll, the persons employed, and such other information as may be necessary for the department and its management under this title.

(2) Refusal on the part of the employer to submit his or her books, records and payrolls for such inspection to the department, or any assistant presenting written authority from the director, shall subject the offending employer to a penalty determined by the director but not to exceed ~~((two))~~ five hundred ~~((fifty))~~ dollars for each offense and the individual who personally gives such refusal is guilty of a misdemeanor.

(3) Any employer who fails to allow adequate inspection in accordance with the requirements of this section is subject to having its certificate of coverage revoked by order of the department and is forever barred from questioning in any proceeding in front of the board of industrial insurance appeals or any court, the correctness of any assessment by the department based on any period for which such records have not been produced for inspection.

Sec. 5. RCW 51.48.060 and 2004 c 65 s 14 are each amended to read as follows:

Any physician or licensed advanced registered nurse practitioner who fails, neglects or refuses to file a report with the director, as required by this title, within five days of the date of treatment, showing the condition of the injured worker at the time

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of treatment, a description of the treatment given, and an estimate of the probable duration of the injury, or who fails or refuses to render all necessary assistance to the injured worker, as required by this title, shall be subject to a civil penalty determined by the director but not to exceed ~~((two))~~ five hundred ~~((fifty))~~ dollars.

Sec. 6. RCW 51.48.080 and 1985 c 347 s 7 are each amended to read as follows:

Every person, firm or corporation who violates or fails to obey, observe or comply with any statutory provision of this act or rule of the department promulgated under authority of this title, shall be subject to a penalty of not to exceed ~~((five hundred))~~ one thousand dollars.

NEW SECTION. Sec. 7. A new section is added to chapter 51.48 RCW to read as follows:

(1) The penalties payable pursuant to this chapter shall be adjusted for inflation every three years, beginning July 1, 2023, based upon changes in the consumer price index during that time period.

(2) For purposes of this section, "consumer price index" means, for any calendar year, that year's average consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(3) During the last quarter of the year preceding the scheduled inflationary adjustment, the department will gather stakeholder comment on the anticipated adjustment.

NEW SECTION. Sec. 8. A new section is added to chapter 51.14 RCW to read as follows:

(1) Self-insured employers may elect to have their claims administered by a third party or they may elect to self-administer their claims. Third-party administrators given the responsibility of administering the claims of workers by an employer shall be licensed by the department. All employer claims administrators given the responsibility of administering the claims of workers shall maintain certification established by the department.

(2) The department shall adopt rules to administer this section. The rules for licensing third-party administrators must:

(a) Incorporate the department's rules for self-insurers in effect as of March 2020;

(b) Include criteria for determining appropriate penalties for violation of their responsibilities and duties, including managing claims, engaging in the department's management of claims, coordinating proper employment of injured workers during the pendency of the worker's claim, making requests of the department in individual cases, or participating in appeals involving a worker's benefits in a way that furthers the purpose of this title;

(c) Consider recognized and approved claim processing practices within the industrial insurance industry, and the industrial insurance laws and rules of this state;

(d) Consider similar licensure rules under the insurance laws and rules of this state; and

(e) Include requirements for maintaining a license, and any penalties for violation of those licensing requirements.

NEW SECTION. Sec. 9. Sections 1 through 7 of this act take effect September 1, 2020.

NEW SECTION. Sec. 10. Section 8 of this act takes effect July 1, 2021."

On page 1, line 2 of the title, after "administrators;" strike the remainder of the title and insert "amending RCW 51.48.010, 51.48.017, 51.48.030, 51.48.040, 51.48.060, and 51.48.080; adding a new section to chapter 51.48 RCW; adding a new section to chapter 51.14 RCW; prescribing penalties; and providing effective dates."

Senators Keiser and King spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1302 by Senator Keiser to Substitute House Bill No. 2409.

The motion by Senator Keiser carried and floor amendment no. 1302 was adopted by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2409 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, King and Mullet spoke in favor of passage of the bill.

MOTION

On motion of Senator Mullet, Senator Carlyle was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2409 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2409 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

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

Voting nay: Senators Brown, Ericksen, Honeyford, Rivers, Schoesler, Short, Wagoner, Warnick and Wilson, L.

Excused: Senator Sheldon

SUBSTITUTE HOUSE BILL NO. 2409 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

PERSONAL PRIVILEGE

Senator Becker: "Thank you Mr. President. Well I think it's time for me to tell everyone that I'm going to retire and this will be my last session. I still will be a senator until a new person takes over but it's time for me to spend more time with my husband. And you know, I really hesitate to say this, but when my husband and I, when I was a stewardess, I used to always, and now you know I can't carry a tune, I always used to sing, "*Leaving on a jet plane don't know when I'll be back again.*" Now you know I can't carry a tune. However, he used to kind of look at me and laugh a little bit because you can tell I can't carry a tune but, that's kind of how it's felt, Mr. President. And members of this committee or this group, for the last twelve years, when ten years of that I only

had weekend visitation rights, is what I called it. So, my husband's here. On the outside, here in the wings. And, can you wave Bob? And he's been a biggest Rock of Gibraltar that anyone could have. Of course, when I go home and he doesn't agree with what I think I also hear that and sometimes it's not so great, but, I just have to say, we sold our house out in Eatonville in 2018. We closed in October. And, I have to say part of the reason that we sold it is that the house was too big and too much land for us to take care of and continue to do this. But, another thing - and why I've stood up so much for the seniors in the state of Washington - is we were faced, every month, with a five-hundred dollar tax bill for our property taxes alone. And we got talking one day and said, 'Why is it that? After we've paid taxes on everything we've done here are we going to continue to pay five hundred dollars a month in our retirement?' And so, we decided to make that hard decision and sell and we did. But I'm saying this because if it affects me like this, it affects so many people in the state of Washington. And I think we really have to look at the seniors that have paid property taxes all their lives and we need to do something more to say thank you to them, Mr. President. I'd like to not only thank my husband but I'd like to say thank you to Tiffani, my executive secretary. Tiffani, if you will raise your hand? And she has been the backbone in my office, and she has held everything together. And without her for the last eight years, I wouldn't have made it and been able to do the amount of things that I have. This is probably been the neatest experience for me. Something I never would have expected to do when they asked me. Actually, it was our malpractice insurance carrier that, for the company that I worked for, asked if I'd ever thought about running for political office and I looked at this gal right in the eye and my immediate answer was, 'Are you kidding me? I hate politics.' And, I still hate it when we are clashing. And, I like it more when we have a bill out here that we're not party line and that we have come together and taken the time to really, really try to get each other to understand what's involved and do the job that we should for the state of Washington. If I had one druther, Mr. President, I would take this aisle and I would get rid of it. I would say Republican, Democrat, Republican, Democrat, Democrat, Republican whatever, and have them sit side-by-side and talk to each other more intimately about every single thing that we do here. And, I really think that this aisle is a great divide that we shouldn't have in place. So, I would like to call out a couple people that I think are pretty special down here. And unfortunately, Tim Sheldon is not here today, but Tim Sheldon, to me, is the epitome of a statesman. Whether you get upset that he came over and is in the Republican Caucus or whether somebody goes to the other caucus, he stands up for his district, for the people in his district, in a way that none of us can understand and respect to the point that this man is a good person. I'd also like to call out Christine Rolfes because she has been what I would call a classy lady. She has done what I think has been an amazing job in the in the Senate here. The way she treats everybody, with such respect and kindness, is really, well warranted and I want to say thank you very much. Then I want to reach out to John Braun. John Braun, when he came, when he came was a little bit intimidating because I asked him if he had a file cabinet for memory because he could remember every single thing anybody said. And I've learned to appreciate what John Braun is brought to this institution. His, his ability to look through and get to the crux of what it is and look at it from both the policy portion, but how does that policy affect the budget and what we do to the individual. There's many more I can call out, but I'd really like to call out Kathleen Lawrence, Jim Troyer, Jeannie Gorrell. Jeannie and Kathleen, my first year, every time somebody would ask me to sign onto a bill they'd run up and say 'Nooo!' or 'Yes' because I had never been in politics. I had no idea how to read a bill even. And so, they were such a

great help. And, Lieutenant Governor Cyrus Habib, I want to pick on you a little bit here, while I'm doing it. I have enjoyed you. I look at what you do and what your abilities are up there, absolutely amazing, and I want to thank you for your service. I do want to tell you, though, that you talk to freakin' fast. And I always, when I was telling Senator Short behind me, I always think of an auction, a car auction and a cattle auction. And I can't do that that fast but, Mr. President, I really have a lot of respect for what you do. You need to vote for us a little bit more though, Ok? I just, I have to say this is been the neatest experience in my life. The best thing that I have ever done. Something that I have so much to thank the people of my district for. For electing me the first time and for reelecting me again and a third time and actually putting their trust and their faith and what I would do would be to represent them and I think I have. I know I didn't make everybody happy all of the time but I listened to everybody that I could and took their, their thoughts into consideration. So it will be a sad day but, Mr. President if you'll indulge me, I have a t-shirt that I found in Wyoming and I think it's really fun and I want this to go up."

President Habib: "Yes. Please proceed."

Senator Becker: "I, 'I am not fake news.' And there's a store in Wyoming that sells all sorts of fun ones but we will be moving to Wyoming later this year. I'll be back for committee days and ... but we bought a house up on top of the hill that, there were sixty elk in the field the other day. And we bought a side-by-side and I can tell you I'm crazier than my husband in that he goes slow I go fast and with that I would like to bid everybody a fond farewell. Thank you."

REMARKS BY THE PRESIDENT

President Habib: "Thank you Senator Becker and I'm going to ask I know that we have some some plans for how to as the Senate always does for for for departing members I know we have some plans for how to recognize you further So I going to ask that the floor leader the majority floor leader let us know about that before we continue."

REMARKS BY SENATOR LIAS

Senator Liias: "Thank you Mr. President, I know that we have forty-eight points of personal privilege now in response to that, so we do have, of course, a deadline ahead of us so I would like to reserve some time next week to be able to thank Senator Becker for her work. I, I've heard maybe there are a couple of other, at least one other, member that is leaving. She's looking at me over her glasses. So, we will save some time next week, for sure, to really, all of us, show our appreciation. And I've already pledged my contribution to her 'Becker for Wyoming State Senate' campaign. So, I'm onboard Mr. President with, with that. This is certainly hard news and we have treasured our time with Senator Becker and look forward to having a couple hours to roast her next week."

REMARKS BY THE PRESIDENT

President Habib: "But fair warning, Wyoming is one of the three states with no lieutenant governor. So, so Senator Becker is that why you're moving there? I don't know. Thank you, thank you all."

The Senate resumed consideration of Substitute House Bill No. 2803 which had been deferred the previous legislative day.

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THIRD READING

SUBSTITUTE HOUSE BILL NO. 2803, by House Committee on Finance (originally sponsored by Tarleton, Robinson, Sells, Lekanoff, Gregerson, Chapman, Orwall, Peterson, Tharinger and Pollet)

Authorizing the governor to enter into compacts with Indian tribes addressing certain state retail sales tax, certain state use tax, and certain state business and occupation tax revenues, as specified in a memorandum of understanding entered into by the state, Tulalip tribes, and Snohomish county, in January 2020, and including other terms necessary for the department of revenue to administer any such compact.

The bill was read on Third Reading.

RULING BY THE PRESIDENT

President Habib: "In ruling upon the point of order raised by Senator Braun as to whether Substitute House Bill 2803 violates Senate Rule 25 by including provisions not reflected in the bill's title, the President finds and rules as follows.

While the President will give deference to a title chosen by a bill's sponsor, it is incumbent upon the President to enforce Rule 25 which is the title limitation adopted by this body. These are your rules.

Previous rulings on this matter have provided some guidance on the Senate's standards for an adequate title, explaining that, "it is not required that the title be perfectly precise, but it should adequately describe the scope and purpose of the law being changed as to cause a reader following a particular issue to determine if further inquiry into the text of the bill is necessary."

Therefore, the President will 'examine a title to determine not its legal import, but whether or not it sufficiently describes the subject of the bill itself.'

The title of SHB 2803 is as follows: "An act relating to authorizing the governor to enter into compacts with Indian tribes addressing certain state retail sales tax, certain state use tax, and certain state business and occupation tax revenues, as specified in a memorandum of understanding entered into by the state, Tulalip tribes, and Snohomish county, in January 2020, and including other terms necessary for the department of revenue to administer any such compact."

The specific point of contention is whether certain provisions found in the bill are actually "as specified" in the January 2020 MOU.

The January MOU in question contains a provision that prohibits sharing of retail sales and use tax revenue derived from existing development beyond the first \$500,000 until year five and beyond the four-year fiscal note period.

Section 2(2)(d) of Substitute House Bill 2803 states: "Beginning January 1st of the fourth calendar year following the signing of the compact" certain amounts beyond the \$500,000 cap would be subject to revenue sharing.

Senator Braun argues this would allow for revenue sharing within year four, in violation of what appears to be a five-year ban on revenue sharing in the January 2020 MOU. He therefore maintains that the legislation is no longer accurately described by the title of the bill, in violation of Senate Rule 25.

However, there is another interpretation, and where there is more than one reasonable reading of a substantive provision, the President is inclined to follow the interpretation that upholds the Rules of the Senate.

A close reading of the language of the MOU shows that the restriction is "until year five". This language places a four-year limitation on additional sharing of retail sales and use tax revenue derived from existing development beyond the \$500,000 cap. The President finds that it is fair to read this as a ban until the fifth year, as further clarified by the language in the MOU that states "beyond the four-year fiscal note period".

For these reasons, the President finds that the title does reflect the substance of the bill in compliance with Senate Rule 25 and the that bill is properly before us.

Normally that would be end of my remarks, but in this case the President finds it necessary to make some comments on bill titles and encourage caution in the future.

The President has noticed a trend of sponsors selecting very narrow and specific bill titles. There are reasons for these choices, and often the reason is to avoid certain uncomfortable amendments. Amendments and uncomfortable debate are a regular part of the legislative process. The President will caution members that selecting a narrow and specific bill title is not without risk. Where a title is very specific, the language of the bill MUST follow that title very specifically, and the President will enforce the standards of Senate Rule 25.

Further, the President is dismayed at the reference to an outside document in this particular title. SHB 2803 references an MOU that also has been amended and is not widely available to the public. Given that a primary purpose of Senate Rule 25 is to give notice as to the contents of the bill, the President is disappointed in that respect. In order to even determine the basic question of whether the contents of the bill conflicted with the title, the President was forced to follow a trail of documents collected by professionals. Legislation should be accessible to the public and this should not be an acceptable form of notice.

Titles like this do a disservice to members of this body and to the public. While, as in this case, there may be no technical violation of Senate Rule 25, there certainly can be a violation of its spirit and the spirit of the legislative process."

Senators Rolfes and McCoy spoke in favor of passage of the bill.

Senators Braun and Ericksen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2803.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2803 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frock, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Stanford, Takko, Van De Wege, Warnick, Wellman and Wilson, C.

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Honeyford, King, Muzzall, O'Ban, Padden, Schoesler, Short, Wagoner, Walsh, Wilson, L. and Zeiger

Excused: Senator Sheldon

SUBSTITUTE HOUSE BILL NO. 2803, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2518, by House Committee on Appropriations (originally sponsored by Shewmake, Ybarra, Boehnke, Tarleton, Mead, Fitzgibbon, Lekanoff, Ramel, Callan, Peterson, Slatter, Davis, Doglio, Pollet and Cody)

Concerning the safe and efficient transmission and distribution of natural gas.

The measure was read the second time.

MOTION

On motion of Senator Lovelett, the rules were suspended, Engrossed Second Substitute House Bill No. 2518 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Lovelett spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2518.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2518 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Ericksen, Fortunato, Honeyford, Padden, Short and Wagoner

Excused: Senator Sheldon

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2518, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2528, by House Committee on Appropriations (originally sponsored by Ramos, DeBolt, Chapman, Boehnke, Blake, Fitzgibbon, Tharinger and Santos)

Recognizing the contributions of the state's forest products sector as part of the state's global climate response.

The measure was read the second time.

MOTION

Senator Van De Wege moved that the following committee striking amendment by the Committee on Agriculture, Water, Natural Resources & Parks be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that the intergovernmental panel on climate change (IPCC) released a report in 2019 entitled "IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems" that provides guidance relating to how natural and working lands can be utilized to assist with a global climate response strategy. In addition, the food and agricultural organization of the United Nations issued a report in 2016 entitled "forestry for a low-carbon future" with specific recommendations for integrating forest and wood products in climate change strategies. Recommendations from these reports are critical as Washington develops its own climate response and charts how the state can use its forestland base and vibrant forest products sector as part of its contribution to the global climate response.

(2) The legislature further finds that the 2019 intergovernmental panel on climate change report identifies several measures where sustainable forest management and forest products may be utilized to maintain and enhance carbon sequestration. These include increasing the carbon sequestration potential of forests and forest products by maintaining and expanding the forestland base, reducing emissions from land conversion to nonforest uses, increasing forest resiliency to reduce the risk of carbon releases from disturbances such as wildfire, pest infestation, and disease, and applying sustainable forest management techniques to maintain or enhance forest carbon stocks and forest carbon sinks, including through the transference of carbon to wood products.

(3) The legislature further finds that the food and agricultural organization of the United Nations reports similar recommendations, with a focus on forest management tools that increases the carbon density in forests, increases carbon storage out of the forest in harvested wood products, utilizes wood energy, and suppresses forest disturbances from fire, pests, and disease.

Sec. 2. RCW 70.235.005 and 2008 c 14 s 1 are each amended to read as follows:

(1) The legislature finds that Washington has long been a national and international leader on energy conservation and environmental stewardship, including air quality protection, renewable energy development and generation, emission standards for fossil-fuel based energy generation, energy efficiency programs, natural resource conservation, sustainable forestry and the production of forest products, vehicle emission standards, and the use of biofuels. Washington is also unique among most states in that in addition to its commitment to reduce emissions of greenhouse gases, it has established goals to grow the clean energy sector and reduce the state's expenditures on imported fuels.

(2) The legislature further finds that Washington should continue its leadership on climate change policy by creating accountability for achieving the emission reductions established in RCW 70.235.020, participating in the design of a regional multisector market-based system to help achieve those emission reductions, assessing other market strategies to reduce emissions of greenhouse gases, maintaining and enhancing the state's ability to continue to sequester carbon through natural and working lands and forest products, and ensuring the state has a well trained workforce for our clean energy future.

(3) It is the intent of the legislature that the state will: (a) Limit

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and reduce emissions of greenhouse gas consistent with the emission reductions established in RCW 70.235.020; (b) minimize the potential to export pollution, jobs, and economic opportunities; ~~((and))~~ (c) support industry sectors that can act as sequesterers of carbon; and (d) reduce emissions at the lowest cost to Washington's economy, consumers, and businesses.

(4) In the event the state elects to participate in a regional multisector market-based system, it is the intent of the legislature that the system will become effective by January 1, 2012, after authority is provided to the department for its implementation. By acting now, Washington businesses and citizens will have adequate time and opportunities to be well positioned to take advantage of the low-carbon economy and to make necessary investments in low-carbon technology.

(5) It is also the intent of the legislature that the regional multisector market-based system recognize Washington's unique emissions and sequestration portfolio, including the ~~((state's))~~:

(a) State's hydroelectric system~~((, the))~~;

(b) Opportunities presented by Washington's abundant forest resources and the associated forest products industry, along with aquatic and agriculture land~~((;))~~ and the associated industries; and ~~((the))~~

(c) State's leadership in energy efficiency and the actions it has already taken that have reduced its generation of greenhouse gas emissions and that entities receive appropriate credit for early actions to reduce greenhouse gases.

(6) If any revenues, excluding those from state trust lands, that accrue to the state are created by a market system, they must be used to further the state's efforts to achieve the goals established in RCW 70.235.020, address the impacts of global warming on affected habitats, species, and communities, promote and invest in industry sectors that act as sequesterers of carbon, and increase investment in the clean energy economy particularly for communities and workers that have suffered from heavy job losses and chronic unemployment and underemployment.

NEW SECTION. Sec. 3. A new section is added to chapter 70.235 RCW to read as follows:

(1)(a) Washington's existing forest products sector, including public and private working forests and the harvesting, transportation, and manufacturing sectors that enable working forests to remain on the land and the state to be a global supplier of forest products, is, according to a University of Washington study analyzing the global warming mitigating role of wood products from Washington's private forests, an industrial sector that currently operates as a significant net sequesterer of carbon. This value, which is only provided through the maintenance of an intact and synergistic industrial sector, is an integral component of the state's contribution to the global climate response and efforts to mitigate carbon emissions.

(b) Satisfying the goals set forth in RCW 70.235.020 requires supporting, throughout all of state government, consistent with other laws and mandates of the state, the economic vitality of the sustainable forest products sector and other business sectors capable of sequestering and storing carbon. This includes support for working forests of all sizes, ownerships, and management objectives, and the necessary manufacturing sectors that support the transformation of stored carbon into long-lived forest products while maintaining and enhancing the carbon mitigation benefits of the forest sector, sustaining rural communities, and providing for fish, wildlife, and clean water, as provided in chapter 76.09 RCW. Support for the forest sector also ensures the state's public and private working forests avoid catastrophic wildfire and other similar disturbances and avoid conversion in the face of unprecedented conversion pressures.

(c) It is the policy of the state to support the contributions of all

working forests and the synergistic forest products sector to the state's climate response. This includes landowners, mills, bioenergy, pulp and paper, and the related harvesting and transportation infrastructure that is necessary for forestland owners to continue the rotational cycle of carbon capture and sequestration in growing trees and allows forest products manufacturers to store the captured carbon in wood products and maintain and enhance the forest sector's role in mitigating a significant percentage of the state's carbon emissions while providing other environmental and social benefits and supporting a strong rural economic base. It is further the policy of the state to support the participation of working forests in current and future carbon markets, strengthening the state's role as a valuable contributor to the global carbon response while supporting one of its largest manufacturing sectors.

(d) It is further the policy of the state to utilize carbon accounting land use, land use change, and forestry reporting principles consistent with established reporting guidelines, such as those used by the intergovernmental panel on climate change and the United States national greenhouse gas reporting inventories.

(2) Any state carbon programs must support the policies stated in this section and recognize the forest products industry's contribution to the state's climate response.

NEW SECTION. Sec. 4. A new section is added to chapter 89.08 RCW to read as follows:

(1)(a) The forest and forest products carbon account is created in the custody of the state treasurer.

(b) The following moneys may be deposited into the account: All moneys directed or appropriated to the account by the legislature, including appropriations from the general fund, the capital budget, and any specified revenues from other sources, including policies that establish a price on carbon or related federal grant programs.

(c) The commission may also deposit into the account any grants, gifts, or donations to the state for purposes consistent with the allowable uses of the account.

(d) Expenditures from the account may be used only for commission administrative costs and grants consistent with this section. Only the executive director of the commission or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The commission shall use all moneys in the forest and forest products carbon account, less reasonable administrative overhead costs, as grants to any private landowner, organization that works with private landowners, nonprofit organization, local government, Indian tribe, or state land managing agency to advance the state's carbon sequestration goals outlined in section 3 of this act. All grant awards must be the result of a competitive process, designed by the commission, that seeks to leverage the carbon sequestration and storage benefits of the investment. Allowable grant project types include, but are not limited to, funding:

(a) For reforestation of forestlands after a wildfire or other disaster for which the landowner was not responsible;

(b) For afforestation projects to return lands capable of supporting trees to forestlands;

(c) To plant sustainable forested buffers and remove nonnative invasive species along otherwise nonforested fish bearing streams; and

(d) For urban forest restoration or urban tree planting.

(3) In addition to administrative costs and grants as provided in this section, the commission may also use funds in the forest and

forest products carbon account to conduct an opportunity analysis of land in Washington to determine how many acres of deforested land could be returned to forestlands without decreasing food production."

On page 1, line 3 of the title, after "response;" strike the remainder of the title and insert "amending RCW 70.235.005; adding a new section to chapter 70.235 RCW; adding a new section to chapter 89.08 RCW; and creating a new section."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture, Water, Natural Resources & Parks to Engrossed Second Substitute House Bill No. 2528.

The motion by Senator Van De Wege carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Van De Wege, the rules were suspended, Engrossed Second Substitute House Bill No. 2528 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Van De Wege, Warnick, King and Sheldon spoke in favor of passage of the bill.

Senator Ericksen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2528 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2528 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

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

Voting nay: Senators Becker, Ericksen and Honeyford

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2528 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2601, by Representatives Tharinger, Barkis, Leavitt and Ryu

Concerning the authority of the parks and recreation commission to approve leases.

The measure was read the second time.

MOTION

Senator Van De Wege moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 79A.05.025 and 2016 c 103 s 1 are each amended to read as follows:

(1) The commission shall elect one of its members as chair. The commission may be convened at such times as the chair deems necessary, and a majority shall constitute a quorum for the transaction of business.

(2)(a) Except as provided in (b) of this subsection, the lease of parkland or property for a period exceeding twenty years requires the ~~((unanimous consent))~~ affirmative vote of at least five members of the commission.

(b) With the affirmative vote of at least five members of the commission, the commission may enter into a lease for up to sixty-two years for property at Saint Edward state park. The commission may only enter into a lease under the provisions of this subsection (2)(b) if the commission finds that the department of commerce study required by section 3, chapter 103, Laws of 2016 fails to identify an economically viable public or nonprofit use for the property that is consistent with the state parks and recreation commission's mission and could proceed on a reasonable timeline. The lease at Saint Edward state park may only include the following:

- (i) The main seminary building;
- (ii) The pool building;
- (iii) The gymnasium;
- (iv) The parking lot located in between locations identified in (b)(i), (ii), and (iii) of this subsection;
- (v) The parking lot immediately north of the gymnasium; and
- (vi) Associated property immediately adjacent to the areas listed in (b)(i) through (v) of this subsection.

"**Sec. 2.** RCW 79A.05.030 and 2016 c 103 s 2 are each amended to read as follows:

The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt policies, and adopt, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than ~~((fifty))~~ eighty years, except for a lease associated with land or property described in RCW 79A.05.025(2)(b) which may not exceed sixty-two years, and upon such conditions as shall be approved by the commission.

(a) Leases exceeding a twenty-year term, or the amendment or modification of these leases, shall require a vote consistent with RCW 79A.05.025(2).

(b) If, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease.

(c) Television station leases shall be subject to the provisions of RCW 79A.05.085.

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(d) The rates of concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary. Commission expenses relating to its use of volunteer assistance shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, materials and equipment used in authorized volunteer projects, training, reimbursement of volunteer travel as provided in RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to volunteer recognition. The commission, at its discretion, may waive commission fees otherwise applicable to volunteers. The commission shall not use volunteers to replace or supplant classified positions. The use of volunteers may not lead to the elimination of any employees or permanent positions in the bargaining unit.

(7) By majority vote of its authorized membership, select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights-of-way for state highways. Option agreements executed under authority of this subsection shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof.

(9) Within allowable resources, maintain policies that increase the number of people who have access to free or low-cost recreational opportunities for physical activity, including noncompetitive physical activity.

(10) Adopt rules establishing the requirements for a criminal history record information search for the following: Job applicants, volunteers, and independent contractors who have unsupervised access to children or vulnerable adults, or who will be responsible for collecting or disbursing cash or processing credit/debit card transactions. These background checks will be done through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. A permanent employee of the commission, employed as of July 24, 2005, is exempt from the provisions of this subsection."

On page 1, line 2 of the title, after "leases;" strike the remainder of the title and insert "and amending RCW 79A.05.025 and 79A.05.030."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 2601.

The motion by Senator Van De Wege carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Van De Wege, the rules were suspended, House Bill No. 2601 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Van De Wege, Warnick and Holy spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2601 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2601 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

Voting nay: Senator Hasegawa

HOUSE BILL NO. 2601 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2311, by House Committee on Appropriations (originally sponsored by Slatter, Fitzgibbon, Callan, Chapman, Orwall, Ramel, Tarleton, Valdez, Duerr, Frame, Bergquist, Davis, Tharinger, Fey, Ormsby, Macri, Wylie, Doglio, Cody, Kloba, Goodman, Hudgins and Pollet)

Amending state greenhouse gas emission limits for consistency with the most recent assessment of climate change science.

The measure was read the second time.

MOTION

Senator Short moved that the following floor amendment no. 1303 by Senator Short be adopted:

On page 4, line 5, after "to" strike all material through "thousand" and insert "~~((1990))~~ 2005 levels, or ninety-six million"

On page 4, line 8, after "~~((twenty-five))~~" strike "fifty million" and insert "fifty-two million eight hundred thousand"

On page 4, line 9, after "below" strike "1990" and insert "~~((1990))~~ 2005"

On page 4, line 14, after "to" strike "twenty-seven million" and insert "twenty-eight million eight hundred thousand"

On page 4, line 15, after "below" strike "1990" and insert "2005"

On page 4, line 17, after "below" strike "1990" and insert "2005"

Senator Short spoke in favor of adoption of the amendment.

Senator Carlyle spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1303 by Senator Short on page 4, line 5 to Engrossed Second Substitute House Bill No. 2311.

The motion by Senator Short did not carry and floor amendment no. 1303 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 1304 by Senator Short be adopted:

On page 4, line 34, after "RCW 70.94.151;" strike "and" and insert "~~(and)~~"

On page 4, line 35, after "(ii)" insert "Standardize emissions of greenhouse gases for population growth and provide a per capita emissions amount for each reporting period; and

(iii)"

Correct any internal references accordingly.

Senator Short spoke in favor of adoption of the amendment.

Senator Carlyle spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1304 by Senator Short on page 4, line 34 to Engrossed Second Substitute House Bill No. 2311.

The motion by Senator Short did not carry and floor amendment no. 1304 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 1305 by Senator Short be adopted:

On page 5, line 17, after "(3)" insert "If the department reports that the per capita emissions of greenhouse gases decrease by at least ten percent from the previous reporting period, any state programs designed to achieve greenhouse gas emission reductions must be discontinued until the department makes recommendations to the legislature regarding adjusting statewide greenhouse gas emission limits to account for the effects of population growth on greenhouse gas emissions.

(4)"

Correct any internal references accordingly.

Senators Short and Ericksen spoke in favor of adoption of the amendment.

Senator Carlyle spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1305 by Senator Short on page 5, line 17 to Engrossed Second Substitute House Bill No. 2311.

The motion by Senator Short did not carry and floor amendment no. 1305 was not adopted by voice vote.

MOTION

On motion of Senator Rivers, Senator Walsh was excused.

MOTION

Senator Short moved that the following floor amendment no. 1306 by Senator Short be adopted:

On page 9, after line 22, insert the following:

"NEW SECTION. Sec. 6. The legislature declares that this act to establish greenhouse gas emissions goals constitutes an exercise of the state's police power to protect and promote the health, safety, and welfare of the residents of the state in general. Accordingly, while this act is intended to protect the public generally, it does not create a duty owed to any individual or entity on the part of the state or its instrumentalities. This act does not create a private right of action. Furthermore, this act does not create any civil liability on the part of the state or any state agency, officer, employee, or agent."

On page 1, line 5 of the title, after "creating" strike "a new section" and insert "new sections"

Senators Short and Ericksen spoke in favor of adoption of the amendment.

Senator Carlyle spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1306 by Senator Short on page 9, after line 22 to Engrossed Second Substitute House Bill No. 2311.

The motion by Senator Short did not carry and floor amendment no. 1306 was not adopted by voice vote.

MOTION

On motion of Senator Das, the rules were suspended, Engrossed Second Substitute House Bill No. 2311 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Das spoke in favor of passage of the bill.

Senators Short, Sheldon and Ericksen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2311.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2311 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

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

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

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2311, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1702, by Representatives Van Werven,

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Leavitt, Kraft, Entenman, Rude, Sutherland, Dye, Gildon, Slatter, Chambers, Graham, Caldier, Eslick, Mosbrucker, Young, Jinkins, Bergquist, Doglio and Pollet

Informing students of low-cost course materials for community and technical college courses.

The measure was read the second time.

MOTION

On motion of Senator Randall, the rules were suspended, House Bill No. 1702 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Randall, Holy and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1702.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1702 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

HOUSE BILL NO. 1702, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2713, by House Committee on State Government & Tribal Relations (originally sponsored by Walen, Chandler, Springer, Kretz, Fitzgibbon, Blake, Doglio, Davis, Ramel, Goodman and Pollet)

Encouraging compost procurement and use.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds and declares that local compost manufacturing plays a critical role in our state's solid waste infrastructure. Composting benefits Washington agencies, counties, cities, businesses, and residents by diverting hundreds of thousands of tons of organic waste from landfills, reducing solid waste costs, and lowering carbon emissions. The legislature finds that a growing number of local

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governments are recognizing the benefits of composting programs and offering compost collection to their residents and businesses. The diversion of food waste from landfills to compost processors remains critical for state and local governments to meet their ambitious diversion goals.

The legislature also finds that composting is a strong carbon reduction industry for Washington, as the application of compost to soil systems permits increased carbon sequestration. Compost can also replace synthetic chemical fertilizer, prevent topsoil erosion, and filter stormwater on green infrastructure projects such as rain gardens and retention ponds.

The legislature declares that state and local governments should lead by example by purchasing and using local compost that meets state standards and by encouraging farming operations to do so as well.

NEW SECTION. Sec. 2. A new section is added to chapter 43.19A RCW to read as follows:

(1) When planning government-funded projects or soliciting and reviewing bids for such projects, all state agencies and local governments shall consider whether compost products can be utilized in the project.

(2) If compost products can be utilized in the project, the state agency or local government must use compost products, except as follows:

(a) A state agency or local government is not required to use compost products if:

(i) Compost products are not available within a reasonable period of time;

(ii) Compost products that are available do not comply with existing purchasing standards;

(iii) Compost products that are available do not comply with federal or state health, quality, and safety standards; and

(iv) Compost purchase prices are not reasonable or competitive; and

(b) A state agency is also not required to use compost products in a project if:

(i) The total cost of using compost is financially prohibitive;

(ii) Application of compost will have detrimental impacts on the physical characteristics and nutrient condition of the soil as it is used for a specific crop;

(iii) The project consists of growing trees in a greenhouse setting, including seed orchard greenhouses; or

(iv) The compost products that are available have not been certified as being free of crop-specific pests and pathogens, including pests and pathogens that could result in the denial of phytosanitary permits for shipping seedlings.

(3) Before the transportation or application of compost products under this section, composting facilities, state agencies, and local governments must ensure compliance with department of agriculture pest control regulations provided in chapter 16-470 WAC.

(4) State agencies and local governments are encouraged to give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards adopted by rule by the department of ecology.

NEW SECTION. Sec. 3. A new section is added to chapter 43.19A RCW to read as follows:

(1) Each local government that provides a residential composting service is encouraged to enter into a purchasing agreement with its compost processor to buy back finished compost products for use in government projects or on government land. The local government is encouraged to purchase an amount of finished compost product that is equal to

or greater than fifty percent of the amount of organic residuals it delivered to the compost processor. Local governments may enter into collective purchasing agreements if doing so is more cost-effective or efficient. The compost processor should offer a purchase price that is reasonable and competitive for the specific market.

(2) When purchasing compost products for use in government projects or on government-owned land, local governments are encouraged to purchase compost with at least eight percent food waste, or an amount of food waste that is commensurate with that in the local jurisdiction's curbside collection program.

NEW SECTION. Sec. 4. (1) Subject to amounts appropriated for this specific purpose, the department of agriculture must establish and implement a three-year compost reimbursement pilot program to reimburse farming operations in the state for purchasing and using compost products from facilities with solid waste handling permits, including transportation, equipment, spreading, and labor costs. The grant reimbursements under the pilot program will begin January 1, 2021, and conclude December 31, 2023. For purposes of this program, "farming operation" means: A commercial agricultural, silvicultural, or aquacultural facility or pursuit, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment.

(2) To be eligible to participate in the reimbursement pilot program, a farming operation must complete an eligibility review with the department of agriculture prior to transporting or applying any compost products for which reimbursement will be sought under this section. The purpose of the review is for the department of agriculture to ensure that the proposed transport and application of compost products is consistent with the department's agricultural pest control rules in chapter 16-470 WAC. A farming operation must also verify that soil sampling will be allowed as necessary to establish a baseline of soil quality and carbon storage and for subsequent department of agriculture evaluations to assist the department's reporting requirements under subsection (9) of this section.

(3) The department of agriculture must create a form for eligible farming operations to apply for cost reimbursement. All applications for cost reimbursement must be submitted on the form along with documentation of the costs of purchasing and using compost products for which the applicant is requesting reimbursement. The department of agriculture may request that an applicant provide information to verify the source, size, sale weight, or amount of compost products purchased and the cost of transportation, equipment, spreading, and labor. The applicant must also declare that it is not seeking reimbursement for:

- (a) Its own compost products;
 - (b) Compost products that it has transferred, or intends to transfer, to another individual or entity, whether or not for compensation; or
 - (c) Compost products that were not purchased from a facility with a solid waste handling permit.
- (4) A farming operation may submit only one application per year for purchases made and usage costs incurred during the fiscal year that begins on July 1st and ends on June 30th of each year in which the pilot program is in effect. Applications for reimbursement must be filed before the end of the fiscal year in which purchases were made and usage costs incurred.

(5) The department of agriculture must distribute reimbursement funds, subject to the following limitations:

- (a) The department of agriculture must distribute

reimbursements in a manner that prioritizes small farming operations as measured by acreage;

(b) No farming operation may receive reimbursement if it was not found eligible for reimbursement by the department of agriculture prior to transport or use under subsection (2) of this section;

(c) No farming operation may receive reimbursement for more than fifty percent of the costs it incurs for the purchase and use of compost products, including transportation, equipment, spreading, and labor costs;

(d) No farming operation may receive more than ten thousand dollars per year;

(e) No farming operation may receive reimbursement for its own compost products or compost products that it has transferred, or intends to transfer, to another individual or entity, whether or not for compensation; and

(f) No farming operation may receive reimbursement for compost products that were not purchased from a facility with a solid waste handling permit.

(6) The applicant shall indemnify and hold harmless the state and its officers, agents, and employees from all claims arising out of or resulting from the compost products purchased that are subject to the compost reimbursement pilot program under this section.

(7) There is established within the department of agriculture a compost reimbursement pilot program manager position. The compost reimbursement pilot program manager must possess knowledge and expertise in the area of program management necessary to carry out the duties of the position, which are to:

(a) Facilitate the division and distribution of available costs for reimbursement; and

(b) Manage the day-to-day coordination of the compost reimbursement pilot program.

(8) Any action taken by the department of agriculture pursuant to this section is exempt from the rule-making requirements of chapter 34.05 RCW.

(9) The department of agriculture must submit an annual report to the appropriate committees of the legislature by January 15th of each year of the program, with a final report due January 15, 2024. The report must include:

(a) The amount of compost for which reimbursement was sought under the program;

(b) The qualitative or quantitative effects of the program on soil quality and carbon storage; and

(c) An evaluation of the benefits and costs to the state of continuing, expanding, or furthering the strategies explored in the pilot program.

(10) This section expires June 30, 2024."

On page 1, line 1 of the title, after "use;" strike the remainder of the title and insert "adding new sections to chapter 43.19A RCW; creating new sections; and providing an expiration date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Energy & Technology to Engrossed Substitute House Bill No. 2713.

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

MOTION

On motion of Senator Lovelett, the rules were suspended, Engrossed Substitute House Bill No. 2713 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Lovelett, Rivers, Mullet and Fortunato spoke in favor

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2713 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2713 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Rolfes

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2713 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

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

- SECOND SUBSTITUTE SENATE BILL NO. 5144,
- SUBSTITUTE SENATE BILL NO. 5867,
- SENATE BILL NO. 6034,
- SENATE BILL NO. 6096,
- SECOND SUBSTITUTE SENATE BILL NO. 6139,
- SENATE BILL NO. 6170,
- SUBSTITUTE SENATE BILL NO. 6208,
- SUBSTITUTE SENATE BILL NO. 6210,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 6217,
- SENATE BILL NO. 6218,
- SENATE BILL NO. 6229,
- SUBSTITUTE SENATE BILL NO. 6267,
- SENATE BILL NO. 6286,
- SECOND SUBSTITUTE SENATE BILL NO. 6309,
- ENGROSSED SENATE BILL NO. 6421,
- SUBSTITUTE SENATE BILL NO. 6483,
- SENATE BILL NO. 6493,
- SUBSTITUTE SENATE BILL NO. 6495,
- and SUBSTITUTE SENATE BILL NO. 6663.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1521, by House Committee on Appropriations (originally sponsored by Dolan, Harris, Valdez, Frame, Caldier, MacEwen, Griffey, Blake, Sells, Tarleton, Fitzgibbon, Ryu, Kilduff and Ormsby)

Providing for accountability and transparency in government contracting.

The measure was read the second time.

Senator Hunt moved that the following committee striking amendment by the Committee on State Government, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to increase transparency and accountability of public contracts by requiring better evaluation of contract performance. Such evaluation should include an assessment of whether decisions to "contract out" government services to the private sector are achieving their stated objectives. In addition, it is the intent of the legislature to ensure that public contractors given access to state resources are held to ethical standards consistent with public values.

The legislature finds that prior to July 1, 2005, state agencies and institutions of higher education were prohibited from contracting out for services regularly and historically provided by classified state employees. Effective July 1, 2005, the personnel system reform act of 2002 lifted the prohibition, authorizing state agencies and institutions of higher education to contract out for services customarily and historically provided by classified state employees. It is therefore the intent of the legislature that this act be applied only to government services that, on or after July 1, 2005, have been customarily and historically performed by state employees in the classified service under chapter 41.06 RCW.

Sec. 2. RCW 41.06.142 and 2011 1st sp.s. c 43 s 408 are each amended to read as follows:

(1) If any department, agency, or institution of higher education ((may purchase)) intends to contract for services((,- including services)) that, on or after July 1, 2005, have been customarily and historically provided by employees in the classified service under this chapter, a department, agency, or institution of higher education may do so by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) A comprehensive impact assessment is completed by the agency, department, or institution of higher education to assist it in determining whether the decision to contract out is beneficial.

(i) The comprehensive impact assessment must include at a minimum the following analysis:

(A) An estimate of the cost of performance of the service by employees, including the fully allocated costs of the service, the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. The estimate must not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service;

(B) An estimate of the cost of performance of the services if contracted out, including the cost of administration of the program and allocating sufficient employee staff time and resources to monitor the contract and ensure its proper performance by the contractor;

(C) The reason for proposing to contract out, including the objective the agency would like to achieve; and

(D) The reasons for the determination made under (e) of this subsection.

(ii) When the contract will result in termination of state employees or elimination of state positions, the comprehensive impact assessment may also include an assessment of the potential adverse impacts on the public from outsourcing the contract, such as loss of employment, effect on social services and

public assistance programs, economic impacts on local businesses and local tax revenues, and environmental impacts;

(b) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

~~((b))~~ (c) Employees ((in the classified service)) whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection ((4)) (7) of this section;

~~((c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;))~~

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency, department, or institution of higher education must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2)(a) The agency, department, or institution of higher education must post on its web site the request for proposal, the contract or a statement that the agency, department, or institution of higher education did not move forward with contracting out, and the comprehensive impact assessment pursuant to subsection (1) of this section.

(b) The agency, department, or institution of higher education must maintain the information in (a) of this subsection in its files in accordance with the record retention schedule under RCW 40.14.060.

(3) Every five years or upon completion of the contract, whichever comes first, the agency, department, or institution of higher education must prepare and maintain in the contract file a report, which must include at a minimum the following information:

(a) Documentation of the contractor's performance as measured by the itemized performance standards;

(b) Itemization of any contract extensions or change orders that resulted in a change in the dollar value or cost of the contract; and

(c) A report of any remedial actions that were taken to enforce compliance with the contract, together with an estimate of the cost incurred by the agency, department, or institution of higher education in enforcing such compliance.

(4) In addition to any other terms required by law, the terms of any agreement to contract out a service pursuant to this section must include terms that address the following:

(a) The contract's contract management provision must allow review of the contractor's performance;

(b) The contract's termination clauses must allow termination of the contract if the contractor fails to meet the terms of the contract, including failure to meet performance standards or failure to provide the services at the contracted price;

(c) The contract's damages provision must allow recovery of direct damages and, when applicable, indirect damages that the agency, department, or institution of higher education incurs due to the contractor's breach of the agreement;

(d) If the contractor will be using a subcontractor for performance of services under the contract, the contract must allow the agency, department, or institution of higher education to obtain information about the subcontractor, as applicable to the performance of services under the agreement; and

(e) A provision requiring the contractor to consider

employment of employees who may be displaced by the contract, if the contract is with an entity other than an employee business unit.

(5) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on July 1, 2005, is not effective beyond the expiration date of the agreement.

~~((3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to July 1, 2005, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1), (4), and (5) of this section))~~ (6) When contracting out for services as authorized in this section the agency, department, or institution of higher education must ensure firms adhere to the values of the state of Washington under RCW 49.60.030, which provide its citizens freedom from discrimination. Any relationship with a potential or current industry partner that is found to have violated RCW 49.60.030 by the attorney general shall not be considered and must be immediately terminated unless:

(a) The industry partner has fulfilled the conditions or obligations associated with any court order or settlement resulting from that violation; or

(b) The industry partner has taken significant and meaningful steps to correct the violation, as determined by the Washington state human rights commission.

~~((4))~~ (7) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency, department, or institution of higher education requests bids from private entities for a contract for services provided by ((classified)) employees, the contracting agency, department, or institution of higher education shall notify the ((classified)) employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency, department, or institution of higher education shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency, department, or institution of higher education of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The department of enterprise services, with the advice and assistance of the office of financial management, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of enterprise services, with the advice and assistance of the office of financial management, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency, department, or institution of higher education to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's, department's, or institution of higher education's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees'

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salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of enterprise services to conduct the bidding process.

~~((5))~~ (8)(a) As used in this section:

~~((6))~~ (i) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection ~~((4))~~ (7) of this section.

~~((6))~~ (ii) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

~~((6))~~ (iii) "Competitive contracting" means the process by which ~~(classified)~~ employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

~~((6))~~ (b) Unless otherwise specified, for the purpose of this act, "employee" means state employees in the classified service under this chapter except employees in the Washington management service as defined under RCW 41.06.022 and 41.06.500.

(9) The processes set forth in subsections (1)(a), (2), (3), and (4)(a) through (d) of this section do not apply to contracts:

(a) Awarded for the purposes of or by the department of transportation;

(b) With an estimated cost of contract performance of twenty thousand dollars or less;

(c) With an estimated cost of contract performance that exceeds five hundred thousand dollars for public work as defined by RCW 39.04.010; or

(d) Relating to mechanical, plumbing as described in chapter 18.106 RCW, and electrical as described in chapter 19.28 RCW, procured to install systems for new construction or life-cycle replacement with an estimated cost of contract performance of seventy-five thousand dollars or more.

(10) The processes set forth in subsections (1)(~~(7)~~) through (4), (7), and ~~((5))~~ (8) of this section do not apply to:

(a) RCW 74.13.031~~((5))~~ (6);

(b) The acquisition of printing services by a state agency; and

(c) ~~(Contracting for services or activities by the department of enterprise services under RCW 43.19.008 and the department may continue to contract for such services and activities after June 30, 2018))~~ Contracts for services expressly mandated by the legislature, including contracts for fire suppression awarded by the department of natural resources under RCW 76.04.181, or authorized by law prior to July 1, 2005, including contracts and agreements between public entities.

~~((7))~~ (11) The processes set forth in subsections (1)(~~(7)~~) through (4), (7), and ~~((5))~~ (8) of this section do not apply to the consolidated technology services agency when contracting for services or activities as follows:

(a) Contracting for services and activities that are necessary to establish, operate, or manage the state data center, including architecture, design, engineering, installation, and operation of the facility that are approved by the technology services board created in RCW ~~((43.41A.070))~~ 43.105.285.

(b) Contracting for services and activities recommended by the chief information officer through a business plan and approved

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by the technology services board created in RCW ~~((43.41A.070))~~ 43.105.285.

Sec. 3. RCW 39.26.200 and 2017 3rd sp.s. c 1 s 996 are each amended to read as follows:

(1)(a) The director shall provide notice to the contractor of the director's intent to either fine or debar with the specific reason for either the fine or debarment. The department must establish the debarment and fining processes by rule.

(b) After reasonable notice to the contractor and reasonable opportunity for that contractor to be heard, the director has the authority to debar a contractor for cause from consideration for award of contracts. The debarment must be for a period of not more than three years.

(2) The director may either fine or debar a contractor based on a finding of one or more of the following causes:

(a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(b) Conviction or a final determination in a civil action under state or federal statutes of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the federal false claims act, 31 U.S.C. Sec. 3729 et seq., or the state medicaid fraud false claims act, chapter 74.66 RCW, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects responsibility as a state contractor;

(c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(d) Two or more violations within the previous five years of the ~~((federal))~~ national labor relations act as determined by the national labor relations board or court of competent jurisdiction;

(e) Violation of contract provisions, as set forth in this subsection, of a character that is regarded by the director to be so serious as to justify debarment action:

(i) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, however the failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;

(f) Violation of ethical standards set forth in RCW 39.26.020;

(g) Any other cause the director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations; and

(h) During the 2017-2019 fiscal biennium, the failure to comply with a provision in a state master contract or other agreement with a state agency that requires equality among its workers by ensuring similarly employed individuals are compensated as equals.

(3) The director must issue a written decision to debar. The decision must:

(a) State the reasons for the action taken; and

(b) Inform the debarred contractor of the contractor's rights to judicial or administrative review.

Sec. 4. RCW 39.26.180 and 2012 c 224 s 20 are each amended to read as follows:

(1) The department must adopt uniform policies and procedures for the effective and efficient management of contracts by all state agencies. The policies and procedures must, at a minimum, include:

(a) Precontract procedures for selecting potential contractors

based on their qualifications and ability to perform, including procedures to ensure compliance with chapter 39.19 RCW, and providing for participation of minority and women-owned businesses;

- (b) Model complaint and protest procedures;
- (c) Alternative dispute resolution processes;
- (d) Incorporation of performance measures and measurable benchmarks in contracts;
- (e) Model contract terms to ensure contract performance and compliance with state and federal standards, including terms to facilitate recovery of the costs of employee staff time that must be expended to bring a contract into substantial compliance, and terms required under RCW 41.06.142;
- (f) Executing contracts using electronic signatures;
- (g) Criteria for contract amendments;
- (h) Postcontract procedures;
- (i) Procedures and criteria for terminating contracts for cause or otherwise, including procedures and criteria for terminating performance-based contracts that are not achieving performance standards; ((and))
- (j) A requirement that agencies, departments, and institutions of higher education monitor performance-based contracts, including contracts awarded pursuant to RCW 41.06.142, to ensure that all aspects of the contract are being properly performed and that performance standards are being achieved; and
- (k) Any other subject related to effective and efficient contract management.

(2) An agency may not enter into a contract under which the contractor could charge additional costs to the agency, the department, the joint legislative audit and review committee, or the state auditor for access to data generated under the contract. A contractor under such a contract must provide access to data generated under the contract to the contracting agency, the joint legislative audit and review committee, and the state auditor.

(3) To the extent practicable, agencies should enter into performance-based contracts. Performance-based contracts identify expected deliverables and performance measures or outcomes. Performance-based contracts also use appropriate techniques, which may include but are not limited to, either consequences or incentives or both to ensure that agreed upon value to the state is received. Payment for goods and services under performance-based contracts should be contingent on the contractor achieving performance outcomes.

(4) An agency and contractor may execute a contract using electronic signatures.

(5) As used in subsection (2) of this section, "data" includes all information that supports the findings, conclusions, and recommendations of the contractor's reports, including computer models and the methodology for those models.

NEW SECTION. Sec. 5. A new section is added to chapter 39.26 RCW to read as follows:

An agency, department, or institution of higher education that intends to contract out, or does contract out, for services that, on or after July 1, 2005, have been customarily and historically performed by employees in the classified service defined in RCW 41.06.020 must follow procedures and meet criteria established under RCW 41.06.142.

NEW SECTION. Sec. 6. This act is prospective and applies only to contracts commenced on or after the effective date of this section. Contracts in effect prior to the effective date of this section remain unaffected by this act through their expiration date."

On page 1, line 2 of the title, after "contracting;" strike the remainder of the title and insert "amending RCW 41.06.142, 39.26.200, and 39.26.180; adding a new section to chapter 39.26

RCW; and creating new sections."

MOTION

Senator Mullet moved that the following floor amendment no. 1254 by Senators Hunt, Mullet and Zeiger be adopted:

On page 1, line 27, after "by" insert ", and would displace or relocate,"

Senators Mullet and Zeiger spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1254 by Senators Hunt, Mullet and Zeiger on page 1, line 27 to the committee striking amendment.

The motion by Senator Mullet carried and floor amendment no. 1254 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on State Government, Tribal Relations & Elections as amended to Engrossed Second Substitute House Bill No. 1521.

The motion by Senator Hunt carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

On motion of Senator Hunt, the rules were suspended, Engrossed Second Substitute House Bill No. 1521 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hunt and Zeiger spoke in favor of passage of the bill. Senator Muzzall spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1521 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1521 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frock, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Stanford, Takko, Van De Wege, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick and Wilson, L.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1521 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1783, by House Committee on Appropriations (originally sponsored by Gregerson, Morgan, Ryu, Lovick, Valdez, Ramos,

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Thai, Reeves, Slatter, Lekanoff, Peterson, Macri, Entenman, Pettigrew, Bergquist, Callan, Stonier, Orwall, Hudgins, Riccelli, Mead, Senn, Santos, Chapman, Walen, Kloba, Doglio, Tarleton, Pollet, Dolan, Davis, Jinkins, Wylie, Shewmake, Pellicciotti, Fey, Stanford, Sells, Morris, Kilduff, Leavitt, Appleton, Tharinger, Ormsby, Frame and Robinson)

Creating the Washington state office of equity.

The measure was read the second time.

MOTION

Senator Hunt moved that the following committee striking amendment by the Committee on State Government, Tribal Relations & Elections be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the population of Washington state has become increasingly diverse over the last several decades. The legislature also finds that as the demographics of our state change, historically and currently marginalized communities still do not have the same opportunities to meet parity as their nonmarginalized counterparts across nearly every measure including education, poverty, employment, health, and more. Inequities based on race, ethnicity, gender, and other characteristics continue to be deep, pervasive, and persistent, and they come at a great economic and social cost. When individuals face barriers to achieving their full potential, the impact is felt by the individual, their communities, businesses, governments, and the economy as a whole in the form of lost wages, avoidable public expenditures, and more. This includes social ramifications that emerging technology, such as artificial intelligence and facial recognition technology, may have on historically and currently marginalized communities. It is the intent of the legislature to review these emerging technologies either already in use by agencies or before their launch by agencies if not already in use and make recommendations regarding agency use to ensure that the technology is used in a manner that benefits society and does not have disparate negative impacts on historically and currently marginalized communities or violate their civil rights. It is further intended that the office should collaborate with other state efforts in this regard.

The legislature finds that a more inclusive Washington is possible if agencies identify and implement effective strategies to eliminate systemic inequities. The legislature recognizes that different forms of discrimination and oppression are related to each other, and these relationships need to be taken into account.

The legislature finds that over the years, significant strides have been made within agencies to address the disparate outcomes faced by historically and currently marginalized communities. While these efforts have yielded positive work, the legislature finds that the work happening in agencies is fragmented across state government. Additionally, smaller agencies may not have the resources necessary to identify and implement policies to address systemic inequities. Furthermore, the legislature finds that the commission on African American affairs, the commission on Asian Pacific American affairs, the commission on Hispanic affairs, the governor's office of Indian affairs, the LGBTQ commission, the women's commission, and the human rights commission each play an important and integral role by serving as a voice for their respective communities and linking state government to these communities. The office is distinct from the commissions because it will serve as the state's subject matter

expert on diversity, equity, and inclusion to state agencies and will provide technical assistance and support to agencies while each agency implements its individual equity plan. The office is not duplicative of the commissions, rather it is the intent of the legislature that the office will work in collaboration with the commissions. It is not the legislature's intent to eliminate the commissions or to reduce funding to the commissions by creating the office. Instead, it is the intent of the legislature that the office and the statutory commissions shall work in a complementary manner with each other, support each other's work, jurisdictions, and missions, and adequately fund the statutory commissions and the office as they take on their new complementary roles.

The legislature finds that state government must identify and coordinate effective strategies that focus on eliminating systemic barriers for historically and currently marginalized groups. To support this objective, an office of equity will provide a unified vision around equity for all state agencies. The office will assist government agencies to promote diversity, equity, and inclusion in all aspects of their decision making, including but not limited to services, programming, policy development, budgeting, and staffing. Doing so will foster a culture of accountability within state government that promotes opportunity for marginalized communities and will help normalize language and concepts around diversity, equity, and inclusion.

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

(1) "Agency" means every state executive office, agency, department, or commission.

(2) "Communities" means a group of people who share some or all of the characteristics listed in RCW 49.60.030, as well as immigration status and language access.

(3) "Determinants of equity" means the social, economic, geographic, and physical environment conditions in which people in the state of Washington are born, grow, live, work, and age, that lead to the creation of a fair and just society. Access to the determinants of equity is necessary to have equity for all people regardless of the communities to which they may belong.

(4) "Director" means the director of the Washington state office of equity.

(5) "Disaggregated data" means data that has been broken down by appropriate subcategories.

(6) "Governing board" means the Washington office of equity governing board.

(7) "Office" means the Washington state office of equity.

(8) "Statutory commission" means the Washington state commission on African American affairs established in chapter 43.113 RCW, the Washington state commission on Asian Pacific American affairs established in chapter 43.117 RCW, the Washington state commission on Hispanic affairs established in chapter 43.115 RCW, the Washington state women's commission established in chapter 43.119 RCW, the Washington state LGBTQ commission established in chapter 43.114 RCW, and the human rights commission established in chapter 49.60 RCW.

NEW SECTION. Sec. 3. (1) The Washington state office of equity is established within the office of the governor, and shall be guided by the governing board, for the purpose of promoting access to equitable opportunities and resources that reduce disparities, and improve outcomes statewide across state government.

(2) The office envisions everyone in Washington having full access to the opportunities and resources they need to flourish and achieve their full potential.

(3) The work of the office must:

(a) Be guided by the following principles of equity:

(i) Equity requires developing, strengthening, and supporting policies and procedures that distribute and prioritize resources to those who have been historically and currently marginalized, including tribes;

(ii) Equity requires the elimination of systemic barriers that have been deeply entrenched in systems of inequality and oppression; and

(iii) Equity achieves procedural and outcome fairness, promoting dignity, honor, and respect for all people;

(b) Complement and not supplant the work of the statutory commissions.

NEW SECTION. Sec. 4. (1) The Washington office of equity governing board is created within the office and shall include the following members:

(a) The chair of the interagency coordinating council on health disparities, or the chair's designee;

(b) The director of the office of minority and women's business enterprises, or the director's designee;

(c) A representative from each statutory commission, appointed by the director of each respective statutory commission;

(d) The director of the governor's office of Indian affairs, or the director's designee;

(e) A member of the disability community, appointed by the chair of the governor's committee on disability issues and employment;

(f) A representative from the office of the governor, appointed by the governor;

(g) A representative from the office of financial management's diversity, equity, and inclusion council, appointed by the governor;

(h) A representative from the employee-based business resource groups, appointed by the governor;

(i) One member representing state union organizations who shall be selected by the governor from a list of three names submitted by state union organizations;

(j) One nonvoting member appointed by the governor to represent the governor's small agency cabinet; and

(k) Four legislative nonvoting members: Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives; and two members of the senate, one from each major caucus, appointed by the president of the senate.

(2) The initial appointment of members made by the governor under subsection (1)(f) through (j) of this section shall be staggered, one member must be appointed for a one-year term, two members must be appointed for a two-year term, and two members must be appointed for a three-year term. Thereafter, members must be appointed for three-year terms.

(3) Vacancies shall be filled in the same manner that the original appointments were made for the remainder of the member's term.

(4) A member shall be eligible for reappointment.

(5) A vacancy in the governing board shall not impair the right of the remaining members to exercise all of the powers of the governing board, and eight voting members of the governing board shall constitute a quorum of the governing board.

(6) The board chair is selected from among the voting members by the majority vote of the voting members.

NEW SECTION. Sec. 5. (1) Each voting member of the governing board shall be compensated in accordance with RCW 43.03.240.

(2) The director shall be appointed by the governor based on recommendations provided by the governing board, and subject to the consent of the senate. The director will administer the office and provide staff support for the governing board. The annual

salary of the director shall be determined under the provisions of RCW 43.03.028. The director shall:

(a) Employ and supervise employees or enter into contracts as necessary for the proper performance of the office's duties, consistent with the provisions of this chapter; and

(b) Oversee the administration, programs, and policies of the office.

(3) Members or employees of the governing board shall 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.

NEW SECTION. Sec. 6. (1) The governing board shall:

(a) Direct the office on its priorities and timelines;

(b) Review and approve statewide or interagency policies, procedures, or forms developed by the office;

(c) Provide guidance to the office on development of resources, best practice guidelines, and performance measures;

(d) Review audit findings and recommendations and determine appropriate enforcement action or approve referral to the governor for further review and action;

(e) Review and approve standards for the collection, analysis, and reporting of data, including any external data requests;

(f) Review and approve the annual report of the office under section 7(2) of this act; and

(g) Work with statutory commissions in a complementary manner within their responsible jurisdictions.

(2) The governing board may:

(a) Authorize the office to contract for expertise or capacity needs, as necessary; and

(b) Advise the governor on proposed legislation or other issues concerning diversity, equity, and inclusion.

NEW SECTION. Sec. 7. (1) The office shall work to facilitate policy and systems change to promote equitable policies, practices, and outcomes through:

(a) **Agency decision making.** The office shall assist agencies in promoting diversity, equity, and inclusion in all aspects of agency decision making, including service delivery, program development, policy development, and budgeting. The office shall provide assistance by:

(i) Facilitating information sharing between agencies around diversity, equity, and inclusion issues;

(ii) Convening work groups as needed;

(iii) Establishing a procedure for providing a diversity impact analysis on the impact or expected impact, either positive or negative, of any agency program, service, policy, legislation, or budget proposal;

(iv) Training agency staff on how to effectively complete the diversity impact analysis developed under (a)(iii) of this subsection, including developing best practice guidelines for agencies on how to assess determinants of equity when carrying out the agency's duties under this chapter;

(v) Developing a form that will serve as each agency's diversity, equity, and inclusion plan, required to be submitted by all agencies under section 9 of this act, for each agency to report on its work in the area of diversity, equity, and inclusion. The office must develop the format and content of the plan and determine the frequency of reporting. The office must post each agency plan on the dashboard referenced in (d) of this subsection;

(vi) Maintaining an inventory of agency work in the area of diversity, equity, and inclusion; and

(vii) Compiling and creating resources for agencies to use as guidance when carrying out the requirements under section 9 of this act.

(b) **Community outreach and engagement.** The office may direct the statutory commissions to conduct community outreach and engagement in order to identify policy and system barriers,

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including language access, to meaningful engagement with communities in all aspects of agency decision making. The office shall ensure that the statutory commissions are adequately resourced to accomplish the assigned tasks.

(c) **Training on maintaining a diverse, inclusive, and culturally sensitive workforce.** The office shall collaborate with the office of financial management and the department of enterprise services to develop policies and provide technical assistance and training to agencies on maintaining a diverse, inclusive, and culturally sensitive workforce that delivers culturally sensitive services.

(d) **Data maintenance and establishing performance metrics.** The office shall:

(i) Collaborate with the office of financial management and agencies to:

(A) Establish standards for the collection, analysis, and reporting of disaggregated data as it pertains to tracking population level outcomes of communities, except as provided under (d)(i)(D) of this subsection;

(B) Create statewide and agency-specific process and outcome measures to show performance:

(I) Using outcome-based methodology to determine the effectiveness of agency programs and services on reducing disparities; and

(II) Taking into consideration community feedback from the governing board on whether the performance measures established accurately measure the effectiveness of agency programs and services in the communities served;

(C) Create an online performance dashboard to publish state and agency performance measures and outcomes; and

(D) Identify additional subcategories in workforce data for disaggregation in order to track disparities in public employment; and

(ii) Coordinate with the office of privacy and data protection to address cybersecurity and data protection for all data collected by the office.

(e) **Accountability.** The office shall:

(i) Publish a report for each agency detailing whether the agency has met the performance measures established pursuant to (d)(i) of this subsection and the effectiveness of agency programs and services on reducing disparities. The report must include the agency's strengths and accomplishments, areas for continued improvement, and areas for corrective action. The office must post each report on the dashboard referenced in (d) of this subsection;

(ii) Establish a process for the office to report on agency performance in accordance with (e)(i) of this subsection and a process for agencies to respond to the report. The agency's response must include the agency's progress on performance, the agency's action plan to address areas for improvement and corrective action, and a timeline for the action plan;

(iii) Establish procedures to hold agencies accountable, which may include:

(A) Conducting performance reviews related to agency compliance with office performance measures; and

(B) Reporting audit findings not addressed by the agency within a reasonable time frame to the governing board for corrective or enforcement action or referral to the governor for further review and action; and

(iv) Not conduct investigations or enforcement of:

(A) Unfair practices under the laws against discrimination, chapter 49.60 RCW or noncompliance under chapter 49.74 RCW and must refer any complaint or issue to the human rights commission for further review and action in accordance with those chapters;

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(B) Labor relations issues under the authority of the public employment relations commission in chapters 41.56 and 41.58 RCW; and

(C) Procedures for monitoring and enforcing compliance with goals established under chapter 39.19 RCW and must refer any complaint or issue to the office of minority and women's business enterprises for further review and action.

(2) By October 31, 2022, and every year thereafter, the office shall report to the governor and the legislature. The report must:

(a) Be reviewed and approved by the governing board before submission; and

(b) Include a summary of the office's work, including:

(i) Strengths and accomplishments;

(ii) An overview of the staff, budget, and an account of all money the office has disbursed;

(iii) A summary of agency compliance with office standards and performance measures;

(iv) A summary of the audits the office has conducted and their outcome;

(v) Recommendations it has issued;

(vi) An equity analysis of the makeup of the governing board established in section 4 of this act to ensure that it accurately reflects historically and currently marginalized groups; and

(vii) Any other information deemed appropriate by the office.

(3) The director and the office shall review the final recommendations submitted pursuant to section 221, chapter 415, Laws of 2019, by the task force established under section 221, chapter 415, Laws of 2019, and report back to the governing board and the legislature with any additional recommendations necessary for the office to carry out the duties prescribed under this chapter.

NEW SECTION. Sec. 8. The office may:

(1) Provide technical assistance to agencies;

(2) Conduct research projects, as needed, provided that no research project is proposed or authorizes funding without consideration of the business case for the project including a review of the total cost of the project, similar projects conducted in the state, and alternatives analyzed;

(3) Conduct policy analyses and provide a forum where ideas and issues related to diversity, equity, and inclusion plans, policies, and standards can be reviewed;

(4) Develop policy positions and legislative proposals;

(5) Consider, on an ongoing basis, ways to promote investments in enterprise-level diversity, equity, and inclusion projects that will result in service improvements and cost efficiency;

(6) Fulfill external data requests, as resources allow; and

(7) Receive and solicit gifts, grants, and endowments from public or private sources that are made for the use or benefit of the office and to expend the same or any income therefrom according to their terms and the purpose of this chapter. The director must report funds received from private sources to the office of financial management on a regular basis. Such funds received from private sources may not be applied to reduce or substitute the office's budget as appropriated by the legislature, but must be applied and expended toward projects and functions authorized by this chapter that were not funded by the legislature.

NEW SECTION. Sec. 9. Each agency shall:

(1) Designate an agency diversity, equity, and inclusion liaison, within existing resources, to serve as the liaison between the agency and the office;

(2) Create diversity impact analyses, as developed by the office in accordance with section 7 of this act, to assess the determinants of equity for agency programs, services, policies, and budget decisions;

(3) Aggregate its agency diversity impact analyses into an annual report to be submitted to the office by July 31st of each year. Each agency shall include in this report whether the agency took actions to alter a proposed program, service, policy, or budget based on the diversity impact analysis and, if so, what those actions included;

(4) Develop and submit a diversity, equity, and inclusion plan to the office, in accordance with section 7 of this act;

(5) Develop and maintain written language access policies and plans;

(6) Collaborate with the office to establish performance measures in accordance with section 7 of this act;

(7) Provide data and information requested by the office in accordance with standards established under section 7 of this act; and

(8) Submit a response to the office's report on agency performance, under section 7 of this act.

NEW SECTION. Sec. 10. By October 31, 2025, the state auditor shall conduct a comprehensive performance audit in accordance with RCW 43.09.470, of the effectiveness of the Washington state office of equity including, but not limited to, the following factors:

(1) The extent to which the office has complied with legislative intent;

(2) The extent to which the office is operating in an efficient and economical manner which results in optimum performance;

(3) The extent to which the office is operating in the public interest by controlling costs;

(4) The extent to which the office duplicates the activities of, or has a mission that overlaps with, other agencies or of the private sector;

(5) The extent to which the office is receiving diversity, equity, and inclusion plans from agencies;

(6) The effectiveness of its data protection and oversight of agency performance measures; and

(7) Any other factors deemed appropriate by the state auditor's office.

NEW SECTION. Sec. 11. Nothing in this chapter creates any right or cause of action, nor may it be relied upon to compel the establishment of any program or special entitlement.

NEW SECTION. Sec. 12. Sections 1 through 11 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 13. Sections 3 through 5 of this act take effect July 1, 2020."

On page 1, line 2 of the title, after "equity;" strike the remainder of the title and insert "adding a new chapter to Title 43 RCW; and providing an effective date."

The President declared the question before the Senate to be to not adopt the committee striking amendment by the Committee on State Government, Tribal Relations & Elections to Engrossed Second Substitute House Bill No. 1783.

The motion by Senator Hunt carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Saldaña moved that the following striking floor amendment no. 1255 by Senator Saldaña be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the population of Washington state has become increasingly diverse over the last several decades. The legislature also finds that as the demographics of our state change, historically and currently

marginalized communities still do not have the same opportunities to meet parity as their nonmarginalized counterparts across nearly every measure including education, poverty, employment, health, and more. Inequities based on race, ethnicity, gender, and other characteristics continue to be deep, pervasive, and persistent, and they come at a great economic and social cost. When individuals face barriers to achieving their full potential, the impact is felt by the individual, their communities, businesses, governments, and the economy as a whole in the form of lost wages, avoidable public expenditures, and more. This includes social ramifications that emerging technology, such as artificial intelligence and facial recognition technology, may have on historically and currently marginalized communities. It is the intent of the legislature to review these emerging technologies either already in use by agencies or before their launch by agencies if not already in use and make recommendations regarding agency use to ensure that the technology is used in a manner that benefits society and does not have disparate negative impacts on historically and currently marginalized communities or violate their civil rights. It is further intended that the office should collaborate with other state efforts in this regard.

The legislature finds that a more inclusive Washington is possible if agencies identify and implement effective strategies to eliminate systemic inequities. The legislature recognizes that different forms of discrimination and oppression are related to each other, and these relationships need to be taken into account.

The legislature finds that over the years, significant strides have been made within agencies to address the disparate outcomes faced by historically and currently marginalized communities. While these efforts have yielded positive work, the legislature finds that the work happening in agencies is fragmented across state government. Additionally, smaller agencies may not have the resources necessary to identify and implement policies to address systemic inequities. Furthermore, the legislature finds that the commission on African American affairs, the commission on Asian Pacific American affairs, the commission on Hispanic affairs, the governor's office of Indian affairs, the LGBTQ commission, the women's commission, and the human rights commission each play an important and integral role by serving as a voice for their respective communities and linking state government to these communities. The office is distinct from the commissions because it will serve as the state's subject matter expert on diversity, equity, and inclusion to state agencies and will provide technical assistance and support to agencies while each agency implements its individual equity plan. The office is not duplicative of the commissions, rather it is the intent of the legislature that the office will work in collaboration with the commissions. It is not the legislature's intent to eliminate the commissions or to reduce funding to the commissions by creating the office. Instead, it is the intent of the legislature that the office and the commissions shall work in a complementary manner with each other, support each other's work, jurisdictions, and missions, and adequately fund the commissions and the office as they take on their new complementary roles.

The legislature finds that state government must identify and coordinate effective strategies that focus on eliminating systemic barriers for historically and currently marginalized groups. To support this objective, an office of equity will provide a unified vision around equity for all state agencies. The office will assist government agencies to promote diversity, equity, and inclusion in all aspects of their decision making, including but not limited to services, programming, policy development, budgeting, and staffing. Doing so will foster a culture of accountability within state government that promotes opportunity for marginalized communities and will help normalize language and concepts around diversity, equity, and inclusion.

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

(1) "Agency" means every state executive office, agency, department, or commission.

(2) "Director" means the director of the Washington state office of equity.

(3) "Disaggregated data" means data that has been broken down by appropriate subcategories.

(4) "Equity lens" means providing consideration to the characteristics listed in RCW 49.60.030, as well as immigration status and language access, to evaluate the equitable impacts of an agency's policy or program.

(5) "Office" means the Washington state office of equity.

NEW SECTION. Sec. 3. (1) The Washington state office of equity is established within the office of the governor for the purpose of promoting access to equitable opportunities and resources that reduce disparities, and improve outcomes statewide across state government.

(2) The office envisions everyone in Washington having full access to the opportunities and resources they need to flourish and achieve their full potential.

(3) The work of the office must:

(a) Be guided by the following principles of equity:

(i) Equity requires developing, strengthening, and supporting policies and procedures that distribute and prioritize resources to those who have been historically and currently marginalized, including tribes;

(ii) Equity requires the elimination of systemic barriers that have been deeply entrenched in systems of inequality and oppression; and

(iii) Equity achieves procedural and outcome fairness, promoting dignity, honor, and respect for all people;

(b) Complement and not supplant the work of the statutory commissions.

NEW SECTION. Sec. 4. (1) The office is administered by a director, who is appointed by the governor with advice and consent of the senate. The director shall report to the governor. The director must receive a salary as fixed by the governor in accordance with RCW 43.03.040.

(2) The director shall:

(a) Employ and supervise staff as necessary to carry out the purpose of this chapter and the duties of the office; and

(b) Oversee the administration, programs, and policies of the office in accordance with the principles in section 3 of this act.

NEW SECTION. Sec. 5. (1) The office shall work to facilitate policy and systems change to promote equitable policies, practices, and outcomes through:

(a) **Agency decision making.** The office shall assist agencies in applying an equity lens in all aspects of agency decision making, including service delivery, program development, policy development, and budgeting. The office shall provide assistance by:

(i) Facilitating information sharing between agencies around diversity, equity, and inclusion issues;

(ii) Convening work groups as needed;

(iii) Developing and providing assessment tools for agencies to use in the development and evaluation of agency programs, services, policies, and budgets;

(iv) Training agency staff on how to effectively use the assessment tools developed under (a)(iii) of this subsection, including developing guidance for agencies on how to apply an equity lens to the agency's work when carrying out the agency's duties under this chapter;

(v) Developing a form that will serve as each agency's

diversity, equity, and inclusion plan, required to be submitted by all agencies under section 7 of this act, for each agency to report on its work in the area of diversity, equity, and inclusion. The office must develop the format and content of the plan and determine the frequency of reporting. The office must post each agency plan on the dashboard referenced in (d) of this subsection;

(vi) Maintaining an inventory of agency work in the area of diversity, equity, and inclusion; and

(vii) Compiling and creating resources for agencies to use as guidance when carrying out the requirements under section 7 of this act.

(b) **Community outreach and engagement.** The office shall staff the community advisory board created under section 6 of this act and may contract with commissions or other entities with expertise in order to identify policy and system barriers, including language access, to meaningful engagement with communities in all aspects of agency decision making.

(c) **Training on maintaining a diverse, inclusive, and culturally sensitive workforce.** The office shall collaborate with the office of financial management and the department of enterprise services to develop policies and provide technical assistance and training to agencies on maintaining a diverse, inclusive, and culturally sensitive workforce that delivers culturally sensitive services.

(d) **Data maintenance and establishing performance metrics.** The office shall:

(i) Collaborate with the office of financial management and agencies to:

(A) Establish standards for the collection, analysis, and reporting of disaggregated data as it pertains to tracking population level outcomes of communities, except as provided under (d)(i)(D) of this subsection;

(B) Create statewide and agency-specific process and outcome measures to show performance:

(I) Using outcome-based methodology to determine the effectiveness of agency programs and services on reducing disparities; and

(II) Taking into consideration community feedback from the community advisory board on whether the performance measures established accurately measure the effectiveness of agency programs and services in the communities served;

(C) Create an online performance dashboard to publish state and agency performance measures and outcomes; and

(D) Identify additional subcategories in workforce data for disaggregation in order to track disparities in public employment; and

(ii) Coordinate with the office of privacy and data protection to address cybersecurity and data protection for all data collected by the office.

(e) **Accountability.** The office shall:

(i) Publish a report for each agency detailing whether the agency has met the performance measures established pursuant to (d)(i) of this subsection and the effectiveness of agency programs and services on reducing disparities. The report must include the agency's strengths and accomplishments, areas for continued improvement, and areas for corrective action. The office must post each report on the dashboard referenced in (d) of this subsection;

(ii) Establish a process for the office to report on agency performance in accordance with (e)(i) of this subsection and a process for agencies to respond to the report. The agency's response must include the agency's progress on performance, the agency's action plan to address areas for improvement and corrective action, and a timeline for the action plan; and

(iii) Establish procedures to hold agencies accountable, which

may include conducting performance reviews related to agency compliance with office performance measures.

(2) By October 31, 2022, and every year thereafter, the office shall report to the governor and the legislature. The report must include a summary of the office's work, including strengths and accomplishments, an overview of agency compliance with office standards and performance measures, and an equity analysis of the makeup of the community advisory board established in section 6 of this act to ensure that it accurately reflects historically and currently marginalized groups.

(3) The director and the office shall review the final recommendations submitted pursuant to section 221, chapter 415, Laws of 2019, by the task force established under section 221, chapter 415, Laws of 2019, and report back to the governor and the legislature with any additional recommendations necessary for the office to carry out the duties prescribed under this chapter.

NEW SECTION. Sec. 6. (1) A community advisory board is created within the office to advise the office on its priorities and timelines.

(2) The director must appoint members to the community advisory board to support diverse representation by geography and identity. The director may collaborate with the commission on African American affairs, the commission on Asian Pacific American affairs, the commission on Hispanic affairs, the governor's office of Indian affairs, the human rights commission, the LGBTQ commission, the women's commission, and any other agency the office deems necessary, to find individuals with diverse representation by geography and identity for the community advisory board.

(3) The community advisory board shall, among other duties determined by the director, provide guidance to the office on standards and performance measures.

(4) The community advisory board is staffed by the office.

(5) Board members shall be entitled to compensation of fifty dollars per day for each day spent conducting official business and to reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060.

(6) The community advisory board may adopt bylaws for the operation of its business for the purposes of this chapter.

NEW SECTION. Sec. 7. Each agency shall:

(1) Designate an agency diversity, equity, and inclusion liaison within existing resources to serve as the liaison between the agency and the office;

(2) Apply an equity lens, as developed by the office in accordance with section 5 of this act, to assess existing and proposed agency policies, services and service delivery, practices, programs, and budget decisions using the assessment tools developed by the office pursuant to section 5 of this act;

(3) Develop and submit a diversity, equity, and inclusion plan to the office, in accordance with section 5 of this act;

(4) Develop and maintain written language access policies and plans;

(5) Collaborate with the office to establish performance measures in accordance with section 5 of this act;

(6) Provide data and information requested by the office in accordance with standards established under section 5 of this act; and

(7) Submit a response to the office's report on agency performance under section 5 of this act.

NEW SECTION. Sec. 8. The office may:

(1) Provide technical assistance to agencies;

(2) Conduct research projects, as needed, provided that no research project is proposed or authorizes funding without consideration of the business case for the project including a review of the total cost of the project, similar projects conducted in the state, and alternatives analyzed;

(3) Conduct policy analyses and provide a forum where ideas and issues related to diversity, equity, and inclusion plans, policies, and standards can be reviewed;

(4) Develop policy positions and legislative proposals;

(5) Consider, on an ongoing basis, ways to promote investments in enterprise-level diversity, equity, and inclusion projects that will result in service improvements and cost efficiency;

(6) Fulfill external data requests, as resources allow; and

(7) Receive and solicit gifts, grants, and endowments from public or private sources that are made for the use or benefit of the office and to expend the same or any income therefrom according to their terms and this chapter. The director must report funds received from private sources to the office of financial management on a regular basis. Funds received from private sources may not be applied to reduce or substitute the office's budget as appropriated by the legislature, but must be applied and expended toward projects and functions authorized by this chapter that were not funded by the legislature.

NEW SECTION. Sec. 9. Nothing in this act creates any right or cause of action, nor may it be relied upon to compel the establishment of any program or special entitlement.

NEW SECTION. Sec. 10. Sections 1 through 9 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 11. Section 3 of this act takes effect July 1, 2020."

On page 1, line 2 of the title, after "equity;" strike the remainder of the title and insert "adding a new chapter to Title 43 RCW; and providing an effective date."

MOTION

Senator Wagoner moved that the following floor amendment no. 1309 by Senator Wagoner be adopted:

On page 3, beginning on line 8, after "(3)" strike all material through "(4)" on line 10

Re-number the remaining subsection consecutively and correct any internal references accordingly.

On page 5, line 16, after "reporting of" strike "disaggregated"

On page 5, beginning on line 17, after "communities" strike all material through "subsection" on line 18

On page 5, line 27, after "served;" insert "and"

On page 5, beginning on line 29, after "outcomes;" strike all material through "employment;" on line 31

Senator Wagoner spoke in favor of adoption of the amendment to the striking amendment.

Senator Hunt spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1309 by Senator Wagoner on page 3, line 8 to floor striking amendment no. 1255.

The motion by Senator Wagoner did not carry and floor amendment no. 1309 was not adopted by voice vote.

MOTION

Senator Schoesler moved that the following floor amendment no. 1291 by Senator Schoesler be adopted:

On page 4, line 5, after "office" insert ", except that the total number of full-time employee positions for the office may not exceed six"

Senator Schoesler spoke in favor of adoption of the amendment

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to the striking amendment.

Senator Hunt spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1291 by Senator Schoesler on page 4, line 5 to striking floor amendment no. 1255.

The motion by Senator Schoesler did not carry and floor amendment no. 1291 was not adopted by voice vote.

MOTION

Senator Warnick moved that the following floor amendment no. 1296 by Senator Warnick be adopted:

On page 6, line 21, after "(3)" insert "The director and the office shall comply with RCW 49.60.400 when developing or facilitating policy and systems change to promote equitable policies, practices, and outcomes under this chapter.

(4)"

Senators Warnick and Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Lovelett spoke against adoption of the amendment to the striking amendment.

Senator Short demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Warnick on page 6, line 21, to striking floor amendment no 1255.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Warnick and the amendment was not adopted by the following vote: Yeas, 21; Nays, 27; Absent, 1; Excused, 0.

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

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

Absent: Senator Carlyle.

MOTION

Senator Padden moved that the following floor amendment no. 1293 by Senator Padden be adopted:

On page 6, after line 26, insert the following:

"(4) In carrying out its duties under this section, the office is prohibited from developing policies or mechanisms that result in hiring preferences, whether explicit or implied, on the basis of race, sex, color, ethnicity, or national origin, as provided by RCW 49.60.400."

On page 7, line 11, after "Sec. 7." insert "(1)"

On page 7, at the beginning of line 12, strike "(1)" and insert "(a)"

On page 7, at the beginning of line 15, strike "(2)" and insert "(b)"

On page 7, at the beginning of line 20, strike "(3)" and insert "(c)"

On page 7, at the beginning of line 22, strike "(4)" and insert "(d)"

On page 7, at the beginning of line 24, strike "(5)" and insert "(e)"

On page 7, at the beginning of line 26, strike "(6)" and insert "(f)"

On page 7, at the beginning of line 29, strike "(7)" and insert "(g)"

On page 7, after line 30, insert the following:

"(2) In carrying out their duties under this section, agencies are prohibited from developing policies or mechanisms that result in hiring preferences, whether explicit or implied, on the basis of race, sex, color, ethnicity, or national origin, as provided by RCW 49.60.400."

Senators Padden and Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Frockt spoke against adoption of the amendment to the striking amendment.

Senator Short demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Padden on page 6, line 26, to striking floor amendment no 1255.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Padden and the amendment was not adopted by the following vote: Yeas, 21; Nays, 28; Absent, 0; Excused, 0.

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

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

MOTION

Senator Wilson, L. moved that the following floor amendment no. 1297 by Senator Wilson, L. be adopted:

On page 8, after line 18, insert the following:

"**NEW SECTION. Sec. 9.** The provisions of this act are subject to review by the joint legislative audit and review committee. The joint legislative audit and review committee will make a recommendation to the appropriate committees of the legislature by October 31, 2025, regarding the effectiveness of the Washington state office of equity including, but not limited to, the following factors:

(1) The extent to which the entity has complied with legislative intent;

(2) The extent to which the entity is operating in an efficient and economical manner which results in optimum performance;

(3) The extent to which the entity is operating in the public interest by controlling costs;

(4) The extent to which the entity duplicates the activities of other entities or of the private sector;

(5) The extent to which the entity is meeting performance measures;

(6) Compliance with RCW 49.60.400;

(7) The possible impact of the termination or modification of the entity; and

(8) Any other factors deemed appropriate by the joint legislative audit and review committee."

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

On page 8, line 22, after "through" strike "9" and insert "10"

Senator Wilson, L. spoke in favor of adoption of the amendment to the striking amendment.

Senator Mullet spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1297 by Senator Wilson, L. on page 8, after line 18 to striking floor amendment no. 1255.

The motion by Senator Wilson, L. did not carry and floor amendment no. 1297 was not adopted by voice vote.

MOTION

Senator Zeiger moved that the following floor amendment no. 1294 by Senator Zeiger be adopted:

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

"NEW SECTION. Sec. 10. By October 31, 2025, the state auditor shall conduct a comprehensive performance audit in accordance with RCW 43.09.470, of the effectiveness of the Washington state office of equity including, but not limited to, the following factors:

(1) The extent to which the office has complied with legislative intent;

(2) The extent to which the office is operating in an efficient and economical manner which results in optimum performance;

(3) The extent to which the office is operating in the public interest by controlling costs;

(4) The extent to which the office duplicates the activities of, or has a mission that overlaps with, other agencies or of the private sector;

(5) The extent to which the office is receiving diversity, equity, and inclusion plans from agencies;

(6) The effectiveness of its data protection and oversight of agency performance measures; and

(7) Any other factors deemed appropriate by the state auditor's office."

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

On page 8, line 22, after "through" strike "9" and insert "10"

Senator Zeiger spoke in favor of adoption of the amendment to the striking amendment.

Senator Dhingra spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1294 by Senator Zeiger on page 8, after line 21 to striking floor amendment no. 1255.

The motion by Senator Zeiger did not carry and floor amendment no. 1294 was not adopted by voice vote.

MOTION

Senator Brown moved that the following floor amendment no. 1292 by Senator Brown be adopted:

On page 8, line 25, after "1," strike "2020" and insert "2021"

Senator Brown spoke in favor of adoption of the amendment to

the striking amendment.

Senator Hunt spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1292 by Senator Brown on page 8, line 25 to striking floor amendment no. 1255.

The motion by Senator Brown did not carry and floor amendment no. 1292 was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 1255 by Senator Saldaña to Engrossed Second Substitute House Bill No. 1783.

The motion by Senator Saldaña carried and striking floor amendment no. 1255 was adopted by voice vote.

MOTION

On motion of Senator Hunt, the rules were suspended, Engrossed Second Substitute House Bill No. 1783 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Saldaña and Hasegawa spoke in favor of passage of the bill.

Senators Zeiger, Warnick, Ericksen and Fortunato spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1783 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1783 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

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

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

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1783 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2455, by House Committee on Human Services & Early Learning (originally sponsored by Kilduff, Eslick, Senn, Ryu, Kloba, Valdez, Bergquist, Davis, Pollet, Goodman and Wylie)

Supporting access to child care for parents who are attending high school or working toward completion of a high school equivalency certificate.

The measure was read the second time.

MOTION

On motion of Senator Wilson, C., the rules were suspended, Engrossed Substitute House Bill No. 2455 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Wilson, C. spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2455.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2455 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Stanford, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, Padden, Schoesler, Sheldon, Short, Wagoner, Warnick and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2455, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2456, by House Committee on Appropriations (originally sponsored by Callan, Eslick, Ramos, Ryu, Shewmake, Chapman, Senn, Frame, Thai, Bergquist, Kilduff, Stonier, Tharinger, Davis, Macri, Pollet, Goodman, Wylie and Doglio)

Concerning working connections child care eligibility.

The measure was read the second time.

MOTION

Senator Wilson, C. moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 43.216 RCW to read as follows:

(1) The department must extend the homeless grace period, as adopted in department rule as of January 1, 2020, from a four-month grace period to a six-month grace period.

(2) For the purposes of this section, "homeless" means being without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2020.

(3) The homeless grace period must begin on the date that child care is expected to begin.

NEW SECTION. Sec. 2. This act takes effect July 1, 2020."

On page 1, line 1 of the title, after "eligibility;" strike the

remainder of the title and insert "adding a new section to chapter 43.216 RCW; and providing an effective date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 2456.

The motion by Senator Wilson, C. carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Wilson, C., the rules were suspended, Substitute House Bill No. 2456 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wilson, C. and Hawkins spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2456 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2456 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

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

Voting nay: Senators Honeyford, Padden and Schoesler

SUBSTITUTE HOUSE BILL NO. 2456 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2217, by Representatives Eslick, Leavitt, Chambers, Callan, Dent, Walsh, Corry, Jenkin, Van Werven, Shewmake, Young and Wylie

Concerning cottage food product labeling requirements.

The measure was read the second time.

MOTION

On motion of Senator Warnick, the rules were suspended, House Bill No. 2217 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Warnick spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2217.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2217 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

Voting nay: Senator Hunt

HOUSE BILL NO. 2217, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2660, by House Committee on Education (originally sponsored by Riccelli, Harris, Santos, Shewmake, Leavitt, Steele, Stonier, Hudgins, Senn, Gregerson, Doglio, Peterson, Thai, Rude, Valdez, Chapman, Bergquist, Goodman, Callan, Tharinger, Maycumber, Pollet, Davis, Kretz and Macri)

Increasing the availability of school meals provided to public school students at no student cost.

The measure was read the second time.

MOTION

Senator Wellman moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This act may be known and cited as the hunger-free schools act.

Sec. 2. RCW 28A.235.290 and 2019 c 208 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall develop and implement a plan to increase the number of schools participating in the United States department of agriculture community eligibility provision for the 2018-19 school year and subsequent years. The office shall work jointly with community-based organizations and national experts focused on hunger and nutrition and familiar with the community eligibility provision, at least two school representatives who have successfully implemented community eligibility, and the state agency responsible for medicaid direct certification. The plan must describe how the office of the superintendent of public instruction will:

(a) Identify and recruit eligible schools to implement the community eligibility provision, with the goal of increasing the participation rate of eligible schools to at least the national average;

(b) Provide comprehensive outreach and technical assistance to school districts and schools to implement the community eligibility provision;

(c) Support breakfast after the bell programs authorized by the legislature to adopt the community eligibility provision;

(d) Work with school districts to group schools in order to

maximize the number of schools implementing the community eligibility provision; and

(e) Determine the maximum percentage of students eligible for free meals where participation in the community eligibility provision provides the most support for a school, school district, or group of schools.

(2) Until June 30, (~~2019~~) 2021, the office of the superintendent of public instruction shall convene the organizations working jointly on the plan monthly to report on the status of the plan and coordinate outreach and technical assistance efforts to schools and school districts. In completing the duties required by this subsection (2), the office of the superintendent of public instruction and the organizations working jointly on the plan shall also, by December 1, 2020, examine the impacts to schools and districts that can result from participation in the community eligibility provision and identify approaches to addressing those impacts.

(3) Beginning in 2018, the office of the superintendent of public instruction shall report annually the number of schools that have implemented the community eligibility provision to the legislature by December 1st of each year. The report shall identify:

(a) Any barriers to implementation;

(b) Recommendations on policy and legislative solutions to overcome barriers to implementation;

(c) Reasons potentially eligible schools and school districts decide not to adopt the community eligibility provision; and

(d) Approaches in other states to adopting the community eligibility provision.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.235 RCW to read as follows:

(1) Except as provided otherwise by this section, each school with students in or below grade eight that has an identified student percentage of at least sixty-two and one-half percent, as determined annually by April 1st, must participate in the United States department of agriculture's community eligibility provision in the subsequent school year and throughout the duration of the community eligibility provision's four-year cycle.

(2) Schools that, through an arrangement with a local entity, provide meals to all students and at no costs to the students are exempt from the requirements of this section.

(3) For the purposes of this section, "identified student" means a student who is directly certified for free school meals based on the student's participation in other means-tested assistance programs, and students who are categorically eligible for free school meals without an application and not subject to income verification.

Sec. 4. RCW 28A.150.260 and 2018 c 266 s 101 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) 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-

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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 also report state general apportionment per-pupil allocations by grade for each school district. The superintendent must report this information in a user-friendly format on the main page of the office's web site and on school district apportionment reports. School districts must include a link to the superintendent's per-pupil allocations report on the main page of the school district's web site. 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 six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred 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 twelve 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	20.00

(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 fifty 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) 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
Health and social services:			
School nurses	0.076	0.060	0.096
Social workers	0.042	0.006	0.015
Psychologists	0.017	0.002	0.007
Guidance counselors, a function that includes parent outreach and graduation advising	0.493	1.216	2.539

Teaching assistance, including any aspect of educational instructional services provided by classified employees	0.936	0.700	0.652
Office support and other noninstructional aides	2.012	2.325	3.269
Custodians	1.657	1.942	2.965
Classified staff providing student and staff safety	0.079	0.092	0.141
Parent involvement coordinators	0.0825	0.00	0.00

(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 twelve 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 twelve;

(b) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and

(c) Preparatory career and technical education courses for students in grades eleven and twelve 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 twelve 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 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 fifteen 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 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 fifty 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 fifteen 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.

(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 twelve, with fifteen 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

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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 fifteen 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. 5. RCW 28A.405.415 and 2013 2nd sp.s. c 5 s 4 are each amended to read as follows:

(1) Certificated instructional staff who have attained certification from the national board for professional teaching standards shall receive a bonus each year in which they maintain the certification. The bonus shall be calculated as follows: The annual bonus shall be five thousand dollars in the 2007-08 school year. Thereafter, the annual bonus shall increase by inflation, except that the bonus shall not be increased during the 2013-14

and 2014-15 school years.

(2)(a) Certificated instructional staff who have attained certification from the national board for professional teaching standards shall be eligible for bonuses in addition to that provided by subsection (1) of this section if the individual is in an instructional assignment in a school in which at least seventy percent of the students qualify for the free and reduced-price lunch program.

(b) An individual is eligible for bonuses authorized under this subsection (2) if he or she is in an instructional assignment in a school that meets the definition of high poverty school as defined in rule by the office of the superintendent of public instruction in the school year immediately preceding the school's participation in the United States department of agriculture's community eligibility provision.

(3) The amount of the additional bonus under subsection (2) of this section for those meeting the qualifications of subsection (2) of this section is five thousand dollars.

(4) The bonuses provided under this section are in addition to compensation received under a district's salary schedule adopted in accordance with RCW 28A.405.200 and shall not be included in calculations of a district's average salary and associated salary limitations under RCW 28A.400.200.

(5) The bonuses provided under this section shall be paid in a lump sum amount."

On page 1, line 2 of the title, after "cost;" strike the remainder of the title and insert "amending RCW 28A.235.290, 28A.150.260, and 28A.405.415; adding a new section to chapter 28A.235 RCW; and creating a new section."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to Engrossed Substitute House Bill No. 2660.

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

MOTION

On motion of Senator Wellman, the rules were suspended, Engrossed Substitute House Bill No. 2660 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Wellman spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2660 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2660 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

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

Voting nay: Senators Ericksen, Fortunato, Honeyford and Schoesler

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2660, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2711, by House Committee on Education (originally sponsored by J. Johnson, Corry, Stonier, Ormsby, Appleton, Caldier, Davis, Leavitt, Lekanoff, Ramel, Senn, Chopp, Goodman, Fey, Pollet, Callan and Chambers)

Increasing equitable educational outcomes for foster care and homeless children and youth from prekindergarten to postsecondary education.

The measure was read the second time.

MOTION

Senator Wellman moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that students in foster care, experiencing homelessness, or both, have the lowest high school graduation and postsecondary completion outcomes compared to other student populations. The legislature also finds that these students change schools at significantly higher rates than their general student population peers, and that these changes can disrupt academic progress. The legislature further finds that these students have disproportionate suspension and expulsion rates, and require special education services at much higher rates than other students.

(2) The legislature acknowledges that, as a result, only forty-six percent of Washington students who experienced foster care during high school, and fifty-five percent of students experiencing homelessness, graduated from high school on time in 2018. By comparison, the statewide four-year graduation rate for the class of 2019 was nearly eighty-one percent. Furthermore, students of color are disproportionately represented in the foster care system and in homeless student populations, and their academic outcomes are significantly lower than their white peers. Additionally, students who do not achieve positive education outcomes experience high rates of unemployment, poverty, adult homelessness, and incarceration.

(3) The legislature, therefore, intends to provide the opportunity for an equitable education for students in foster care, experiencing homelessness, or both. In accomplishing this goal, the legislature intends to achieve parity in education outcomes for these students, both in comparison to their general student population peers and throughout the education continuum of prekindergarten to postsecondary education.

(4) In 2018 the legislature directed the department of children, youth, and families and other entities in chapter 299, Laws of 2018, to convene a work group focused on students in foster care and students experiencing homelessness. The legislature resolves to continue this work group to improve education outcomes for these students.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction, in collaboration with the department of children, youth, and families, the office of homeless youth prevention and protection

programs of the department of commerce, and the student achievement council, shall convene the project education impact work group to address the needs of students in foster care, experiencing homelessness, or both. The work group must include representatives of nongovernmental agencies and representation from the educational opportunity gap oversight and accountability committee. The work group must also include four legislative members appointed as follows:

(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.

(2) The work group must focus its efforts on students in foster care, experiencing homelessness, or both, and must develop and implement a plan that will accomplish the following by 2027:

(a) Enable the students to achieve parity in education outcomes with their general student population peers; and

(b) Eliminate racial and ethnic disparities for the education outcomes of the students in comparison to their general student population peers.

(3)(a) The work group shall review the education outcomes of students in foster care, experiencing homelessness, or both, by examining data, disaggregated by race and ethnicity, on:

(i) Kindergarten readiness, early grade reading and math, eighth and ninth grade students on track to graduate, high school completion, postsecondary enrollment, and postsecondary completion; and

(ii) School attendance, school mobility, special education status, and school discipline.

(b) To enable the review required by this subsection (3), the office of the superintendent of public instruction, the department of children, youth, and families, the student achievement council, and the office of homeless youth prevention and protection programs of the department of commerce shall provide updated education data and other necessary data to the education data center established under RCW 43.41.400.

(c) The education data center must provide an updated report to the work group on these education outcomes by March 31, 2021, and annually thereafter. If state funds are not made available to complete the reports required by this subsection (3)(c), the work group may pursue supplemental private funding to ensure the completion of the reports.

(4) The work group shall also:

(a) Evaluate the outcomes, needs, and service array for students in foster care, experiencing homelessness, or both, and the specific needs of students of color and those with special education needs;

(b) Engage stakeholders, including students in foster care, experiencing homelessness, or both, foster parents and relative caregivers, birth parents, caseworkers, school districts and educators, early learning providers, postsecondary institutions, and federally recognized tribes, to provide input on the development of recommendations; and

(c)(i) Submit annual reports to the governor, the appropriate committees of the legislature, and the educational opportunity gap oversight and accountability committee by October 31st of each year regarding the progress the state has made toward achieving education parity for students in foster care, experiencing homelessness, or both.

(ii) The reports required by this subsection (4)(c) must:

(A) Describe the progress made toward achieving the following goals for students in foster care, experiencing homelessness, or both:

(I) Parity in kindergarten readiness rates;

(II) Parity in high school graduation rates;

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(III) Parity in postsecondary education and state-approved apprenticeship enrollment; and

(IV) Parity in postsecondary education and state-approved apprenticeship completion;

(B) Include updates on agency and nongovernmental agency actions toward achieving the goals specified in this section, and the effectiveness of support services for students in foster care, experiencing homelessness, or both;

(C) Include recommendations to further align and improve policy, programs, agency practice, and supports for students, and provide for shared and sustainable accountability to reach the goal of educational parity, including recommendations to:

(I) Address systems barriers and improve educational stability;

(II) Enforce existing state law requiring that education records, documentation of educational needs, individualized education programs, credits, and other records follow students when they transition between districts or to another education program or facility;

(III) Improve racial equity in education outcomes; and

(IV) Ensure appropriate work group access to consistent and accurate annual education outcomes data;

(D) Identify recommendations that can be implemented using existing resources, rules, and regulations and those that require policy, administrative, and resource allocation changes; and

(E) Identify the progress made toward meaningful engagement of stakeholders in informing recommendations.

(5) Nothing in this section permits disclosure of confidential information protected from disclosure under federal or state law, including but not limited to information protected under chapter 13.50 RCW. Confidential information received by the work group retains its confidentiality and may not be further disseminated except as permitted by federal and state law.

(6) For the purposes of this section, "students in foster care, experiencing homelessness, or both" includes students who are in foster care or experiencing homelessness, and students who have been homeless or in foster care, or both, within five years of when the plan described in this section is applied.

(7) This section expires July 1, 2028.

Sec. 3. RCW 74.13.1051 and 2017 3rd sp.s. c 6 s 405 are each amended to read as follows:

(1) In order to proactively support foster youth to complete high school, enroll and complete postsecondary education, and successfully implement their own plans for their futures, the department, the student achievement council, and the office of the superintendent of public instruction shall enter into, or revise existing, memoranda of understanding that:

(a) Facilitate student referral, data and information exchange, agency roles and responsibilities, and cooperation and collaboration among state agencies and nongovernmental entities; and

(b) Effectuate the transfer of responsibilities from the department to the office of the superintendent of public instruction with respect to the programs in RCW 28A.300.592, and from the department to the student achievement council with respect to the program in RCW 28B.77.250 in a smooth, expedient, and coordinated fashion.

(2) The student achievement council and the office of the superintendent of public instruction shall establish a set of indicators relating to the outcomes provided in RCW 28A.300.590 and 28A.300.592 to provide consistent services for youth, facilitate transitions among contractors, and support outcome-driven contracts. The student achievement council and the superintendent of public instruction shall collaborate with nongovernmental contractors and the department to develop a list of the most critical indicators, establishing a common set of

indicators to be used in the outcome-driven contracts in RCW 28A.300.590 and 28A.300.592. ~~((A list of these indicators must be included in the report provided in subsection (3) of this section.~~

~~(3) By November 1, 2017, and biannually thereafter, the department, the student achievement council, and the office of the superintendent of public instruction, in consultation with the nongovernmental entities engaged in public private partnerships shall submit a joint report to the governor and the appropriate education and human services committees of the legislature regarding each of these programs, individually, as well as the collective progress the state has made toward the following goals:~~

~~(a) To make Washington number one in the nation for foster care graduation rates;~~

~~(b) To make Washington number one in the nation for foster care enrollment in postsecondary education; and~~

~~(c) To make Washington number one in the nation for foster care postsecondary completion.~~

~~(4) The department, the student achievement council, and the office of the superintendent of public instruction, in consultation with the nongovernmental entities engaged in public private partnerships, shall also submit one report by November 1, 2018, to the governor and the appropriate education and human service committees of the legislature regarding the transfer of responsibilities from the department to the office of the superintendent of public instruction with respect to the programs in RCW 28A.300.592, and from the department to the student achievement council with respect to the program in RCW 28B.77.250 and whether these transfers have resulted in better coordinated services for youth.)~~

NEW SECTION. **Sec. 4.** RCW 28A.300.8001 (Plan for cross-system collaboration to promote educational stability and improve educational outcomes for foster children—Reports) and 2012 c 163 s 10 are each repealed."

On page 1, line 3 of the title, after "education;" strike the remainder of the title and insert "amending RCW 74.13.1051; adding a new section to chapter 28A.300 RCW; creating a new section; repealing RCW 28A.300.8001; and providing an expiration date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to Substitute House Bill No. 2711.

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

MOTION

On motion of Senator Wellman, the rules were suspended, Substitute House Bill No. 2711 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wellman, Hawkins and Carlyle spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Schoesler: "Would the gentleman from the 36th District yield to a question?"

Senator Carlyle: "Yes."

Senator Schoesler: "Senator Carlyle, Did that tree house have a building permit?"

Senator Carlyle: "Not only did it have a building permit, let me tell you Mr. Leader it was, the young people at Treehouse are so creative and so capable, Mr. President, you can't imagine their skills in this area."

Senator Schoesler: "And energy efficient, I trust, too?"

Senator Carlyle: "One more example of how incredible the young people of Treehouse and foster care are. Thank you, Mr. President."

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2711 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2711 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE HOUSE BILL NO. 2711 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2737, by House Committee on Appropriations (originally sponsored by Callan, Dent, Frame, Stonier, Eslick, Lovick, Entenman, Senn, Caldier, Davis, Leavitt, Bergquist, Goodman, Riccelli and Chambers)

Updating the children's mental health work group.

The measure was read the second time.

MOTION

Senator Dhingra moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.09.4951 and 2019 c 360 s 2 are each amended to read as follows:

(1) ~~((A children's mental))~~ The children and youth behavioral health work group is established to identify barriers to and opportunities for accessing ~~((mental))~~ behavioral health services for children and their families, and to advise the legislature on statewide ~~((mental))~~ behavioral health services for this population.

(2) The work group shall consist of members and alternates as provided in this subsection. Members must represent the regional, racial, and cultural diversity of all children and families in the state. ~~((Members of the children's mental health work group created in chapter 96, Laws of 2016, and serving on the work~~

~~group as of December 1, 2017, may continue to serve as members of the work group without reappointment.))~~

(a) The president of the senate shall appoint one member and one alternate from each of the two largest caucuses in the senate.

(b) The speaker of the house of representatives shall appoint one member and one alternate from each of the two largest caucuses in the house of representatives.

(c) The governor shall appoint six members representing the following state agencies and offices: The department of children, youth, and families; the department of social and health services; the health care authority; the department of health; the office of homeless youth prevention and protection programs; and the office of the governor.

(d) The governor shall appoint ~~((one member representing each of))~~ the following members:

(i) ~~((Behavioral))~~ One representative of behavioral health administrative services organizations;

(ii) ~~((Community))~~ One representative of community mental health agencies;

(iii) ~~((Medicaid))~~ One representative of medicaid managed care organizations;

(iv) ~~((A))~~ One regional provider of co-occurring disorder services;

(v) ~~((Pediatricians))~~ One pediatrician or primary care provider((s));

(vi) ~~((Providers))~~ One provider specializing in infant or early childhood mental health;

(vii) ~~((Child health advocacy groups))~~ One representative who advocates for behavioral health issues on behalf of children and youth;

(viii) ~~((Early))~~ One representative of early learning and child care providers;

(ix) ~~((The))~~ One representative of the evidence-based practice institute;

(x) ~~((Parents))~~ Two parents or caregivers of children who have ~~((been the recipient of early childhood mental))~~ received behavioral health services, one of which must have a child under the age of six;

(xi) ~~((An))~~ One representative of an education or teaching institution that provides training for mental health professionals;

(xii) ~~((Foster))~~ One foster parent((s));

(xiii) ~~((Providers))~~ One representative of providers of culturally and linguistically appropriate health services to traditionally underserved communities;

(xiv) ~~((Pediatricians))~~ One pediatrician located east of the crest of the Cascade mountains; ~~((and))~~

(xv) ~~((Child))~~ One child psychiatrist((s));

(xvi) One representative of an organization representing the interests of individuals with developmental disabilities;

(xvii) Two youth representatives who have received behavioral health services;

(xviii) One representative of a private insurance organization;

(xix) One representative from the statewide family youth system partner roundtable established in the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Dreyfus and Porter*, settlement agreement; and

(xx) One substance use disorder professional.

(e) The governor shall request participation by a representative of tribal governments.

(f) The superintendent of public instruction shall appoint one representative from the office of the superintendent of public instruction.

(g) The insurance commissioner shall appoint one representative from the office of the insurance commissioner.

(h) The work group shall choose its cochairs, one from among its legislative members and one from among the executive branch

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members. The representative from the health care authority shall convene at least two, but not more than four, meetings of the work group each year.

(i) The cochairs may invite additional members of the house of representatives and the senate to participate in work group activities, including as leaders of advisory groups to the work group. These legislators are not required to be formally appointed members of the work group in order to participate in or lead advisory groups.

(3) The work group shall:

(a) Monitor the implementation of enacted legislation, programs, and policies related to ~~((children's mental))~~ children and youth behavioral health, including provider payment for ~~((depression screenings for youth and new mothers,))~~ mood, anxiety, and substance use disorder prevention, screening, diagnosis, and treatment for children and young mothers; consultation services for child care providers caring for children with symptoms of trauma~~((;))~~; home visiting services~~((;))~~; and streamlining agency rules for providers of behavioral health services;

(b) Consider system strategies to improve coordination and remove barriers between the early learning, K-12 education, and health care systems; ~~((and))~~

(c) Identify opportunities to remove barriers to treatment and strengthen ~~((mental))~~ behavioral health service delivery for children and youth;

(d) Determine the strategies and resources needed to:

(i) Improve inpatient and outpatient access to behavioral health services;

(ii) Support the unique needs of young children prenatally through age five, including promoting health and social and emotional development in the context of children's family, community, and culture; and

(iii) Develop and sustain system improvements to support the behavioral health needs of children and youth; and

(e) Consider issues and recommendations put forward by the statewide family youth system partner roundtable established in the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Drevfus and Porter*, settlement agreement.

(4) At the direction of the cochairs, the work group may convene advisory groups to evaluate specific issues and report related findings and recommendations to the full work group.

(5)~~((a))~~ The work group shall convene an advisory group ~~((to develop a funding model for:~~

(i) ~~The partnership access line activities described in RCW 71.24.061, including the partnership access line for moms and kids and community referral facilitation;~~

(ii) ~~Delivering partnership access line services to educational service districts for the training and support of school staff managing children with challenging behaviors; and~~

(iii) ~~Expanding partnership access line consultation services to include consultation for health care professionals serving adults.~~

~~(b) The work group cochairs shall invite representatives from the following organizations and interests to participate as advisory group members under this subsection:~~

~~(i) Private insurance carriers;~~

~~(ii) Medicaid managed care plans;~~

~~(iii) Self-insured organizations;~~

~~(iv) Seattle children's hospital;~~

~~(v) The partnership access line;~~

~~(vi) The office of the insurance commissioner;~~

~~(vii) The University of Washington school of medicine; and~~

~~(viii) Other organizations and individuals, as determined by the cochairs.~~

~~(c) The funding model must build upon previous funding~~

~~model efforts by the health care authority, including work completed pursuant to chapter 288, Laws of 2018. The funding model must:~~

~~(i) Determine the annual cost of operating the partnership access line and its various components and collect a proportional share of program cost from each health insurance carrier; and~~

~~(ii) Differentiate between partnership access line activities eligible for medicaid funding and activities that are nonmedicaid eligible.~~

~~(d) By December 1, 2019, the advisory group formed under this subsection must deliver the funding model and any associated recommendations to the work group.)~~ focused on school-based behavioral health and suicide prevention. The advisory group shall advise the full work group on creating and maintaining an integrated system of care through a tiered support framework for kindergarten through twelfth grade school systems defined by the office of the superintendent of public instruction and behavioral health care systems that can rapidly identify students in need of care and effectively link these students to appropriate services, provide age-appropriate education on behavioral health and other universal supports for social-emotional wellness for all students, and improve both education and behavioral health outcomes for students. The work group cochairs may invite nonwork group members to participate as advisory group members.

(6)(a) Staff support for the work group, including administration of work group meetings and preparation of ~~((the updated))~~ full work group recommendations and reports required under ~~((subsection (8) of))~~ this section, must be provided by the health care authority.

(b) Additional staff support for legislative members of the work group may be provided by senate committee services and the house of representatives office of program research.

(c) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must provide staff support to the school-based behavioral health and suicide prevention advisory group, including administration of advisory group meetings and the preparation and delivery of advisory group recommendations to the full work group.

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

(8) The work group shall update the findings and recommendations reported to the legislature by the children's mental health work group in December 2016 pursuant to chapter 96, Laws of 2016. The work group must submit the updated report to the governor and the appropriate committees of the legislature by December 1, 2020, Beginning November 1, 2020, and annually thereafter, the work group shall provide recommendations in alignment with subsection (3) of this section to the governor and the legislature.

(9) This section expires December 30, ~~((2020))~~ 2026."

On page 1, line 2 of the title, after "group;" strike the remainder of the title and insert "amending RCW 74.09.4951; and providing an expiration date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 2737.

The motion by Senator Dhingra carried and the committee

striking amendment was adopted by voice vote.

MOTION

On motion of Senator Dhingra, the rules were suspended, Second Substitute House Bill No. 2737 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dhingra and Wagoner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2737 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2737 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SECOND SUBSTITUTE HOUSE BILL NO. 2737, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2864, by House Committee on Appropriations (originally sponsored by Paul, Morgan, Valdez, Bergquist, Lekanoff and Santos)

Establishing a running start summer school pilot program.

The measure was read the second time.

MOTION

On motion of Senator Wellman, the rules were suspended, Second Substitute House Bill No. 2864 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wellman, Hawkins, Becker and Sheldon spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2864.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2864 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet,

Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

SECOND SUBSTITUTE HOUSE BILL NO. 2864, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2607, by House Committee on Human Services & Early Learning (originally sponsored by Callan, Corry, Caldier, Eslick, Orwall, Entenman, Davis, Shewmake, Lekanoff, Thai, Chapman, Steele, Fey, Chopp, Robinson, Bergquist, Senn, Cody, Doglio, Goodman, Leavitt, Ramel, Santos, Ormsby, Pollet, Kloba and Macri)

Assisting homeless individuals in obtaining Washington state identicards.

The measure was read the second time.

MOTION

On motion of Senator Liias, the rules were suspended, Substitute House Bill No. 2607 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Liias and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2607.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2607 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

Voting nay: Senator Padden

SUBSTITUTE HOUSE BILL NO. 2607, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2099, by House Committee on Civil Rights & Judiciary (originally sponsored by Irwin and Jinkins)

Concerning the use of video technology under the involuntary treatment act.

The measure was read the second time.

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MOTION

Senator Dhingra moved that the following committee striking amendment by the Committee on Health & Long Term Care, Subcommittee on Behavioral Health be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.05.020 and 2019 c 446 s 2, 2019 c 444 s 16, and 2019 c 325 s 3001 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "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;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(8) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(9) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(10) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(11) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(12) "Department" means the department of health;

(13) "Designated crisis responder" means a mental health professional appointed by the county or an entity appointed by the county, to perform the duties specified in this chapter;

(14) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in

directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(16) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(17) "Director" means the director of the authority;

(18) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(19) "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;

(20) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(21) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(22) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(23) "Hearing" means any proceeding conducted in open court. For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used herein shall include any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the

foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged mental illness affects the respondent's ability to perceive or participate in the proceeding by video;

(24) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction;

(25) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(26) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a mental disorder or substance use disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(27) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(28) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(29) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(30) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(31) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health and substance use disorder service providers under RCW 71.05.130;

(32) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than

inpatient treatment that includes the services described in RCW 71.05.585;

(33) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(34) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(35) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(36) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(37) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(38) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse

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practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

- (a) Provide the following services:
 - (i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;
 - (ii) Clinical stabilization services;
 - (iii) Acute or subacute detoxification services for intoxicated individuals; and
 - (iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "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;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders,

including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "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, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 2. RCW 71.05.150 and 2019 c 446 s 4 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, substance use disorder, or both presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview.

(2)(a) An order to detain a person with a mental disorder to a designated evaluation and treatment facility, or to detain a person with a substance use disorder to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period may be issued by a judge of the superior court upon request of a designated crisis responder, subject to (d) of this subsection, whenever it appears to the satisfaction of a judge of the superior court:

- (i) That there is probable cause to support the petition; and
- (ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(d) A court may not issue an order to detain a person to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program unless there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program that has adequate space for the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

Sec. 3. RCW 71.05.150 and 2019 c 446 s 5 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, substance use disorder, or both presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may,

after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview.

(2)(a) An order to detain a person with a mental disorder to a designated evaluation and treatment facility, or to detain a person with a substance use disorder to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period may be issued by a judge of the superior court upon request of a designated crisis responder whenever it appears to the satisfaction of a judge of the superior court:

- (i) That there is probable cause to support the petition; and
- (ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved

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substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

Sec. 4. RCW 71.05.153 and 2019 c 446 s 6 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program for not more than seventy-two hours as described in RCW 71.05.180, if a secure withdrawal management and stabilization facility or approved substance use disorder treatment program is available and has adequate space for the person.

(3)(a) Subject to (b) of this subsection, a peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(i) Pursuant to subsection (1) or (2) of this section; or

(ii) When he or she has reasonable cause to believe that such person is suffering from a mental disorder or substance use disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(b) A peace officer's delivery of a person, based on a substance use disorder, to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program is subject to the availability of a secure withdrawal management and stabilization facility or approved substance use disorder treatment program with adequate space for the person.

(4) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (3) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(5) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or

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professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

Sec. 5. RCW 71.05.153 and 2019 c 446 s 7 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program for not more than seventy-two hours as described in RCW 71.05.180.

(3) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) or (2) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder or substance use disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(4) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (3) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(5) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine

whether the individual meets detention criteria. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

NEW SECTION. Sec. 6. Sections 2 and 4 of this act expire July 1, 2026.

NEW SECTION. Sec. 7. Sections 3 and 5 of this act take effect July 1, 2026."

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "amending RCW 71.05.150, 71.05.150, 71.05.153, and 71.05.153; reenacting and amending RCW 71.05.020; providing an effective date; and providing an expiration date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long Term Care, Subcommittee on Behavioral Health to Engrossed Substitute House Bill No. 2099.

The motion by Senator Dhingra carried and the subcommittee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Dhingra, the rules were suspended, Engrossed Substitute House Bill No. 2099 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dhingra and Wagoner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2099 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2099 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2099, as

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

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2277, by House Committee on Appropriations (originally sponsored by Peterson, Ortiz-Self, Frame, Goodman, Kilduff, Callan, Senn, Lovick, Thai, Fitzgibbon, Leavitt, Ryu, Appleton, Valdez, Davis, Ormsby, Macri, Doglio, Gregerson and Pollet)

Concerning youth solitary confinement.

The measure was read the second time.

MOTION

On motion of Senator Darneille, the rules were suspended, Second Substitute House Bill No. 2277 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Darneille and Walsh spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2277.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2277 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

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

Voting nay: Senators Becker, Brown, Ericksen, Hawkins, Holy, Honeyford, King, Padden, Schoesler, Sheldon, Short, Warnick and Wilson, L.

SECOND SUBSTITUTE HOUSE BILL NO. 2277, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2441, by House Committee on Appropriations (originally sponsored by Entenman, Fitzgibbon, Senn, Gregerson, Kilduff, Stonier, Davis, Macri, Ortiz-Self, Riccelli, Pettigrew, Pollet, Goodman, Wylie and Doglio)

Improving access to temporary assistance for needy families.

The measure was read the second time.

MOTION

Senator Darneille moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the

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following:

"**Sec. 1.** RCW 74.08A.260 and 2018 c 126 s 5 and 2018 c 58 s 8 are each reenacted and amended to read as follows:

(1) Each recipient shall be assessed after determination of program eligibility and before referral to job search. Assessments shall be based upon factors that are critical to obtaining employment, including but not limited to education, availability of child care, history of family violence, history of substance abuse, and other factors that affect the ability to obtain employment. Assessments may be performed by the department or by a contracted entity. The assessment shall be based on a uniform, consistent, transferable format that will be accepted by all agencies and organizations serving the recipient.

(2) Based on the assessment, an individual responsibility plan shall be prepared that: (a) Sets forth an employment goal and a plan for maximizing the recipient's success at meeting the employment goal; (b) considers WorkFirst educational and training programs from which the recipient could benefit; (c) contains the obligation of the recipient to participate in the program by complying with the plan; (d) moves the recipient into full-time WorkFirst activities as quickly as possible; and (e) describes the services available to the recipient either during or after WorkFirst to enable the recipient to obtain and keep employment and to advance in the workplace and increase the recipient's wage earning potential over time.

(3) Recipients who are not engaged in work and work activities, and do not qualify for a good cause exemption under RCW 74.08A.270, shall engage in self-directed service as provided in RCW 74.08A.330.

(4) If a recipient refuses to engage in work and work activities required by the department, after two months of continuous noncompliance, the family's grant shall be reduced by the recipient's share ~~((, and may, if the department determines it appropriate, be terminated))~~ or by forty percent, whichever is greater, and must be terminated after twelve months of continuous noncompliance.

(5) The department ~~((may))~~ shall waive the penalties required under subsection (4) of this section, subject to a finding that the recipient refused to engage in work for good cause provided in RCW 74.08A.270.

(6) In consultation with the recipient, the department or contractor shall place the recipient into a work activity that is available in the local area where the recipient resides.

(7) Assessments conducted under this section shall include a consideration of the potential benefit to the recipient of engaging in financial literacy activities. The department shall consider the options for financial literacy activities available in the community, including information and resources available through the financial education public-private partnership created under RCW 28A.300.450. The department may authorize up to ten hours of financial literacy activities as a core activity or an optional activity under WorkFirst.

(8) Subsections (2) through (6) of this section are suspended for a recipient who is a parent or other relative personally providing care for a child under the age of two years. This suspension applies to both one and two parent families. However, both parents in a two-parent family cannot use the suspension during the same month. Nothing in this subsection shall prevent a recipient from participating in the WorkFirst program on a voluntary basis.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2021.

NEW SECTION. **Sec. 3.** This act applies prospectively only and not retroactively.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number,

is not provided by June 30, 2020, in the supplemental omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "families;" strike the remainder of the title and insert "reenacting and amending RCW 74.08A.260; creating new sections; and providing an effective date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 2441.

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

MOTION

On motion of Senator Darneille, the rules were suspended, Substitute House Bill No. 2441 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Darneille and Nguyen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2441 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2441 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Pedersen, Randall, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, Padden, Rivers, Schoesler, Short, Wagoner, Warnick and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 2441, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2384, by House Committee on Finance (originally sponsored by Doglio, Ramel, Tarleton, Macri, Kloba and Gregerson)

Concerning the property tax exemption for nonprofit organizations providing rental housing or mobile home park spaces to qualifying households.

The measure was read the second time.

MOTION

Senator Kuderer moved that the following committee striking amendment by the Committee on Housing Stability & Affordability be adopted:

Strike everything after the enacting clause and insert the

following:

"Sec. 1. RCW 84.36.560 and 2019 c 390 s 11 are each amended to read as follows:

(1) The real and personal property owned or used by a nonprofit entity in providing rental housing for ~~((very low income))~~ qualifying households or used to provide space for the placement of a mobile home for a ~~((very low income))~~ qualifying household within a mobile home park is exempt from taxation if:

- (a) The benefit of the exemption inures to the nonprofit entity;
- (b) At least seventy-five percent of the occupied dwelling units in the rental housing or lots in a mobile home park are occupied by a ~~((very low income))~~ qualifying household; and
- (c) The rental housing or lots in a mobile home park were insured, financed, or assisted in whole or in part through one or more of the following sources:
 - (i) A federal or state housing program administered by the department of commerce;
 - (ii) A federal housing program administered by a city or county government;
 - (iii) An affordable housing levy authorized under RCW 84.52.105;
 - (iv) The surcharges authorized by RCW 36.22.178 and 36.22.179 and any of the surcharges authorized in chapter 43.185C RCW; or
 - (v) The Washington state housing finance commission, provided that the financing is for a mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030, or a nonprofit entity.

(2) If less than seventy-five percent of the occupied dwelling units within the rental housing or lots in the mobile home park are occupied by ~~((very low income))~~ qualifying households, the rental housing or mobile home park is eligible for a partial exemption on the real property and a total exemption of the housing's or park's personal property as follows:

- (a) A partial exemption is allowed for each dwelling unit in the rental housing or for each lot in a mobile home park occupied by a ~~((very low income))~~ qualifying household.
- (b) The amount of exemption must be calculated by multiplying the assessed value of the property reasonably necessary to provide the rental housing or to operate the mobile home park by a fraction. The numerator of the fraction is the number of dwelling units or lots occupied by ~~((very low income))~~ qualifying households as of December 31st of the first assessment year in which the rental housing or mobile home park becomes operational or on January 1st of each subsequent assessment year for which the exemption is claimed. The denominator of the fraction is the total number of dwelling units or lots occupied as of December 31st of the first assessment year the rental housing or mobile home park becomes operational and January 1st of each subsequent assessment year for which exemption is claimed.

(3) If a currently exempt rental housing unit ~~((in a facility with ten units or fewer))~~ or mobile home lot in a mobile home park ~~((with ten lots or fewer))~~ was occupied by a ~~((very low income))~~ qualifying household at the time the exemption was granted and the income of the household subsequently rises above ~~((fifty percent of the median income))~~ the threshold set in subsection (7)(e) of this section but remains at or below eighty percent of the median income, the exemption will continue as long as the housing continues to meet the certification requirements ~~((of a very low income housing program))~~ listed in subsection (1) of this section. For purposes of this section, median income, as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located, shall be adjusted for family size. However, if a dwelling unit or a lot becomes vacant and is subsequently re-rented, the income of the new household must be

at or below ~~((fifty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located))~~ the threshold set in subsection (7)(e) of this section to remain exempt from property tax.

(4) If at the time of initial application the property is unoccupied, or subsequent to the initial application the property is unoccupied because of renovations, and the property is not currently being used for the exempt purpose authorized by this section but will be used for the exempt purpose within two assessment years, the property shall be eligible for a property tax exemption for the assessment year in which the claim for exemption is submitted under the following conditions:

- (a) A commitment for financing to acquire, construct, renovate, or otherwise convert the property to provide housing for ~~((very low income))~~ qualifying households has been obtained, in whole or in part, by the nonprofit entity claiming the exemption from one or more of the sources listed in subsection (1)(c) of this section;
- (b) The nonprofit entity has manifested its intent in writing to construct, remodel, or otherwise convert the property to housing for ~~((very low income))~~ qualifying households; and
- (c) Only the portion of property that will be used to provide housing or lots for ~~((very low income))~~ qualifying households shall be exempt under this section.

(5) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(6) The nonprofit entity qualifying for a property tax exemption under this section may agree to make payments to the city, county, or other political subdivision for improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the rental housing. However, these payments shall not exceed the amount last levied as the annual tax of the city, county, or political subdivision upon the property prior to exemption.

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

(a) "Group home" means a single-family dwelling financed, in whole or in part, by one or more of the sources listed in subsection (1)(c) of this section. The residents of a group home shall not be considered to jointly constitute a household, but each resident shall be considered to be a separate household occupying a separate dwelling unit. The individual incomes of the residents shall not be aggregated for purposes of this exemption;

(b) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030;

(c) "Occupied dwelling unit" means a living unit that is occupied by an individual or household as of December 31st of the first assessment year the rental housing becomes operational or is occupied by an individual or household on January 1st of each subsequent assessment year in which the claim for exemption is submitted. If the housing facility is comprised of three or fewer dwelling units and there are any unoccupied units on January 1st, the department shall base the amount of the exemption upon the number of occupied dwelling units as of December 31st of the first assessment year the rental housing becomes operational and on May 1st of each subsequent assessment year in which the claim for exemption is submitted;

(d) "Rental housing" means a residential housing facility or group home that is occupied but not owned by ~~((very low income))~~ qualifying households;

(e)(i) ~~((Very low income))~~ Qualifying household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income adjusted

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for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located and in effect as of January 1st of the year the application for exemption is submitted; ~~(and)~~

(ii) Beginning July 1, 2021, "qualifying household" means a single person, family, or unrelated persons living together whose income is at or below sixty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located and in effect as of January 1st of the year the application for exemption is submitted; and

(f) "Nonprofit entity" means a:

(i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code;

(ii) Limited partnership where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a general partner;

(iii) Limited liability company where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a managing member; or

(iv) Mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030.

Sec. 2. RCW 84.36.815 and 2016 c 217 s 4 are each amended to read as follows:

(1) In order to qualify for exempt status for any real or personal property under this chapter except personal property under RCW 84.36.600, all foreign national governments; cemeteries; nongovernmental nonprofit corporations, organizations, and associations; hospitals owned and operated by a public hospital district for purposes of exemption under RCW 84.36.040(2); and soil and water conservation districts must file an initial application on or before March 31st with the state department of revenue. However, the initial application deadline for the exemption provided in RCW 84.36.049 is July 1st for 2016 and March 31st for 2017 and thereafter. All applications must be filed on forms prescribed by the department and must be signed by an authorized agent of the applicant.

(2)(a) In order to requalify for exempt status, all applicants except nonprofit cemeteries and nonprofits receiving the exemption under RCW 84.36.049 and nonprofits receiving the exemption under RCW 84.36.560 must file an annual renewal declaration on or before March 31st each year. The renewal declaration must be on forms prescribed by the department of revenue and must contain a statement certifying the exempt status of the real or personal property owned by the exempt organization. This renewal declaration may be submitted electronically in a format provided or approved by the department. Information may also be required with the renewal declaration to assist the department in determining whether the property tax exemption should continue.

(b) In order to requalify for exempt status, nonprofits receiving the exemption under RCW 84.36.560 must file a renewal declaration on or before March 31st of every third year following initial qualification for the exemption. Except for the annual

renewal requirement, all other requirements of (a) of this subsection apply.

(3) When an organization acquires real property qualified for exemption or converts real property to exempt status, the organization must file an initial application for the property within sixty days following the acquisition or conversion in accordance with all applicable provisions of subsection (1) of this section. If the application is filed after the expiration of the sixty-day period, a late filing penalty is imposed under RCW 84.36.825.

(4) When organizations acquire real property qualified for exemption or convert real property to an exempt use, the property, upon approval of the application for exemption, is entitled to a property tax exemption for property taxes due and payable the following year. If the owner has paid taxes for the year following the year the property qualified for exemption, the owner is entitled to a refund of the amount paid on the property so acquired or converted.

(5) The department must share approved initial applications for the tax preference provided in RCW 84.36.049 with the joint legislative audit and review committee, upon request by the committee, in order for the committee to complete its review of the tax preference provided in RCW 84.36.049.

NEW SECTION. Sec. 3. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act."

On page 1, line 3 of the title, after "households;" strike the remainder of the title and insert "amending RCW 84.36.560 and 84.36.815; and creating a new section."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Housing Stability & Affordability to Substitute House Bill No. 2384.

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

MOTION

On motion of Senator Kuderer, the rules were suspended, Substitute House Bill No. 2384 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kuderer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2384 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2384 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 7; Absent, 0; Excused, 0.

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

Voting nay: Senators Becker, Ericksen, Honeyford, Padden, Rivers, Schoesler and Wagoner

SUBSTITUTE HOUSE BILL NO. 2384, as amended by the Senate, having received the constitutional majority, was declared

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2722, by House Committee on Environment & Energy (originally sponsored by Mead, Fitzgibbon, Peterson, Doglio, Goodman, Gregerson, Slatter, Tarleton, Davis, Duerr, Ramel, Walen, Cody, Senn and Pollet)

Concerning minimum recycled content requirements.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Sustainable and resilient markets for recycled materials are essential to any successful recycling system. For many years, Washington has depended on foreign markets to accept the recyclable materials that are collected for recycling in the state. Developing domestic markets for recycled materials benefits the environment and the state's economy and is critical due to the loss of foreign markets.

(2) China's 2018 national sword policy bans the importation of recycled mixed paper and certain types of recycled plastic and imposes a stringent one-half of one percent contamination limit on all other recycled material imports. Washington's recycling facilities are struggling to find markets for recycled materials, resulting in the stockpiling of these materials. Washington must reduce its reliance on unpredictable foreign markets for its recycled materials.

(3) Plastic bottles can be recycled and can contain recycled content in order to close the loop in the recycling stream. Many companies have already taken the initiative at closing the loop by using plastic bottles that contain one hundred percent recycled content. Since November 2010, one national juice company has been using bottles made with one hundred percent postconsumer recycled content for all of its juices and juice smoothies. In January 2018, an international beverage producer announced that it will make all its bottles from one hundred percent recycled plastic by 2025.

(4) The requirements imposed by this act are reasonable and are achievable at minimal cost relative to the burden imposed by the continued excessive use of virgin materials in beverage containers in Washington.

(5) The legislature encourages beverage manufacturers to use plastic beverage containers that exceed the standards set forth in this act.

NEW SECTION. Sec. 2. The definitions in this section apply throughout sections 3 through 7 of this act unless the context clearly requires otherwise.

(1) "Beverage manufacturer" means a manufacturer of one or more beverages described in section 3(1) of this act, that are sold, offered for sale, or distributed in Washington.

(2) "Beverage manufacturing industry" means an association that represents companies that manufacture beverages.

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

NEW SECTION. Sec. 3. (1) Beginning January 1, 2022, manufacturers of plastic beverage containers that offer for sale,

sell, or distribute in Washington beverages, intended for human or animal consumption and in a quantity more than or equal to two fluid ounces and less than or equal to one gallon, must meet minimum postconsumer recycled content as required under section 4 of this act, on average for the total number of plastic beverage containers for the following beverages:

(a) Water and flavored water;

(b) Beer or other malt beverages;

(c) Wine;

(d) Mineral waters, soda water, and similar carbonated soft drinks; and

(e) Any beverage other than those specified in subsection (2) of this section, except infant formula.

(2) The following containers are exempt from sections 3 through 6 of this act:

(a) Refillable plastic beverage containers;

(b) Rigid plastic containers or rigid plastic bottles that are medical devices, medical products that are required to be sterile, prescription medicine, and packaging used for those products; and

(c) Bladders or pouches that contain wine.

(3) The department may adopt rules to exempt beverages.

NEW SECTION. Sec. 4. (1) Every year, a beverage manufacturer must meet the following minimum postconsumer recycled plastic content on average for the total number of plastic beverage containers for beverages as established in section 3 of this act that are sold, offered for sale, or distributed in Washington effective:

(a) January 1, 2022, through December 31, 2024: No less than ten percent postconsumer recycled plastic;

(b) January 1, 2025, through December 31, 2029: No less than twenty-five percent postconsumer recycled plastic;

(c) On and after January 1, 2030: No less than fifty percent postconsumer recycled plastic.

(2)(a) Beginning in 2021, and every other year thereafter, or at the petition of the beverage manufacturing industry but not more than annually, the department shall consider whether the minimum postconsumer recycled content requirements established under subsection (1) of this section should be waived or reduced. The department must consider a petition from the beverage manufacturing industry within sixty days of receipt.

(b) If the department determines that a minimum postconsumer recycled content requirement should be adjusted, the adjusted rate must be in effect until a new determination is made or upon the expiration of the minimum postconsumer recycled content requirement's effective period, whichever occurs first. The department may not adjust the minimum postconsumer recycled content requirements above the minimum postconsumer recycled plastic content percentages, as established under subsection (1) of this section. In making a determination to adjust the minimum postconsumer recycled content requirements the department must at least consider the following:

(i) Changes in market conditions, including supply and demand for postconsumer recycled plastics, collection rates, and bale availability;

(ii) Recycling rates;

(iii) The availability of recycled plastic suitable to meet the minimum postconsumer recycled content requirements, including the availability of high quality recycled plastic, and food grade recycled plastic from beverage container recycling programs;

(iv) The capacity of recycling or processing infrastructure;

(v) The progress made by beverage manufacturers in meeting the requirements of this section; and

(vi) The carbon footprint of the transportation of the recycled resin.

(3) The beverage manufacturing industry or a beverage

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manufacturer may appeal adjustments to the requirement for minimum postconsumer recycled content as determined under subsection (1) of this section to the pollution control hearings board within thirty days of the department's determination.

(4) The department may grant extensions of time for beverage manufacturers to meet the minimum postconsumer recycled plastic content requirements established under subsection (1) of this section if the department determines that a beverage manufacturer has made a substantial effort but has failed to meet the minimum recycled plastic content requirements due to extenuating circumstances beyond the beverage manufacturer's control.

(5) A beverage manufacturer that does not meet the minimum postconsumer recycled plastic content requirements established in subsection (1) of this section is subject to a fee established in section 6 of this act.

NEW SECTION. Sec. 5. (1)(a) On or before March 1, 2022, and annually thereafter, a beverage manufacturer, under penalty of perjury, must report to the department, in pounds and by resin type, the amount of virgin plastic and postconsumer recycled plastic used for plastic beverage containers containing a beverage as established under section 3 of this act sold, offered for sale, or distributed in Washington in the previous calendar year.

(b) The department must post the information reported under this subsection on its web site.

(2) The department may: (a) Conduct audits and investigations for the purpose of ensuring compliance with this section based on the information reported under subsection (1) of this section; and (b) adopt rules to implement, administer, and enforce the requirements of this act.

(3) The department shall keep confidential all business trade secrets and proprietary information about manufacturing processes and equipment that the department gathers or becomes aware of through the course of conducting audits or investigations pursuant to this chapter.

NEW SECTION. Sec. 6. (1) Beginning January 1, 2023, a beverage manufacturer that does not meet the minimum postconsumer recycled plastic content requirements as established under section 4 of this act, based upon the amount in pounds and in the aggregate, is subject to an annual fee.

(2) The following violation levels are based on a beverage manufacturer's overall compliance rate of the minimum postconsumer recycled plastic content requirements.

(a) Level one violation: At least seventy-five percent but less than one hundred percent of the minimum recycled plastic content requirements;

(b) Level two violation: At least fifty percent but less than seventy-five percent of the minimum recycled plastic content requirements;

(c) Level three violation: At least twenty-five percent but less than fifty percent of the minimum recycled plastic content requirements;

(d) Level four violation: At least fifteen percent but less than twenty-five percent of the minimum recycled plastic content requirements; and

(e) Level five violation: Less than fifteen percent of the minimum recycled plastic content requirements.

(3) Beginning March 1, 2023, the department may assess fees for violations as follows:

(a) Level one violation, the fee range is five cents to fifteen cents per pound;

(b) Level two violation, the fee range is ten cents to twenty cents per pound;

(c) Level three violation, the fee range is fifteen cents to

twenty-five cents per pound;

(d) Level four violation, the fee range is twenty cents to thirty cents per pound;

(e) Level five violation, the fee range is twenty-five cents to thirty cents per pound.

(4) In lieu of or in addition to assessing a fee under subsection (3) of this section, the department may require a beverage manufacturer to submit a corrective action plan detailing how the beverage manufacturer plans to come into compliance with section 4 of this act.

(5) The department shall consider equitable factors in determining whether to assess a fee under subsection (3) of this section and the amount of the fee including, but not limited to: The nature and circumstances of the violation; actions taken by the beverage manufacturer to correct the violation; the beverage manufacturer's history of compliance; the size and economic condition of the beverage manufacturer; and whether the violation or conditions giving rise to the violation were due to circumstances beyond the reasonable control of the beverage manufacturer or were otherwise unavoidable under the circumstances including, but not limited to, unforeseen changes in market conditions.

(6) A beverage manufacturer must:

(a) Pay to the department assessed fees in quarterly installments; or

(b) Arrange an alternative payment schedule subject to the approval of the department.

(7) A beverage manufacturer may appeal fees assessed under this section to the pollution control hearings board within thirty days of assessment.

(8)(a) The department shall consider waiving or reducing the fees or extending the time frame for assessing fees established under subsection (3) of this section for a beverage manufacturer that has demonstrated progress toward meeting the minimum postconsumer recycled content requirements, as established under section 4 of this act, if the beverage manufacturer:

(i) Has failed to meet the minimum postconsumer recycled content requirements; or

(ii) Anticipates it will not be able to meet the minimum postconsumer recycled content requirements.

(b) In determining whether to grant a waiver of, or reduce a fee, or extend the time frame for assessing a fee, the department shall consider, at a minimum, all of the following:

(i) Anomalous market conditions;

(ii) Disruption in, or lack of supply of, recycled plastics; and

(iii) Other factors that have prevented a beverage manufacturer from meeting the requirements.

(9) A beverage manufacturer shall pay the fees assessed pursuant to this section, as applicable, based on the information reported to the department as required under section 5(1) of this act in the form and manner prescribed by the department.

NEW SECTION. Sec. 7. The recycling enhancement fee account is created in the state treasury. All fees collected by the department pursuant to section 6 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department only for providing funding to the recycling development center created in RCW 70.370.030 for the purpose of furthering the development of recycling infrastructure in this state.

NEW SECTION. Sec. 8. A new section is added to chapter 42.56 RCW to read as follows:

Information submitted to the department of ecology under chapter 70.--- RCW (the new chapter created in section 13 of this act), that contains business trade secrets or proprietary

information about manufacturing processes and equipment, is exempt from disclosure under this chapter.

Sec. 9. RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and 2019 c 290 s 12 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 70.365.070, 70.375.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.365.070, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) A final decision by the department or director made under chapter 183, Laws of 2009.

(d) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(e) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(f) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(g) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(h) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(i) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(j) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(k) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(l) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(m) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(n) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable

by the hearings board under RCW 79.100.120.

(o) Decisions of the department that are appealable under sections 4 and 6 of this act, to set recycled minimum postconsumer content for plastic beverage containers and to assess fees.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

Sec. 10. RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and 2019 c 290 s 12 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 70.365.070, 70.375.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.365.070, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are

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reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department that are appealable under sections 4 and 6 of this act, to set recycled minimum postconsumer content for plastic beverage containers and to assess fees.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 11. Section 9 of this act expires June 30, 2021.

NEW SECTION. Sec. 12. Section 10 of this act takes effect June 30, 2021.

NEW SECTION. Sec. 13. Sections 2 through 7 of this act constitute a new chapter in Title 70 RCW."

On page 1, line 1 of the title, after "requirements;" strike the remainder of the title and insert "reenacting and amending RCW 43.21B.110 and 43.21B.110; adding a new section to chapter 42.56 RCW; adding a new chapter to Title 70 RCW; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date."

MOTION

Senator Ericksen moved that the following floor amendment no. 1301 by Senator Ericksen be adopted:

On page 7, after line 3, insert the following:

"NEW SECTION. Sec. 8. (1) A city, town, county, or municipal corporation may not implement local recycled content requirements for plastic beverage containers that must meet minimum postconsumer recycled content as required under sections 3 and 4 of this act.

(2) Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of this act, may not be enacted and are preempted."

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

On page 11, line 17, after "through" strike "7" and insert "8"

Senators Ericksen and Padden spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Lovelett spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1301 by Senator Ericksen on page 7, after line 3 to the striking amendment by the Committee on Environment, Energy & Technology.

The motion by Senator Ericksen did not carry and floor amendment no. 1301 was not adopted by voice vote.

MOTION

Senator Fortunato moved that the following floor amendment no. 1310 by Senator Fortunato be adopted:

On page 11, after line 12, insert the following:

"Sec. 11. RCW 70.93.220 and 2014 c 76 s 3 are each amended to read as follows:

(1) The department is the coordinating and administrative agency working with the departments of natural resources, revenue, transportation, and corrections, and the parks and recreation commission in developing a biennial budget request for funds for the various agencies' litter collection programs.

(2) Funds may be used to meet the needs of efficient and effective litter collection and illegal dumping programs identified by the various agencies. The department shall develop criteria for evaluating the effectiveness and efficiency of the waste reduction, litter control, and recycling programs being administered by the various agencies listed in RCW 70.93.180, and shall distribute funds according to the effectiveness and efficiency of those programs, with a priority given to litter control along state highways. In addition, the department shall approve funding requests for efficient and effective waste reduction, litter control, and recycling programs, provide funds, and monitor the results of all agency programs.

(3) All agencies are responsible for reporting information on their litter collection programs as requested by the department.

(4) The department shall contract with the department of transportation to schedule litter prevention messaging and coordination of litter emphasis patrols with the Washington state patrol. Additionally, the department of transportation may coordinate with the department to conduct litter pickup during scheduled maintenance closures as situations allow.

NEW SECTION. Sec. 12. This act may be known and cited as the welcome to Washington act."

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

On page 11, line 20, after "insert" insert "amending RCW 70.93.220;" and on line 22, after "creating" strike "a new section" and insert "new sections"

Senator Fortunato spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Lovelett spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1310 by Senator Fortunato on page 11, after line 12 to the striking amendment by the Committee on Environment, Energy & Technology.

The motion by Senator Fortunato did not carry and floor amendment no. 1310 was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee

on Environment, Energy & Technology to Engrossed Substitute House Bill No. 2722.

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

MOTION

On motion of Senator Das, the rules were suspended, Engrossed Substitute House Bill No. 2722 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Das spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2722 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2722 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Pedersen, Randall, Rolfes, Saldaña, Salomon, Stanford, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Becker, Braun, Brown, Ericksen, Hawkins, Holy, Honeyford, King, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2722, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2511, by House Committee on Labor & Workplace Standards (originally sponsored by Stonier, Sells, Gregerson, Ormsby, Chapman, Valdez, Chopp, Bergquist, Davis, Doglio, Frame, Ramel, Pollet, Macri, Goodman, Riccelli and Robinson)

Providing labor protections for domestic workers.

The measure was read the second time.

MOTION

Senator Saldaña moved that the following committee striking amendment by the Committee on Labor & Commerce be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. Whereas there is increasing demand for domestic service professions and domestic workers are often isolated and vulnerable to exploitation, it is a priority for the legislature to provide workers with clear rights and freedom from harassment and protection from retaliation; and to make clear for hiring entities which actions are prohibited in a domestic service employment relationship.

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

otherwise.

(1) "Casual labor" refers to work that is irregular, uncertain, and incidental in nature and duration and is different in nature from the type of paid work in which the worker is customarily engaged in.

(2) "Challenging behavior" means behavior by a person receiving services or a hiring entity who is the recipient of services from a domestic worker that is specifically caused by or related to a disability that manifests in a way that might be experienced by a domestic worker as offensive or presenting a safety risk.

(3) "Discrimination" means employment discrimination prohibited by chapter 49.60 RCW.

(4) "Domestic service" means household services for members of households or their guests in private homes. This includes the maintenance of private homes or their premises.

(5)(a) "Domestic worker" includes hourly and salaried employees who are paid wages for their services and includes any worker who:

(i) Works for one or more hiring entity; and

(ii) Is an individual who works in residences as a nanny, house cleaner, home care worker, cook, gardener, or household manager, or for any domestic service purpose including but not limited to: Caring for a child; providing support services for a person who is sick, convalescing, elderly, or a person with a disability; providing housekeeping or house cleaning services; cooking; providing food or butler services; parking cars; cleaning laundry; gardening; or working as a household manager.

(b) "Domestic worker" does not include:

(i) Persons who provide babysitting on a casual labor basis;

(ii) Any individual employed in casual labor in or about a private home, unless performed in the course of the hiring entity's trade, business, or profession;

(iii) Individual providers, as defined in RCW 74.39A.240;

(iv) Persons who perform house sitting, pet sitting, food delivery services, and dog walking duties that do not involve domestic service;

(v) Persons who provide services to members of their own family when:

(A) The family members have mutually agreed that care is provided gratuitously;

(B) The person who provides services or supports does not provide domestic services in the person's ordinary course of business;

(C) The family member providing services or supports has no agreement or expectation of consistent and regular payment for any services provided;

(D) The family member providing services or supports is doing so less than fifteen hours a week; or

(E) The family member is providing services or supports that are irregular, uncertain, and incidental in nature and duration or are different in nature from the type of paid work in which the worker is customarily engaged in.

(6) "Employ" includes to permit to work.

(7) "Family member" shall be liberally construed to include, but not be limited to, a parent, child, sibling, aunt, uncle, cousin, grandparent, grandchild, grandniece, or grandnephew, or such relatives when related by marriage or any individual related by blood or affinity whose close association with the individual is the equivalent of a family relationship.

(8) "Hiring entity" means any employer, as defined in RCW 49.46.010(4), and in RCW 49.60.040(11), who employs a domestic worker, as well as any individual, partnership, association, corporation, business trust, or any combination thereof, which pays a wage or pays wages for the services of a domestic worker. It includes any such entity, person, or group of

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persons that provides compensation directly or indirectly to a domestic worker for the performance of domestic services and any such entity, person, or persons acting directly or indirectly in the interest of the hiring entity in relation to the domestic worker. "Hiring entity" does not include a state agency or home care agency as defined in RCW 70.127.010 and licensed under chapter 70.127 RCW if the home care agency receives funding through RCW 74.39A.310, any adult family home licensed under chapter 70.128 RCW, an assisted living facility licensed under chapter 18.20 RCW, an enhanced services facility licensed under chapter 70.97 RCW, any other long-term care facility licensed by the department of social and health services, or any other person or entity providing services pursuant to chapter 71A.12 RCW.

(9) "Personal care services" are care services as defined in RCW 74.39A.009.

NEW SECTION. Sec. 3. (1) A hiring entity that employs a domestic worker may not:

(a) Request that the domestic worker allow the hiring entity, on either a mandatory or voluntary basis, to have possession of any personal effects, including any legal documents, including forms of identification, passports, or other immigration documents;

(b) Engage in any form of discrimination as defined in section 2(3) of this act or subject a domestic worker to a hostile work environment within the meaning of chapter 49.60 RCW; a domestic worker shall be entitled to all rights available under chapter 49.60 RCW. It shall not constitute discrimination or harassment only when:

(i) The alleged discrimination is a challenging behavior; or

(ii) A hiring entity who is receiving personal care services, or who has lawful authority or guardianship over a child receiving personal care services, exercises a gender preference in hiring;

(c) Take any adverse action against a domestic worker for their exercise of rights under this chapter, which may include, but is not limited to:

(i) Denying the use of any rights provided under this chapter;

(ii) Denying or delaying payment due under this chapter;

(iii) Terminating, suspending, demoting, or denying a promotion;

(iv) Reducing the number of work hours for which the domestic worker is scheduled;

(v) Altering the domestic worker's preexisting work schedule;

(vi) Reducing the domestic worker's rate of pay; and

(vii) Threatening to take, or taking action, based upon the immigration status of a domestic worker or a domestic worker's family member;

(d) Monitor or record, through any means, the activities of the domestic worker using a bathroom or similar facility, in the domestic worker's private living quarters, or while the domestic worker is engaged in personal activities associated with dressing or changing clothes;

(e) Monitor, record, or interfere with the private communications of a domestic worker;

(f) Communicate to a person exercising rights protected under this chapter, directly or indirectly, the willingness or intent to inform a government employee or contracted organization suspected citizenship or immigration status of a domestic worker or a family member to a federal, state, or local agency because the domestic worker has exercised any right under this chapter;

(g) Require or request any written agreements that:

(i) Waive a domestic worker's rights under federal, state, or local law; or

(ii) Contain noncompete agreements, nondisclosure agreements, nondisparagement agreements that inhibit a domestic worker's claims of their legal rights under this chapter, or noncompete agreements that limit the ability of domestic workers

to seek any other form of domestic work postemployment.

(2) It shall be considered a rebuttable presumption of retaliation if the employer or any other person takes an adverse action against a domestic worker within ninety calendar days of the domestic worker's exercise of rights protected under this chapter. However, in the case of seasonal employment that ended before the close of the ninety calendar day period, the presumption also applies if the employer fails to rehire a former domestic worker at the next opportunity for work in the same position. The employer may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

(3) Where subsection (1)(b)(i) of this section applies, prior to offering the employment to a domestic worker or as soon as the hiring entity learns of the information if the domestic worker is already employed, the hiring entity should, when possible, disclose information about any challenging behaviors and relevant behavioral health needs of the individual being cared for as well as tools and supports that may be available to the domestic worker. If there is an authorized representative for the hiring entity receiving care, or an overlapping employment relationship with the hiring entity receiving care, this information must be disclosed in writing by the authorized representative or the hiring entity not receiving care services. The disclosure should be reviewed regularly and must be updated, as necessary, by the hiring entity when any changes in behavior occur that impact safety or provision of personal care services.

(4) All communication of the information in subsection (3) of this section must be tailored to respect the privacy of the person receiving services from the domestic worker in accordance with the federal health insurance portability and accountability act of 1996.

(5) The exemptions under this section shall not be construed to relieve a hiring entity of liability under this chapter nor shall a domestic worker's agreement to initiate or continue the employment relationship be construed as consent to workplace violence.

NEW SECTION. Sec. 4. Where more than one hiring entity has an employment relationship with a domestic worker in connection with the same work or where more than one hiring entity has an overlapping employment relationship with a domestic worker, the hiring entities are subject to liability as well as fines and penalties for violations.

NEW SECTION. Sec. 5. Any standards or rights established by any applicable federal, state, or local law or ordinance, or any rule or regulation issued thereunder, which are more favorable to domestic workers than the minimum standards and rights established by this chapter, or any rule or regulation issued hereunder, shall not be affected by this chapter and such other laws, or rules or regulations, shall be in full force and effect and may be enforced as provided by law. The remedies provided by this chapter are not exclusive and are concurrent with any other remedy provided by law.

NEW SECTION. Sec. 6. The attorney general's office shall develop and make available a model disclosure statement which describes a hiring entity's obligations related to a domestic worker's rights under this chapter, in at least eight of the most commonly spoken languages in Washington state. The disclosure statement must include notice about any state law, rule, or regulation applicable to domestic workers and indicate that federal or local ordinances, laws, rules, or regulations may also apply. The model disclosure must also include a telephone number and an address of the department of labor and industries to enable domestic workers to obtain more information about their rights, obligations, and enforcement.

NEW SECTION. Sec. 7. The attorney general's office shall

develop and make available a model written employment agreement, which describes actions that are prohibited by a hiring entity and domestic workers' rights under this act in at least eight of the most commonly spoken languages.

NEW SECTION. Sec. 8. (1) A work group, and accompanying subcommittees as appropriate, on domestic workers administered by the attorney general's office is formed to make recommendations on:

(a) A structure for an ongoing domestic worker standards board, including determining the authority and scope of the board. Such authority and scope shall include, but are not limited to, training on relevant labor laws, benefits, and protections; discrimination and sexual harassment; workplace safety standards; requirements on tax obligations; job skills and accreditation; fair scheduling practices; scope of rights and benefits that may apply to independent contractors; outreach, education, and enforcement practices to ensure compliance with applicable labor standards and to provide effective and updated information to both hiring entities and domestic workers;

(b) Methods to make state industrial insurance available to domestic workers, including recommendations on legislative, regulatory, or other changes that should be made to the way hiring entities or domestic workers engage with the state industrial insurance system;

(c) Methods to increase access for domestic workers to paid sick leave under RCW 49.46.210 and paid family and medical leave under Title 50A RCW;

(d) The role of intermediary nonprofit organizations that assist or refer directly impacted domestic workers in increasing access of domestic workers to industrial insurance and to paid sick leave and paid family and medical leave;

(e) Wage and hour models for domestic work, including but not limited to live-in care providers such as nannies and au pairs, and independent contractors.

(2) The work group shall include at least one representative from each of the following groups that reflects a balance in membership and interests:

(a) Directly impacted domestic workers employed in private homes including one domestic worker providing child care services as a nanny, and one domestic worker providing another form of domestic service outside of child care;

(b) One current or former au pair;

(c) Unions, work centers, or intermediary nonprofit organizations that assist or refer such directly impacted workers;

(d) Hiring entities who directly employ single domestic workers in private homes;

(e) An organization that educates and organizes household hiring entities;

(f) At least two members of the department of labor and industries with expertise in industrial insurance and wage and hour laws and rules;

(g) One representative from the department of social and health services;

(h) An organization representing the area agencies on aging;

(i) An organization representing retired persons;

(j) An organization representing persons with disabilities;

(k) An organization or agency representing au pairs;

(l) One representative from the governor's office; and

(m) One representative from the attorney general's office.

(3) Representatives shall be appointed by the governor by July 1, 2020.

(4) The work group shall report its findings and recommendations to the governor's office, attorney general's office, and appropriate committees of the legislature by April 1, 2021.

Sec. 9. RCW 49.60.040 and 2018 c 176 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) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur.

(2) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.

(3) "Commission" means the Washington state human rights commission.

(4) "Complainant" means the person who files a complaint in a real estate transaction.

(5) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units.

(6) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred.

(7)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular

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job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, ~~((genitor-urinary))~~ genitourinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

(e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

(8) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons.

(9) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(10) "Employee" does not include any individual employed by his or her parents, spouse, or child ~~((or in the domestic service of any person))~~.

(11) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons ~~((s))~~ and does not include any religious or sectarian organization not organized for private profit. "Employer" also includes a hiring entity who employs a domestic worker, as defined in section 2 of this act, regardless of the number of employees the hiring entity employs.

(12) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees ~~((for an employer))~~.

(13) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

(14) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly

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causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, to be treated as not welcome, accepted, desired, or solicited.

(15) "Honorably discharged veteran or military status" means a person who is:

(a) A veteran, as defined in RCW 41.04.007; or

(b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

(16) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(17) "Marital status" means the legal status of being married, single, separated, divorced, or widowed.

(18) "National origin" includes "ancestry."

(19) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof.

(20) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building.

(21) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services.

(22) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

(23) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction.

(24) "Service animal" means any dog or miniature horse, as discussed in RCW 49.60.214, that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks. This subsection does not apply to RCW 49.60.222 through 49.60.227 with respect to housing accommodations or real estate transactions.

(25) "Sex" means gender.

(26) "Sexual orientation" means heterosexuality,

homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

NEW SECTION. Sec. 10. This act may be known and cited as the domestic worker protection act.

NEW SECTION. Sec. 11. Sections 1 through 8, 10, and 12 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. Sec. 12. Sections 1 through 7, 9, and 10 of this act take effect July 1, 2021."

On page 1, line 2 of the title, after "workers;" strike the remainder of the title and insert "amending RCW 49.60.040; adding a new chapter to Title 49 RCW; prescribing penalties; and providing an effective date."

MOTION

Senator Walsh moved that the following floor amendment no. 1321 by Senators King and Walsh be adopted:

On page 2, line 16, after "(v)" insert "An au pair participant who has been granted a J-1 visa for participation in the federal department of state designated exchange visitor program governed by 22 C.F.R. Sec. 62.31;

(vi)"

Senators Walsh and Saldaña spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1321 by Senators King and Walsh on page 2, line 16 to the striking amendment by the Committee on Labor & Commerce.

The motion by Senator Walsh carried and floor amendment no. 1321 was adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 1320 by Senator Short be adopted:

On page 7, line 8, after "interests" insert ", and geographic locations across the state"

Senator Short spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Keiser spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1320 by Senator Short on page 7, line 8 to the striking amendment by the Committee on Labor & Commerce.

The motion by Senator Short did not carry and floor amendment no. 1320 was not adopted by voice vote.

MOTION

Senator Randall moved that the following floor amendment no. 1267 by Senator Randall be adopted:

On page 7, line 29, after "(l)" insert "One representative from an au pair host family;

(m)"

Reletter the remaining subsection consecutively and correct

any internal references accordingly.

Senator Randall spoke in favor of adoption of the amendment to the committee striking amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Randall and without objection, floor amendment no. 1267 by Senator Randall on page 7, line 29 to the striking amendment by the Committee on Labor & Commerce was withdrawn.

MOTION

Senator Schoesler moved that the following floor amendment no. 1319 by Senator Schoesler be adopted:

On page 12, after line 38, insert the following:

"NEW SECTION. Sec. 11. A new section is added to chapter 49.46 RCW to read as follows:

An au pair participant who has been granted a J-1 visa for participation in the federal department of state designated exchange visitor program governed by 22 C.F.R. section 62.31 must be paid by the participant's employer no less than the hourly rate required to be paid to a H-2A worker as defined in RCW 50.75.010 who is working in Washington state."

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

On page 13, line 6, after "49.60.040;" insert "adding a new section to chapter 49.46 RCW;"

Senator Schoesler spoke in favor of adoption of the amendment to the committee striking amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Schoesler and without objection, floor amendment no. 1319 by Senator Schoesler on page 12, line 38 to the striking amendment by the Committee on Labor & Commerce was withdrawn.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor & Commerce as amended to Substitute House Bill No. 2511.

The motion by Senator Saldaña carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

On motion of Senator Saldaña, the rules were suspended, Substitute House Bill No. 2511 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Saldaña and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2511 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2511 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

occupational classifications or job titles of workers.

The measure was read the second time.

Voting nay: Senator Ericksen

MOTION

SUBSTITUTE HOUSE BILL NO. 2511 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2308 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2308.

SECOND READING

ROLL CALL

HOUSE BILL NO. 2853, by Representatives Harris and Santos

The Secretary called the roll on the final passage of Substitute House Bill No. 2308 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 0; Excused, 1.

Promoting the effective and efficient administration of the Washington state charter school commission.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Muzzall, Nguyen, O'Ban, Pedersen, Randall, Rolfes, Saldaña, Salomon, Sheldon, Short, Stanford, Takko, Van De Wege, Wellman, Wilson, C. and Zeiger

The measure was read the second time.

Voting nay: Senators Becker, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, Mullet, Padden, Rivers, Schoesler, Wagoner, Warnick and Wilson, L.

MOTION

Excused: Senator Walsh

On motion of Senator Wellman, the rules were suspended, House Bill No. 2853 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Wellman spoke in favor of passage of the bill.

SUBSTITUTE HOUSE BILL NO. 2308, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brown, Senator Walsh was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2853.

SECOND READING

ROLL CALL

ENGROSSED HOUSE BILL NO. 2584, by Representatives Caldier, Frame, Leavitt and Davis

The Secretary called the roll on the final passage of House Bill No. 2853 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Establishing rates for behavioral health services.

The measure was read the second time.

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

MOTION

Voting nay: Senators Hasegawa and Van De Wege

Senator Cleveland moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Excused: Senator Walsh

Strike everything after the enacting clause and insert the following:

HOUSE BILL NO. 2853, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

"NEW SECTION. **Sec. 1.** A new section is added to chapter 71.24 RCW to read as follows:

SECOND READING

(1) It is the intent of the legislature that behavioral health medicaid rate increases be grounded with the rate-setting process for the provider type or practice setting.

SUBSTITUTE HOUSE BILL NO. 2308, by House Committee on Appropriations (originally sponsored by Slatter, Tharinger, Wylie and Appleton)

(2) In implementing a rate increase funded by the legislature, including rate increases provided through managed care organizations, the authority must work with the actuaries responsible for establishing medicaid rates for behavioral health services and managed care organizations responsible for distributing funds to behavioral health services to assure that appropriate adjustments are made to the wraparound with

Requiring employers to periodically report standard

intensive services case rate, as well as any other behavioral health services in which a case rate is used.

(3)(a) The authority shall establish a process for verifying that funds appropriated in the omnibus operating appropriations act for targeted behavioral health provider rate increases, including rate increases provided through managed care organizations, are used for the objectives stated in the appropriation.

(b) The process must: (i) Establish which behavioral health provider types the funds are intended for; (ii) include transparency and accountability mechanisms to demonstrate that appropriated funds for targeted behavioral health provider rate increases are passed through, in the manner intended, to the behavioral health providers who are the subject of the funds appropriated for targeted behavioral health provider rate increases; (iii) include actuarial information provided to managed care organizations to ensure the funds directed to behavioral health providers have been appropriately allocated and accounted for; and (iv) include the participation of managed care organizations, behavioral health administrative services organizations, providers, and provider networks that are the subject of the targeted behavioral health provider rate increases. The process must include a method for determining if the funds have increased access to the behavioral health services offered by the behavioral health providers who are the subject of the targeted provider rate increases.

(c) The process may:

(i) Include a quantitative method for determining if the funds have increased access to behavioral health services offered by the behavioral health providers who received the targeted provider rate increases;

(ii) Ensure the viability of pass-through payments in a capitated rate methodology; and

(iii) Ensure that medicaid rate increases account for the impact of value-based contracting on provider reimbursements and implementations of pass-through payments.

(4) By November 1st of each year, the authority shall report to the committees of the legislature with jurisdiction over behavioral health issues and fiscal matters regarding the established process for each appropriation for a targeted behavioral health provider rate increase, whether the funds were passed through in accordance with the appropriation language, and any information about increased access to behavioral health services associated with the appropriation. The reporting requirement for each appropriation for a targeted behavioral health provider rate increase shall continue for two years following the specific appropriation."

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "and adding a new section to chapter 71.24 RCW."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 2584.

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

MOTION

On motion of Senator Cleveland, the rules were suspended, Engrossed House Bill No. 2584 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the

final passage of Engrossed House Bill No. 2584 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2584 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Walsh

ENGROSSED HOUSE BILL NO. 2584 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2554, by House Committee on Health Care & Wellness (originally sponsored by Stonier, Cody, Macri, Riccelli, Robinson, Tharinger, Senn, Peterson, Valdez, Davis, Doglio, Dolan, Fitzgibbon, Walen, Frame, Ramel, Pollet, Ryu, Goodman, Lekanoff, Ormsby and Chapman)

Mitigating inequity in the health insurance market caused by health plans that exclude certain mandated benefits.

The measure was read the second time.

MOTION

Senator Randall moved that the following committee striking amendment by the Committee on Health & Long Term Care be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) A health carrier that excludes, under state or federal law, any benefit required or mandated by this title or rules adopted by the commissioner from any health plan or student health plan shall:

(a) Notify each enrollee in writing of the following:

(i) Which benefits the health plan or student health plan does not cover; and

(ii) Alternate ways in which the enrollees may access excluded benefits in a timely manner;

(b) Ensure that enrollees have prompt access to the information required under this subsection; and

(c) Clearly and legibly include the information specified in (a)(i) and (ii) of this subsection in any of its marketing materials that include a list of benefits covered under the plan. The information must also be listed in the benefit booklet and posted on the carrier's health plan or student health plan web site.

(2) For the purpose of mitigating inequity in the health insurance market, unless waived by the commissioner pursuant to (c) of this subsection, the commissioner must assess a fee on any

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health carrier offering a health plan or student health plan if the health plan or student health plan excludes, under state or federal law, any essential health benefit or coverage that is otherwise required or mandated by this title or rules adopted by the commissioner.

(a) The commissioner shall set the fee in an amount that is the actuarial equivalent of costs attributed to the provision and administration of the excluded benefit. As part of its rate filing, a health carrier subject to this subsection (2) must submit to the commissioner an estimate of the amount of the fee, including supporting documentation of its methods for estimating the fee. The carrier must include in its supporting documentation a certification by a member of the American academy of actuaries that the estimated fee is the actuarial equivalent of costs attributed to the provision and administration of the excluded benefit.

(b) Fees paid under this section must be deposited into the general fund.

(c) The commissioner may waive the fee assessed under this subsection (2) if he or she finds that the carrier excluding a mandated benefit for a health plan or student health plan provides health plan enrollees or student health plan enrollees alternative access to all excluded mandated benefits.

(3) Beginning July 1, 2021, the commissioner shall provide on its web site written notice of the carrier requirements in this section and information on alternate ways in which enrollees may access excluded benefits in a timely manner.

(4) Nothing in this section limits the authority of the commissioner to take enforcement action if a health carrier unlawfully fails to comply with the provisions of this title.

(5) The commissioner shall adopt any rules necessary to implement this section.

NEW SECTION. Sec. 2. A new section is added to chapter 43.71 RCW to read as follows:

(1) Beginning November 1, 2021, the exchange shall provide individuals seeking to enroll in coverage on its web site with access to the information a health carrier must provide under section 1 of this act for any qualified health plan the health carrier offers that excludes, under state or federal law, any benefit required or mandated by Title 48 RCW or rules adopted by the commissioner.

(2) The exchange may provide the access required under this section directly on its web site, through a link to an external web site, or in any other manner that allows consumers to easily access the information.

NEW SECTION. Sec. 3. 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."

On page 1, line 2 of the title, after "benefits;" strike the remainder of the title and insert "adding a new section to chapter 48.43 RCW; and adding a new section to chapter 43.71 RCW."

MOTION

Senator O'Ban moved that the following floor amendment no. 1249 by Senator O'Ban be adopted:

On page 1, line 22, after "subsection" insert "or prohibited pursuant to (d) of this subsection"

On page 2, after line 12, insert the following:

"(d) The commissioner may not assess a fee under this section on any carrier that excludes a mandated benefit for reason of conscience or religion, pursuant to the carrier's right to object to participating in the provision of a specific service under RCW 48.43.065."

Senators O'Ban, Becker, Fortunato and Padden spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Randall and Cleveland spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1249 by Senator O'Ban on page 1, line 22 to the striking amendment by the Committee on Health & Long Term Care.

The motion by Senator O'Ban did not carry and floor amendment no. 1249 was not adopted by rising vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long Term Care to Substitute House Bill No. 2554.

The motion by Senator Randall carried and the committee striking amendment was adopted by a rising vote.

MOTION

On motion of Senator Randall, the rules were suspended, Substitute House Bill No. 2554 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Randall spoke in favor of passage of the bill.

Senators O'Ban, Rivers, Becker, Fortunato, Ericksen, Padden, Wagoner and Muzzall spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2554 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2554 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

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

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

SUBSTITUTE HOUSE BILL NO. 2554, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 6:44 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

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

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

The Senate was called to order at 8:48 p.m. by President Habib.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2467, by House Committee on Appropriations (originally sponsored by Hansen, Irwin, Griffey, Barkis and Wylie)

Establishing a centralized single point of contact background check system for firearms transfers.

The measure was read the second time.

MOTION

Senator Wilson, L. moved that the following floor amendment no. 1295 by Senator Wilson, L. be adopted:

On page 3, beginning on line 4, after "(4)" strike all material through "firearm" on line 18 and insert "The Washington state patrol may not require a dealer to charge a fee for performing background checks in connection with firearm transfers"

On page 5, beginning on line 29, strike all of section 3

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

On page 6, beginning on line 24, after "(2)" strike all material through "(3)" on line 30

Senators Wilson, L., Ericksen and Wagoner spoke in favor of adoption of the amendment.

Senators Pedersen and Liias spoke against adoption of the amendment.

MOTION

On motion of Senator Wilson, C., Senators Dhingra and Hobbs were excused.

The President declared the question before the Senate to be the adoption of floor amendment no. 1295 by Senator Wilson, L. on page 3, line 4 to Engrossed Second Substitute House Bill No. 2467.

The motion by Senator Wilson, L. did not carry and floor amendment no. 1295 was not adopted by voice vote.

MOTION

Senator Becker moved that the following floor amendment no. 1311 by Senator Becker be adopted:

On page 3, beginning on line 4, after "(4)" strike all material through "firearm" on line 18 and insert "The Washington state patrol may not require a dealer to charge a fee for performing background checks in connection with firearm transfers"

On page 5, beginning on line 32, after "receipts" strike all material through "act" on line 33 and insert "collected pursuant to fines imposed pursuant to RCW 9.94A.550(2)"

On page 6, beginning on line 24, after "(2)" strike all material through "(3)" on line 30

On page 11, after line 8, insert the following:

Sec. 10. RCW 9.94A.550 and 2015 c 265 s 15 are each amended to read as follows:

(1) Unless otherwise provided by a statute of this state, on all sentences under this chapter the court may impose fines on adult offenders according to the following ranges:

Class A felonies \$0 - 50,000

Class B felonies \$0 - 20,000

Class C felonies \$0 - 10,000

(2) On all sentences under this chapter, the court shall impose a fine of eighteen dollars on adult offenders for any offense involving the use of a firearm. Amounts collected shall be transmitted to the state treasurer for deposit in the state firearms background check system account created in section 3 of this act."

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

On page 1, line 3 of the title, after "36.28A.405," strike "and 36.28A.420" and insert ", 36.28A.420, and 9.94A.550"

Senator Becker spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1311 by Senator Becker on page 3, line 4 to Engrossed Second Substitute House Bill No. 2467.

The motion by Senator Becker did not carry and floor amendment no. 1311 was not adopted by voice vote.

MOTION

Senator Schoesler moved that the following floor amendment no. 1308 by Senator Schoesler be adopted:

On page 3, line 18, after "firearm" insert ", or to any background check conducted in connection with a firearm transfer between immediate family members"

Senators Schoesler and Fortunato spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

POINT OF INQUIRY

Senator Schoesler: "Would the gentleman from the 43rd District yield to a question?"

Senator Pedersen: "Certainly."

Senator Schoesler: "Thank you Mr. President. Thank you Senator Pedersen. In your comments, you said that the amendment was not necessary because immediate family members were exempted. Does that mean that your grandchildren could not be gifted that firearm without a background check?"

Senator Pedersen: "Senator Schoesler, I have to look into chapter 9.41 to be exact on language for the definition of immediate family member, but it is the case that immediate family members are exempted from the..."

Senator Schoesler: "Is it that grandchildren are immediate family? Yes or no? I am not an attorney like yourself."

President Habib: "I think Senator Schoesler, Senator Pedersen said that he has given the information that he has at his disposal now, so we are not going to have a back and forth colloquy, but please continue your remarks Senator Schoesler."

The President declared the question before the Senate to be the adoption of floor amendment no. 1308 by Senator Schoesler on page 3, line 18 to Engrossed Second Substitute House Bill No. 2467.

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The motion by Senator Schoesler did not carry and floor amendment no. 1308 was not adopted by voice vote.

amendment no. 1326 was not adopted by voice vote.

MOTION

On motion of Senator Pedersen, the rules were suspended, Engrossed Second Substitute House Bill No. 2467 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pedersen spoke in favor of passage of the bill.
Senators Padden and Warnick spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2467.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2467 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

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

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2467, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2419, by House Committee on Health Care & Wellness (originally sponsored by Rude, Macri, Kloba, Peterson, Springer, Cody, Ormsby, Riccelli and Doglio)

Studying barriers to the use of the Washington death with dignity act.

The measure was read the second time.

MOTION

Senator O'Ban moved that the following floor amendment no. 1326 by Senator O'Ban be adopted:

On page 2, line 16, after "policy." Insert "The report's recommendations must include options for an individual or organization to exercise their right to decline providing or paying for a service by reason of conscience or religion under RCW 48.43.065."

Senator O'Ban spoke in favor of adoption of the amendment.
Senator Cleveland spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1326 by Senator O'Ban on page 2, line 16 to Substitute House Bill No. 2419.

The motion by Senator O'Ban did not carry and floor

MOTION

On motion of Senator Cleveland, the rules were suspended, Substitute House Bill No. 2419 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland, Rivers, Padden and Becker spoke in favor of passage of the bill.
Senator O'Ban spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2419.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2419 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Takko, Van De Wege, Wagoner, Walsh, Wellman, Wilson, C. and Wilson, L.

Voting nay: Senators Braun, Brown, Ericksen, Fortunato, Holy, Honeyford, Muzzall, O'Ban, Padden, Schoesler, Short, Warnick and Zeiger

SUBSTITUTE HOUSE BILL NO. 2419, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2638, by House Committee on Commerce & Gaming (originally sponsored by Peterson, MacEwen, Stonier, Harris, Robinson, Young, Ortiz-Self, Stokesbary, Tharinger, Walsh, Riccelli, Appleton, Griffey, Hansen, Kloba, Lekanoff, Sells, Chapman, Gregerson and Ramel)

Authorizing sports wagering subject to the terms of tribal-state gaming compacts.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It has long been the policy of this state to prohibit all forms and means of gambling except where carefully and specifically authorized and regulated. The legislature intends to further this policy by authorizing sports wagering on a very limited basis by restricting it to tribal casinos in the state of Washington. Tribes have more than twenty years' experience with, and a proven track record of, successfully operating and regulating gaming facilities in accordance with tribal gaming compacts. Tribal casinos can operate sports wagering pursuant to these tribal gaming compacts, offering the

benefits of the same highly regulated environment to sports wagering.

NEW SECTION. Sec. 2. A new section is added to chapter 9.46 RCW to read as follows:

(1) Upon the request of a federally recognized Indian tribe or tribes in the state of Washington, the tribe's class III gaming compact may be amended pursuant to the Indian gaming regulatory act, 25 U.S.C. Sec. 2701 et seq., and RCW 9.46.360 to authorize the tribe to conduct and operate sports wagering on its Indian lands, provided the amendment addresses: Licensing; fees associated with the gambling commission's regulation of sports wagering; how sports wagering will be conducted, operated, and regulated; issues related to criminal enforcement, including money laundering, sport integrity, and information sharing between the commission and the tribe related to such enforcement; and responsible and problem gambling. Sports wagering conducted pursuant to the gaming compact is a gambling activity authorized by this chapter.

(2) Sports wagering conducted pursuant to the provisions of a class III gaming compact entered into by a tribe and the state pursuant to RCW 9.46.360 is authorized bookmaking and is not subject to civil or criminal penalties pursuant to RCW 9.46.225.

Sec. 3. RCW 9.46.070 and 2012 c 116 s 1 are each amended to read as follows:

The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games, to utilize punchboards and pull-tabs in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission or director shall not issue, deny, suspend, or revoke any license because of considerations of race, sex, creed, color, or national origin: AND PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization operating a business primarily engaged in the selling of items of food or drink for consumption on the premises, approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association, or organization to utilize punchboards and pull-tabs and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to

conduct or operate amusement games in such manner and at such locations as the commission may determine. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(4) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization to engage in the manufacturing, selling, distributing, or otherwise supplying (~~or in the manufacturing~~) of devices, equipment, software, hardware, or any gambling-related services for use within this state for those activities authorized by this chapter. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which fees shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: PROVIDED, That all licensing fees shall be submitted with an application therefor and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof: PROVIDED FURTHER, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: AND PROVIDED FURTHER, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

(6) To prescribe the manner and method of payment of taxes, fees and penalties to be paid to or collected by the commission;

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, (~~or~~) (b) participating as an employee in the operation of any gambling activity, or (c) participating as an employee in the operation, management, or providing of gambling-related services for sports wagering, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission shall require fingerprinting and national criminal history background checks on any persons seeking licenses, certifications, or permits under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity. All national criminal history background

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checks shall be conducted using fingerprints submitted to the United States department of justice-federal bureau of investigation. The commission must establish rules to delineate which persons named on the application are subject to national criminal history background checks. In identifying these persons, the commission must take into consideration the nature, character, size, and scope of the gambling activities requested by the persons making such applications;

(8) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

(9) To require that all income from bingo games, raffles, and amusement games be recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

(10) To regulate and establish maximum limitations on income derived from bingo. In establishing limitations pursuant to this subsection the commission shall take into account (a) the nature, character, and scope of the activities of the licensee; (b) the source of all other income of the licensee; and (c) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes. However, the commission's powers and duties granted by this subsection are discretionary and not mandatory;

(11) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by this chapter, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

(12) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation, or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with RCW 9.46.0282;

(13) To cooperate with and secure the cooperation of county, city, and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(14) In accordance with RCW 9.46.080, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.05 RCW;

(15) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized by this chapter;

(16)(a) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments. However, the commissioner's powers and duties granted by this subsection are discretionary and not mandatory.

(b) In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion,

other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

(17) To authorize, require, and issue for a period not to exceed one year such licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with such business. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do such work. The commission may require that licensees employing such unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

(18) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee;

(19) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter;

(20) To renew the license of every person who applies for renewal within six months after being honorably discharged, removed, or released from active military service in the armed forces of the United States upon payment of the renewal fee applicable to the license period, if there is no cause for denial, suspension, or revocation of the license;

(21) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization that engages in any sports wagering-related services for use within this state for sports wagering activities authorized by this chapter. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(22) To issue licenses under subsections (1) through (4) of this section that are valid for a period of up to eighteen months, if it chooses to do so, in order to transition to the use of the business licensing services program through the department of revenue; and

~~((22))~~ (23) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

Sec. 4. RCW 9.46.130 and 2011 c 336 s 303 are each amended to read as follows:

(1) The premises and paraphernalia, and all the books and records, databases, hardware, software, or any other electronic data storage device of any person, association, or organization conducting gambling activities authorized under this chapter and any person, association, or organization receiving profits therefrom or having any interest therein shall be subject to inspection and audit at any reasonable time, with or without notice, upon demand, by the commission or its designee, the attorney general or his or her designee, the chief of the Washington state patrol or his or her designee or the prosecuting attorney, sheriff, or director of public safety or their designees of the county wherein located, or the chief of police or his or her designee of any city or town in which said organization is located,

for the purpose of determining compliance or noncompliance with the provisions of this chapter and any rules or regulations or local ordinances adopted pursuant thereto or any federal or state law. A reasonable time for the purpose of this section shall be: ~~((H))~~ (a) If the items or records to be inspected or audited are located anywhere upon a premises any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open, or at which they are usually open; or ~~((Z))~~ (b) if the items or records to be inspected or audited are not located upon a premises set out in ~~((subsection H))~~ (a) of this ~~((section))~~ subsection, then any time between the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday.

(2) The commission shall be provided at such reasonable intervals as the commission shall determine with a report, under oath, detailing all receipts and disbursements in connection with such gambling activities together with such other reasonable information as required in order to determine whether such activities comply with the purposes of this chapter or any local ordinances relating thereto.

(3) The commission may require the submission of reports on suspicious activities or irregular betting activities to effectively identify players, wagering information, and suspicious and illegal transactions, including the laundering of illicit funds.

NEW SECTION. Sec. 5. A new section is added to chapter 9.46 RCW to read as follows:

(1) No person shall offer, promise, give, or attempt to give any thing of value to any person for the purpose of influencing the outcome of a sporting event, athletic event, or competition upon which a wager may be made.

(2) No person shall place, increase, or decrease a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised, or given any thing of value for the purpose of influencing the outcome of a sporting event, athletic event, or competition upon which the wager is placed, increased, or decreased.

(3) No person shall offer, promise, give, or attempt to give any thing of value to obtain confidential or insider information not available to the public with intent to use the information to gain a wagering advantage on a sporting event, athletic event, or competition.

(4) No person shall accept or agree to accept, any thing of value for the purpose of wrongfully influencing his or her play, action, decision making, or conduct in any sporting event, athletic event, or competition upon which a wager may be made.

(5) Any person who violates this section shall be guilty of a class C felony subject to the penalty set forth in RCW 9A.20.021.

Sec. 6. RCW 9.46.190 and 1991 c 261 s 7 are each amended to read as follows:

Any person ~~((or))~~, association, or organization operating any gambling activity ~~((who or which))~~ may not, directly or indirectly, ~~((shall))~~ in the course of such operation:

(1) Employ any device, scheme, or artifice to defraud; ~~((or))~~

(2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; ~~((or))~~

(3) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any person;

~~((Shall))~~ (4) Alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(5) Place, increase, or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing,

or decreasing a bet or determining the course of play contingent upon that event or outcome;

(6) Knowingly entice or induce another person to go to any place where a gambling activity is being conducted or operated in violation of the provisions of this chapter, with the intent that the other person play or participate in that gambling activity;

(7) Place or increase a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including past posting and pressing bets; or

(8) Reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including pinching bets. Any person, association, or organization that violates this section shall be guilty of a ~~((gross misdemeanor))~~ class C felony subject to the penalty set forth in RCW 9A.20.021.

Sec. 7. RCW 9.46.210 and 2000 c 46 s 1 are each amended to read as follows:

(1) It shall be the duty of all peace officers, law enforcement officers, and law enforcement agencies within this state to investigate, enforce, and prosecute all violations of this chapter.

(2) In addition to the authority granted by subsection (1) of this section law enforcement agencies of cities and counties shall investigate and report to the commission all violations of the provisions of this chapter and of the rules of the commission found by them and shall assist the commission in any of its investigations and proceedings respecting any such violations. Such law enforcement agencies shall not be deemed agents of the commission.

(3) In addition to its other powers and duties, the commission shall have the power to enforce the penal provisions of this chapter ~~((218, Laws of 1973 1st ex. sess.))~~ and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities, including chapter 9A.83 RCW, and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. The director, the deputy director, both assistant directors, and each of the commission's investigators, enforcement officers, and inspectors shall have the power, under the supervision of the commission, to enforce the penal provisions of this chapter ~~((218, Laws of 1973 1st ex. sess.))~~ and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities, including chapter 9A.83 RCW, and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power and authority to apply for and execute all warrants and serve process of law issued by the courts in enforcing the penal provisions of this chapter ~~((218, Laws of 1973 1st ex. sess.))~~ and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power to arrest without a warrant, any person or persons found in the act of violating any of the penal provisions of this chapter ~~((218, Laws of 1973 1st ex. sess.))~~ and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. To the extent set forth above, the commission shall be a law enforcement agency of this state with the power to investigate for violations of and to enforce the provisions of this chapter, as now law or hereafter amended, and to obtain information from and provide information to all other law enforcement agencies.

(4) Criminal history record information that includes

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nonconviction data, as defined in RCW 10.97.030, may be disseminated by a criminal justice agency to the Washington state gambling commission for any purpose associated with the investigation for suitability for involvement in gambling activities authorized under this chapter. The Washington state gambling commission shall only disseminate nonconviction data obtained under this section to criminal justice agencies.

(5) In addition to its other powers and duties, the commission may ensure sport integrity and prevent and detect competition manipulation through education and enforcement of the penal provisions of this chapter or chapter 67.04 or 67.24 RCW, or any other state penal laws related to the integrity of sporting events, athletic events, or competitions within the state.

(6) In addition to its other powers and duties, the commission may track and monitor gambling-related transactions occurring within the state to aid in its enforcement of the penal provisions of this chapter or chapter 9A.83 RCW, or any other state penal laws related to suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification by a player.

Sec. 8. RCW 9.46.220 and 1997 c 78 s 2 are each amended to read as follows:

(1) A person is guilty of professional gambling in the first degree if he or she engages in, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

(a) Acts in concert with or conspires with five or more people; ~~((or))~~

(b) Personally accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events; ~~((or))~~

(c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events; ~~((or))~~

(d) Operates, manages, or profits from the operation of a premises or location where persons are charged a fee to participate in card games, lotteries, or other gambling activities that are not authorized by this chapter or licensed by the commission; or

(e) Engages in bookmaking as defined in RCW 9.46.0213.

(2) However, this section shall not apply to those activities enumerated in RCW 9.46.0305 through 9.46.0361 or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the first degree is a class B felony subject to the penalty set forth in RCW 9A.20.021.

NEW SECTION. Sec. 9. A new section is added to chapter 9.46 RCW to read as follows:

The transmission of gambling information over the internet for any sports wagering conducted and operated under this section and section 2 of this act is authorized, provided that the wager may be placed and accepted at a tribe's gaming facility only while the customer placing the wager is physically present on the premises of that tribe's gaming facility.

Sec. 10. RCW 9.46.240 and 2006 c 290 s 2 are each amended to read as follows:

(1) Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore, the internet, a telecommunications transmission system, or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a class C felony subject to the penalty set forth in RCW 9A.20.021. ~~((However, this))~~

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(2) This section shall not apply to such information transmitted or received or equipment or devices installed or maintained relating to activities authorized by this chapter including, but not limited to, sports wagering authorized under sections 2 and 9 of this act, or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted under this chapter and conducted in accordance with tribal-state compacts.

NEW SECTION. Sec. 11. A new section is added to chapter 9.46 RCW to read as follows:

(1)(a) For purposes of this chapter, "sports wagering" means the business of accepting wagers on any of the following sporting events, athletic events, or competitions by any system or method of wagering:

(i) A professional sport or athletic event;

(ii) A collegiate sport or athletic event;

(iii) An Olympic or international sports competition or event;

(iv) An electronic sports or esports competition or event;

(v) A combination of sporting events, athletic events, or competitions listed in (a)(i) through (iv) of this subsection (1); or

(vi) A portion of any sporting event, athletic event, or competition listed in (a)(i) through (iv) of this subsection (1).

(b) Sports wagering does not include the business of accepting wagers on horse racing authorized pursuant to chapter 67.16 RCW.

(2) For purposes of this section:

(a) "Collegiate sport or athletic event" means a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers education services beyond the secondary level, other than such an institution that is located within the state of Washington.

(b) "Electronic or esports event" means a live event or tournament attended or watched by members of the public where games or matches are contested in real time by players and teams and players or teams can win a prize based on their performance in the live event or tournament.

(c) "Professional sport or athletic event" means an event that is not a collegiate sport or athletic event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in the event. "Professional sport or athletic event" does not include any minor league sport. Sports wagering may not be conducted on any minor league sport.

Sec. 12. RCW 9.46.090 and 1987 c 505 s 3 are each amended to read as follows:

Subject to RCW 40.07.040, the commission shall, from time to time, make reports to the governor and the legislature covering such matters in connection with this chapter as the governor and the legislature may require. These reports shall be public documents and contain such general information and remarks as the commission deems pertinent thereto and any information requested by either the governor or members of the legislature: **PROVIDED**, That the commission appointed pursuant to RCW 9.46.040 may conduct a thorough study of the types of gambling activity permitted and the types of gambling activity prohibited by this chapter and may make recommendations to the legislature as to: (1) Gambling activity that ought to be permitted; (2) gambling activity that ought to be prohibited; (3) the types of licenses and permits that ought to be required; (4) the type and amount of tax that ought to be applied to each type of permitted gambling activity; (5) any changes which may be made to the law of this state which further the purposes and policies set forth in RCW 9.46.010 as now law or hereafter amended; and (6) any other matter that the commission may deem appropriate. However, no later than December 1st of the year following any

authorization by the legislature of a new gambling activity, any report by the commission to the governor and the appropriate committees of the legislature must include information on the state of the gambling industry both within the state and nationwide. Members of the commission and its staff may contact the legislature, or any of its members, at any time, to advise it of recommendations of the commission.

NEW SECTION. Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. The sum of six million dollars is appropriated from the general fund—state for the fiscal year ending June 30, 2020, and is provided solely for expenditure into the gambling revolving account. The gambling commission may expend from the gambling revolving account from moneys attributable to the appropriation in this section solely for enforcement actions in the illicit market for sports wagering and for implementation of this act. The appropriation in this section constitutes a loan from the general fund to the gambling revolving account that must be repaid with net interest by June 30, 2021.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 2 of the title, after "compacts;" strike the remainder of the title and insert "amending RCW 9.46.070, 9.46.130, 9.46.190, 9.46.210, 9.46.220, 9.46.240, and 9.46.090; adding new sections to chapter 9.46 RCW; creating a new section; prescribing penalties; making an appropriation; and declaring an emergency."

MOTION

Senator Ericksen moved that the following floor amendment no. 1261 by Senator Ericksen be adopted:

On page 1, line 16, after "(1)" strike "Upon" and insert "Subject to subsection (3) of this section, upon"

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

"(3) Any tribes conducting sports wagering must obtain all applicable business licenses, permits, and land use approvals from relevant state, city, and county jurisdictions."

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Stanford and Sheldon spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1261 by Senator Ericksen on page 1, line 16 to the striking amendment by the Committee on Ways & Means.

The motion by Senator Ericksen did not carry and floor amendment no. 1261 was not adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Ericksen and without objection, floor amendment no. 1262 by Senator Ericksen on page 1, line 16 to the striking amendment by the Committee on Ways & Means was withdrawn.

WITHDRAWAL OF AMENDMENT

On motion of Senator Ericksen and without objection, floor amendment no. 1263 by Senator Ericksen on page 1, line 16 to

the striking amendment by the Committee on Ways & Means was withdrawn.

MOTION

Senator Brown moved that the following floor amendment no. 1315 by Senator Brown be adopted:

On page 1, line 16, after "(1)" strike "Upon" and insert "Subject to subsection (3) of this section, upon"

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

"(3) A tribe's class III gaming compact may not be amended pursuant to this section and RCW 9.46.360 to authorize the tribe to conduct and operate sports wagering unless the tribe agrees in the compact amendment to:

(a) Comply with Title 50A RCW, the state paid family and medical leave act, and state minimum wage and overtime laws;

(b) Ensure at least eighty-five percent of the tribe's employees are covered by employer-sponsored health insurance and retirement benefits; and

(c) File with the commission a code of conduct that includes a sexual harassment prevention policy and an antiretaliation policy."

Senators Brown and Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Keiser and Sheldon spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1315 by Senator Brown on page 1, line 16 to the striking amendment by the Committee on Ways & Means.

The motion by Senator Brown did not carry and floor amendment no. 1315 was not adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Rivers and without objection, floor amendment no. 1329 by Senator Rivers on page 1, line 13 to the striking amendment by the Committee on Ways & Means was withdrawn.

MOTION

Senator Rivers moved that the following floor amendment no. 1330 by Senator Rivers be adopted:

On page 1, after 13, insert

"In addition, the legislature intends that card rooms are currently licensed should be allowed to conduct sport wagering.

On page 1, line 29, after "(2)" insert the following:

"Beginning January 1, 2024, card rooms may conduct sports wagering through sports pools and online sports pools at the card room facility as provided in this chapter.

(3) The commission may issue licenses prior to January 1, 2024, to be effective on January 1, 2024. The commission may not issue a sports wagering license to any person or entity unless it was licensed and in operation as a card room as of January 1, 2020, and has established its financial stability, integrity, responsibility, good character, and honesty. No license to operate a sports pool may be issued to any person or entity that is disqualified for a license under chapter 9.46 or 67.16 RCW. The commission has the authority to charge a card room a fee for the issuance of a sports wagering license in an amount of five hundred thousand dollars for the initial issuance and, in the case of a renewal, a reasonable fee adopted by rule that is based upon the

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expense associated with renewal, enforcement, and programs for the prevention and treatment of problem gambling.

(4) "

On page 1, line 29, after "provisions of", strike " Sports wagering conducted pursuant to the provisions of a class III gaming compact entered into by a tribe and the state pursuant to RCW 9.46.360" and insert "Sports wagering conducted pursuant to the provisions of this chapter"

On page 2, line 2, after "9.46.225." insert the following:

" **NEW SECTION. Sec. 1.** A new section is added to chapter 9.46 RCW to read as follows:

(1) No sports wagering may be offered or made available to the public, except as provided in this chapter.

(2) Any person who offers sports wagering without a license or pursuant to a compact is guilty of a class B felony and is subject to a fine of not more than twenty-five thousand dollars, and, in the case of a person other than a natural person, a fine of not more than one hundred thousand dollars.

NEW SECTION. Sec. 2. A new section is added to chapter 9.46 RCW to read as follows:

(1)(a) Any person who: (i) Is an athlete, coach, referee, or director of a sports governing body or any of its member teams; (ii) is a sports governing body or any of its member teams; (iii) is a player or a referee personnel member in or on any sports event overseen by that person's sports governing body based on publicly available information; (iv) holds a position of authority or influence sufficient to exert influence over the participants in a sporting contest, including, but not limited to, coaches, managers, handlers, athletic trainers, or horse trainers; (v) has access to certain types of exclusive information on any sports event overseen by that person's sports governing body based on publicly available information; or (vi) is identified by any lists provided by the sports governing body to the commission, may not have any ownership interest in, control of, or otherwise be employed by, an operator, a sports wagering licensee, or a facility in which sports wagering is or will be conducted, or place a wager on a sports event that is overseen by that person's sports governing body based on publicly available information. Any person who violates this subsection is guilty of a misdemeanor and must, upon conviction, be punished by either imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days or a fine in an amount fixed by the court of not more than one thousand dollars, or both.

(b) Any employee of a sports governing body or its member teams who is not prohibited from wagering on a sports event must provide notice to the commission prior to placing a wager on a sports event.

(c) The direct or indirect legal or beneficial owner of ten percent or more of a sports governing body or any of its member teams may not place or accept any wager on a sports event in which any member team of that sports governing body participates.

(2) The prohibition set forth in subsection (1) of this section does not apply to any person who is a direct or indirect owner of a specific sports governing body member team, and (a) the person has less than ten percent direct or indirect ownership interest in a casino or racetrack, or (b) the shares of such person are registered pursuant to section 12 of the securities exchange act of 1934 (15 U.S.C. Sec. 781), as amended, and the value of the ownership of such team represents less than one percent of the person's total enterprise value.

(3) An operator must adopt procedures to prevent persons who are prohibited from placing sports wagers from wagering on sports events.

(4) An operator may not accept wagers from any person whose

identity is known to the operator and:

(a) Whose name appears on any self-exclusion programs list provided under RCW 9.46.071;

(b) Who is the operator, director, officer, owner, or employee of the operator or any relative thereof living in the same household as the operator;

(c) Who has access to nonpublic confidential information held by the operator; or

(d) Who is an agent or proxy for any other person.

(5) An operator must adopt procedures to obtain personally identifiable information from any individual who places any single wager in an amount of ten thousand dollars or greater on a sports event while physically present in a tribal casino or card room facility.

(6) For purposes of this section, "operator" means a tribal casino or card room conducting sport wagering.

NEW SECTION. Sec. 3. A new section is added to chapter 9.46 RCW to read as follows:

(1) The commission may adopt rules to implement section 2 of this act. These rules may not be more restrictive for card rooms conducting sport wagering than the provisions authorizing sports wagering in any tribe's class III gaming compact with the state.

(2) The rules may address the following:

(a) Documentation and forms required for licensing;

(b) Licensing of employees conducting sport wagering;

(c) How wagering may be conducted, including requiring licensees to adopt and display its house rules governing sport wagering transactions;

(d) How unclaimed winnings may be disbursed, including providing for a percentage of the unclaimed winning to be remitted to the problem gambling account created in RCW 41.05.751; and

(e) Other matters as the commission deems necessary to protect the public and integrity of sport wagering."

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

On page 12, line 21, after "gaming facility", insert "or a card room"

On page 12, line 23, after "gaming facility", insert "or a card room"

On page 13, line 5, after "1", strike everything through page 13, line 35 and insert

" For purposes of this chapter:

(a) "Card room" means a business licensed to conduct social card games pursuant to RCW 9.46.0325.

(b) "Online sports pool" means a sports wagering operation in which wagers on sports events are made through computers or mobile or interactive devices and accepted at a sports wagering lounge through an online gaming system that is operating pursuant to a sports wagering license issued by the commission.

(c) "Sports pool" means the business of accepting wagers on any sports event by any system or method of wagering, including, but not limited to, single-game bets, teaser bets, parlays, over/under, money line, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, or straight bets.

(d)(i) "Sports wagering" means the business of accepting wagers on any of the following sporting events, athletic events, or competitions by any system or method of wagering:

(A) A professional sport or athletic event;

(B) A collegiate sport or athletic event;

(C) An Olympic or international sports competition or event;

(D) An electronic sports or esports competition or event;

(E) A combination of sporting events, athletic events, or competitions listed in (d)(i)(A) through (D) of this subsection (1); or

(F) A portion of any sporting event, athletic event, or competition listed in (d)(i)(A) through (D) of this subsection (1).

(i) Sports wagering does not include the business of accepting wagers on horse racing authorized pursuant to chapter 67.16 RCW.

(2) For purposes of this section:

(a) "Collegiate sport or athletic event" means a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers education services beyond the secondary level, other than such an institution that is located within the state of Washington.

(b) "Electronic or esports event" means a live event or tournament attended or watched by members of the public where games or matches are contested in real time by players and teams and players or teams can win a prize based on their performance in the live event or tournament.

(c) "Professional sport or athletic event" means an event that is not a collegiate sport or athletic event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in the event."

On page 15, line 2, after "2021." insert the following:

"NEW SECTION. Sec. 4. A new section is added to chapter 82.04 RCW to read as follows:

(1) There is levied and collected from every card room conducting sports wagering in this state, a tax in the amount of ten percent of the gaming revenue.

(2) Card rooms conducting sports wagering subject to the tax imposed by this section must report to the department the amount of gaming revenue earned by location. The tax imposed by this section must be paid to, and administered by, the department. The administration of the tax is governed by the provisions of chapter 82.32 RCW.

(3) For purposes of this section:

(a) "Card room" has the same meaning as in section 14 of this act.

(b) "Gaming revenue" means the total amount wagered less winnings paid out.

(c) "Sports wagering" has the same meaning as in section 14 of this act."

On page 1, line 2 of the title, after "compacts" strike the remainder of the title and insert "and by licensed card rooms; amending RCW 9.46.070, 9.46.130, 9.46.190, 9.46.210, 9.46.220, 9.46.240, and 9.46.090; adding new sections to chapter 9.46 RCW; adding a new section to chapter 82.04 RCW; creating a new section; prescribing penalties; and making an appropriation."

Senators Rivers, Ericksen and King spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Keiser and Sheldon spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1330 by Senator Rivers on page 1, after line 13 to the striking amendment by the Committee on Ways & Means.

The motion by Senator Rivers did not carry and floor amendment no. 1330 was not adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Ericksen and without objection, floor amendment no. 1316 by Senator Becker on page 1, line 16 to the striking amendment by the Committee on Ways & Means was withdrawn.

WITHDRAWAL OF AMENDMENT

On motion of Senator King and without objection, floor amendment no. 1324 by Senator King on page 1, line 16 to the striking amendment by the Committee on Ways & Means was withdrawn.

MOTION

Senator Ericksen moved that the following floor amendment no. 1327 by Senator Ericksen be adopted:

On page 1, line 16, after "(1)" strike "Upon" and insert "Subject to subsection (3) of this section, upon"

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

"(3) No tribe may conduct or operate sports wagering on any tribal property acquired or property transferred into trust status after January 1, 1996."

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Stanford spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1327 by Senator Ericksen on page 1, line 16 to the striking amendment by the Committee on Ways & Means.

The motion by Senator Ericksen did not carry and floor amendment no. 1327 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following floor amendment no. 1317 by Senator Rivers be adopted:

On page 1, line 22, after "wagering;" insert "revenue sharing;"

On page 1, line 26, after "enforcement;" strike "and"

On page 1, line 26, after "problem gambling" insert "; and labor standards related to employees working at the sports wagering facilities, including paid family and medical leave, minimum wage, overtime, health insurance, retirement benefits, and sexual harassment prevention and antiretaliation policies"

Senators Rivers and Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Saldaña, Wellman and Sheldon spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1317 by Senator Rivers on page 1, line 22 to the striking amendment by the Committee on Ways & Means.

The motion by Senator Rivers did not carry and floor amendment no. 1317 was not adopted by voice vote.

MOTION

Senator Ericksen moved that the following floor amendment no. 1260 by Senator Ericksen be adopted:

On page 15, after line 2, insert the following:

"NEW SECTION. Sec. 15. A new section is added to chapter 82.08 RCW to read as follows:

(1) There is levied and collected a tax equal to ten percent of the selling price on each retail sale, as defined in RCW 82.04.050, at all facilities where sports wagering is conducted pursuant to

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section 2 of this act.

(2) For purposes of this section, "sports wagering" has the same meaning as in section 11 of this act."

Renumber the remaining section consecutively.

On page 15, line 10, after "RCW;" insert "adding a new section to chapter 82.08 RCW;"

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Stanford spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1260 by Senator Ericksen on page 15, after line 2 to the striking amendment by the Committee on Ways & Means.

The motion by Senator Ericksen did not carry and floor amendment no. 1260 was not adopted by voice vote.

WITHDRAWAL OF AMENDMENTS

On motion of Senator Ericksen and without objection, floor amendment no. 1264 by Senator Ericksen on page 15, line 2 to the striking amendment by the Committee on Ways & Means was withdrawn.

On motion of Senator Ericksen and without objection, floor amendment no. 1265 by Senator Ericksen on page 15, line 2 to the striking amendment by the Committee on Ways & Means was withdrawn.

MOTION

Senator Braun moved that the following floor amendment no. 1318 by Senator Braun be adopted:

On page 15, beginning on line 3, strike all of section 15

On page 15, line 11, after "penalties;" insert "and"

On page 15, line 11, after "appropriation" strike "; and declaring an emergency"

Senators Braun, Schoesler, Short and Rivers spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Keiser, Conway and Sheldon spoke against adoption of the amendment to the committee striking amendment.

Senator Short demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Braun on page 15, line 3, to the committee striking amendment.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Braun to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 21; Nays, 28; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Rivers, Schoesler, Short, Takko, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Pedersen,

Randall, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Van De Wege, Wellman and Wilson, C. .

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2638.

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

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2638 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, McCoy, Conway and Sheldon spoke in favor of passage of the bill.

Senators Ericksen, King, Rivers and Carlyle spoke against passage of the bill.

MOTION

Senator Honeyford demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be, "Shall the main question be now put?"

The motion by Senator Honeyford carried and the previous question was put by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2638 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2638 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Pedersen, Randall, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Takko, Van De Wege, Wagoner, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Braun, Brown, Carlyle, Ericksen, Fortunato, Honeyford, King, Padden, Rivers, Schoesler, Short, Walsh, Warnick and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2638, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:00 p.m., on motion of Senator Liias, the Senate adjourned until 9:00 o'clock a.m. Friday, March 6, 2020.

CYRUS HABIB, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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