CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1282

Chapter 344, Laws of 2024

68th Legislature 2024 Regular Session

PUBLIC BUILDING CONSTRUCTION AND RENOVATION—ENVIRONMENTAL AND LABOR REPORTING

EFFECTIVE DATE: June 6, 2024

Passed by the House March 5, 2024 Yeas 57 Nays 39

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate March 1, 2024 Yeas 28 Nays 20

DENNY HECK

President of the Senate Approved March 28, 2024 2:31 PM CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1282** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 29, 2024

JAY INSLEE

Governor of the State of Washington

Secretary of State State of Washington

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1282

AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By House Capital Budget (originally sponsored by Representatives Duerr, Hackney, Berry, Ramel, Doglio, Reed, and Pollet; by request of Department of Commerce)

READ FIRST TIME 02/17/23.

AN ACT Relating to environmental and labor reporting for public building construction and renovation material; amending RCW 43.88.0301; adding a new chapter to Title 39 RCW; creating new sections; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 <u>NEW SECTION.</u> Sec. 1. The legislature finds and declares that: 7 (1) Washington state, through its extensive purchasing power, can 8 reduce embodied carbon in the built environment, improve human and 9 environmental health, grow economic competitiveness, and promote high 10 labor standards in manufacturing by incorporating climate and other 11 types of pollution impacts and the quality of working conditions into 12 the procurement process.

13 (2)Washington state is home to multiple world-class 14 manufacturers that are investing heavily in reducing the carbon 15 intensity of their products and that provide family-wage jobs that are the foundation for a fair and robust economy. Washington's 16 17 procurement practices should encourage manufacturers and others to and 18 meet hiqh environmental and labor standards reduce their 19 environmental footprint.

20 (3) The private sector is increasingly demanding low carbon 21 building materials that support good jobs in manufacturing. This

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1 market demand has rapidly accelerated innovation and led to increased 2 production of low carbon building materials. As one of the largest 3 consumers of building materials, Washington state has an opportunity 4 to leverage its purchasing power to do even more to send a clear 5 signal to the market of the growing demand for low carbon building 6 materials.

7 (4) With its low carbon electric grid and highly skilled 8 workforce, Washington state is well-positioned to capture the growing 9 demand for low carbon building materials and create and sustain a new 10 generation of good, high-wage clean manufacturing jobs.

11 (5) Washington has demonstrated a deep commitment to ensuring 12 that the transition to a low carbon economy is fair and creates family-wage jobs. Both the clean energy transformation act and the 13 climate commitment act tie public investments in infrastructure to 14 reducing greenhouse gas emissions and to high road construction labor 15 16 standards. Integrating manufacturing working conditions into the 17 procurement process reaffirms and is consistent with the state's 18 commitment to a fair transition.

(6) A robust state and domestic supply of low carbon materials is
 critical for building a fair economy and meeting the needs of the low
 carbon transition, including securing the clean energy supply chain.

(7) Environmental product declarations are the best available tool for reporting product-specific environmental impacts using a life-cycle assessment and informing the procurement of low carbon building materials. Environmental product declarations cannot be used to compare products across different product categories or different functional units.

28 (8) The buy clean and buy fair policies established in this act are critical to reduce embodied carbon in the built environment, a 29 goal identified by the Washington state 2021 energy strategy to meet 30 31 the state's greenhouse gas emission limits, governor Inslee's 32 Executive Order 20-01 on state efficiency and environmental performance, and the Pacific coast collaborative's pathbreaking low 33 carbon construction task force. 34

(9) Reducing embodied carbon in the built environment requires a holistic, comprehensive approach that includes designing buildings with a lower-embodied carbon footprint and making lower carbon products. Policies like the buy clean and buy fair policies established in this act are an important tool for increasing the manufacture of lower carbon products.

1 (10) The 2021-2023 biennium budgets made critical progress on the buy clean and buy fair policies in this act by funding the creation 2 of a publicly accessible database to facilitate reporting and promote 3 transparency on building materials purchased for state-funded 4 infrastructure projects and two large buy clean and buy fair pilot 5 6 projects. This ongoing work to create a database to facilitate 7 reporting of environmental impacts and labor conditions from pilot projects has provided a strong foundation to inform future work on 8 9 buy clean and buy fair policies.

(11) Providing financial assistance to small manufacturers to 10 11 support the production of environmental product declarations will 12 help small manufacturers offset costs they might incur when pursuing state contracting as a result of the requirements of this act. 13

14 NEW SECTION. Sec. 2. The definitions in this section apply 15 throughout this chapter unless the context clearly requires 16 otherwise.

(1) "Actual production facilities" means the final manufacturing 17 facility and the facilities at which production processes occur that 18 19 contribute to 70 percent or more of the product's cradle-to-gate global warming potential, as reflected in the environmental product 20 21 declaration.

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(2) "Awarding authority" means:

23 (a) Institutions of higher education as defined in RCW 24 28B.92.030;

25 (b) The department of enterprise services, the department of 26 natural resources, the state parks and recreation commission, the 27 department of fish and wildlife, and the department of transportation; and 28

(c) Any other state government agency that receives funding from 29 30 the omnibus capital appropriations act for a public works project 31 contracted directly by the state agency.

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(3) "Covered product" includes:

(a) Structural concrete products, including ready mix, shotcrete, 33 34 precast, and concrete masonry units;

35 (b) Reinforcing steel products, specifically rebar and 36 posttensioning tendons;

(c) Structural steel products, specifically hot rolled sections, 37 hollow sections, metal deck, and plate; and 38

1 (d)(i) Engineered wood products, such as cross-laminated timber 2 per ANSI form no. PRG 320, glulam beams, laminated veneer lumber, 3 parallel strand lumber, dowel laminated timber, nail laminated 4 timber, glulam laminated timber, prefabricated wood joists per ASTM 5 D5055, wood structural panel per product standard 1 or product 6 standard 2, solid sawn lumber per product standard 20, structural 7 composite lumber per ASTM D5456, and structural sawn lumber.

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(ii) For the purposes of this subsection (3)(d):

9 10 (A) "ANSI" means the American national standards institute.

(B) "ASTM" means the American society for testing and materials.

11 (C) "Product standard" means a voluntary product standard 12 published by the United States department of commerce national 13 institute of standards and technology.

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(4) "Covered project" means:

(a) A construction project larger than 50,000 gross square feet as defined in the Washington state building code, chapter 51-50 WAC; or

(b) A building renovation project where the cost is greater than project of the assessed value and the project is larger than 50,000 gross square feet of occupied or conditioned space as defined in the Washington state building code, chapter 51-50 WAC.

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(5) "Department" means the department of commerce.

23 (6) "Employee" means any individual who is in an employment 24 relationship with the organization.

25 (7) (a) "Environmental product declaration" means a type III environmental product declaration, as defined by the international 26 organization for standardization standard 14025 or similarly robust 27 28 life-cycle assessment methods that have uniform standards in data 29 collection consistent with the international organization for standardization standard 14025, industry acceptance, and integrity. 30 31 When available, the environmental product declaration must be supply 32 chain specific.

33 (b) For the purposes of this subsection, "supply chain specific" 34 means an environmental product declaration that includes supply chain 35 specific data for production processes that contribute 70 percent or 36 more of a product's cradle-to-gate global warming potential, as 37 defined in international organization for standardization standard 38 21930, and reports the overall percentage of supply chain specific 39 data included.

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(8) "Full time" means an employee in a position that:

1 (a) The employer intends to be filled for at least 52 consecutive 2 weeks or 12 consecutive months, excluding any leaves of absence; and

3 (b) Requires the employee to work, excluding overtime hours, 35 4 hours per week for 52 consecutive weeks, 455 hours a quarter, or 5 1,820 hours during a period of 12 consecutive months.

6 (9) "Health product declaration" means a supply chain specific 7 health product declaration, as defined by the health product 8 declaration open standard maintained by the health product 9 declaration collaborative, that has robust methods for product 10 manufacturers and their ingredient suppliers to uniformly report and 11 disclose information about product contents and associated health 12 information.

13 (10) "Part time" means an employee in a position that:

(a) The employer intends to be filled for at least 52 consecutiveweeks or 12 consecutive months, excluding any leaves of absence; and

16 (b) Working hours are less than those required for a full-time 17 employee, as defined in this section.

18 (11) "Product and facility specific report" means an 19 environmental product declaration whereby the environmental impacts 20 can be attributed to a single manufacturer and a specific 21 manufacturing or production facility.

(12) (a) "Scope 2 greenhouse gas emissions" are indirect greenhouse gas emissions associated with the purchase of electricity, steam, heat, or cooling.

(b) For purposes of this section, "greenhouse gas" has the same meaning as in RCW 70A.45.010.

(13) "Supplier code of conduct" means a policy created by a manufacturer that outlines steps taken to ensure that its suppliers adhere to ethical practices, such as compliance with child and forced labor laws, antidiscrimination practices, freedom of association, and safe workplace conditions.

32 (14) "Temporary" means an employee in a position that is intended 33 to be filled for a period of less than 52 consecutive weeks or 12 34 consecutive months. Positions in seasonal employment are temporary 35 positions.

36 (15) "Total case incident rate" means the number of work-related 37 injuries per 100 full-time equivalent workers during a one-year 38 period, as defined by the occupational safety and health 39 administration. Total case incident rate is calculated by multiplying 40 the number of occupational safety and health administration

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1 recordable injuries and illnesses by 200,000 and dividing by number 2 of hours worked by all employees.

3 (16) "Working conditions" means the average number of employees4 by employment type: Full time, part time, and temporary.

5 <u>NEW SECTION.</u> Sec. 3. (1)(a) Beginning July 1, 2025, an awarding 6 authority must require in all newly executed construction contracts 7 that the selected firm for a construction contract for a covered 8 project larger than 100,000 gross square feet submit the following 9 data for each covered product used before substantial completion, 10 including at a minimum:

11 (i) Product quantity;

12 (ii) A current environmental product declaration;

13 (iii) Health product declaration, if any, completed for the 14 product;

15 (iv) Manufacturer name and location, including state or province 16 and country;

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(v) Supplier code of conduct, if any; and

18 (vi) Office of minority and women-owned business enterprises 19 certification, if any.

(b) Beginning July 1, 2027, an awarding authority must require in all newly executed construction contracts that the selected firm for a construction contract for a covered project submit the data required by (a) of this subsection for each covered product used before substantial completion.

(c) The selected firm for a contract for a covered project shall provide the data required by this subsection for at least 90 percent of the cost of each of the covered products used in the project.

(2) The selected firm for a contract for a covered project is required to collect and submit from product suppliers the information required in subsection (1)(a)(ii) through (vi) of this section. The selected firm is not required to verify the information received from product suppliers.

(3) (a) Beginning July 1, 2025, an awarding authority must require in all newly executed construction contracts that the selected firm for a construction contract for a covered project larger than 100,000 gross square feet to ask their suppliers to report for each covered product used before substantial completion, including at a minimum:

38 (i) Names and locations, including state or province and country,39 of the actual production facilities; and

1 (ii) Working conditions at the actual production facilities for 2 all employees, full-time employees, part-time employees, and 3 temporary employees. In cases in which the supplier does not have 4 this information, the selected firm for a contract for a covered 5 project must ask suppliers to provide a report on steps taken to 6 reasonably obtain the data and provide suppliers' self-reports to the 7 awarding authority.

8 (b) Beginning July 1, 2027, an awarding authority must require in 9 all newly executed construction contracts that the successful bidder 10 for a construction contract for a covered project to meet the 11 requirements of (a) of this subsection for each covered product used 12 before substantial completion.

13 (c) The selected firm is not required to verify the information 14 reported by product suppliers pursuant to this subsection.

(d) The selected firm for a contract for a covered project shall meet the requirement in (a) of this subsection for at least 90 percent of the cost of each of the covered products used in the project.

19 (4) If a supply chain specific environmental product declaration 20 is not available, a product and facility specific report may be 21 submitted.

(5) This section does not apply to a covered product for a particular covered project if the awarding authority determines, upon written justification provided to the department, that the requirements in this section would cause a significant delay in completion, significant increase in overall project cost, or result in only one product supplier being able to provide the covered product.

(6) An awarding authority must include the information and reporting requirements in this section in a specification for bids for a covered project.

32 (7) Subject to funds appropriated for this specific purpose, the 33 department may provide financial assistance to small businesses, as defined in RCW 19.85.020, to help offset the costs to the small 34 business of producing an environmental product declaration required 35 under this section. Such financial assistance supports the production 36 of environmental product declarations and achievement of reductions 37 of embodied carbon in the built environment while ensuring that small 38 39 manufacturers are not put at a competitive disadvantage in state 40 contracting as a result of the requirements of this chapter.

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1 (8) Compliance with the requirements in this section may not be 2 used as a basis for a waiver from apprenticeship utilization 3 requirements in any other statute, rule, regulation, or law.

Sec. 4. By July 1, 2025, and to the extent NEW SECTION. 4 5 practicable, specifications for a bid or proposal for a project contract by an awarding authority may only include performance-based 6 specifications for concrete used as a structural material. Awarding 7 8 authorities may continue to use prescriptive specifications on structural elements to support special designs and emerging 9 10 technology implementation.

11 NEW SECTION. Sec. 5. (1) The department must continue to 12 develop, maintain, and refine the publicly accessible database funded by the 2021-2023 omnibus operating appropriations act and created by 13 14 the department in conjunction with the University of Washington 15 college of built environments for selected firms for contracts for 16 covered projects to submit the data required in section 3 of this act 17 to the department and to promote transparency. The department may consult with the University of Washington college of built 18 19 environments.

20 (2) The database maintained pursuant to subsection (1) of this 21 section must publish global warming potential as reported in the 22 environmental product declarations.

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(3) By July 1, 2025, the department must:

24 (a) Further elaborate covered product definitions using25 applicable material industry standards;

(b) Develop measurement and reporting standards to ensure that data is consistent and comparable, including standards for reporting product quantities;

(c) Create model language for specifications, bid documents, and
 contracts to support the implementation of section 3 of this act; and

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(d) Produce an educational brief that:

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(i) Provides an overview of embodied carbon;

33 (ii) Describes the appropriate use of environmental product 34 declarations, including the necessary preconditions for environmental 35 product declarations to be comparable;

36 (iii) Outlines reporting standards, including covered product 37 definitions, standards for reporting product quantities, and working 38 conditions; 1 (iv) Describes the data collection and reporting process for all 2 information required in section 3 (1)(a) and (3)(a) of this act;

(v) Provides instructions for the use of the database; and

4 (vi) Lists applicable product category rules for covered 5 products.

6 (4) The department may contract for the use of nationally or 7 internationally recognized databases of environmental product 8 declarations for purposes of implementing this section.

9 <u>NEW SECTION.</u> Sec. 6. (1) By December 1, 2024, the department 10 must convene a technical work group that includes the following 11 representatives:

12 (a) One industry professional in design, one industry 13 professional in structural design, one industry professional in 14 specification, and one industry professional in construction who are 15 recommended by leading associations of Washington business;

(b) Two representatives each from Washington manufacturers of:

17 (i) Steel;

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18 (ii) Wood; and

19 (iii) Concrete;

20 (c) A representative from the department of enterprise services;

21 (d) A representative from the department of transportation;

22 (e) A representative from the department of ecology;

(f) One representative each from three environmental groups that focus on embodied carbon and climate change;

(g) Three representatives from labor unions, including two from unions that represent manufacturing workers and one representative from the building and construction trades;

28 (h) A representative from the minority and women-owned business 29 community;

30 (i) A representative from the University of Washington college of 31 built environments; and

32 (j) Representatives of other agencies and independent experts as 33 necessary to meet the objectives of the technical work group as 34 described in this section.

35 (2) The department intends formation of subgroups with members 36 who have subject matter expertise or industry experience to develop 37 technical information, recommendations, and analysis specific to 38 individual material types, and the feasibility of supply chain 39 specific environmental product declarations. The recommendations

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1 must, where possible, align with state and national principles and 2 laws for environmental product declaration development.

3 (3) The department may contract with the University of Washington4 college of built environments in convening the technical work group.

5 (4) The purpose of the technical work group is to identify 6 opportunities for and barriers to growth of the use and production of 7 low carbon materials, promote high labor standards in manufacturing, 8 and preserve and expand low carbon materials manufacturing in 9 Washington.

10 (5) By September 1, 2025, the technical work group must submit a 11 report to the legislature and the governor that includes:

12 (a) A low carbon materials manufacturing plan that recommends 13 policies to preserve and grow the in-state manufacturing of low 14 carbon materials and accelerate industrial decarbonization. For this 15 plan, the technical work group must:

(i) Examine barriers and opportunities to maintain and grow a
robust in-state supply of low carbon building materials including,
but not limited to, state and domestic supply of raw materials and
other supply chain challenges, regulatory barriers, competitiveness
of local and domestic manufacturers, cost, and data availability from
local, state, national, and foreign product suppliers; and

(ii) Identify opportunities to encourage the continued conversion to lower carbon cements, including the use of performance-based specifications and allowing Type 1-L cement in specifications for public projects;

26 (b) Recommendations for consistent treatment in the reporting for 27 covered products; and

(c) Consideration of how additional information relevant to reducing embodied carbon through strategies including, but not limited to, product life-cycle assessments could be incorporated into future reporting.

(6) (a) By September 1, 2026, the technical work group must submit 32 a report on policy recommendations, including any statutory changes 33 needed, to the legislature and the governor. The report must consider 34 policies to expand the use and production of low carbon materials, 35 36 preserve and expand low carbon materials manufacturing in Washington, including opportunities to encourage continued conversion to lower 37 carbon blended cements in public projects, and support living wage 38 39 manufacturing jobs.

(b) For this report, the technical work group must:

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(i) Summarize data collected pursuant to section 3 of this act,
the case study analysis funded by the 2021-2023 omnibus operating
appropriations act, and the pilot projects funded by the 2021-2023
omnibus capital appropriations act. The summary must include product
quantities, global warming potential, health product declarations,
supplier codes of conduct, and any obstacles to the implementation of
this chapter;

8 (ii) Evaluate options for collecting reported working condition 9 information from product suppliers, including hourly wages, employee 10 benefits, and total case incident rates, and for aligning these 11 reporting requirements with existing reporting requirements for 12 preferential tax rates, credits, exemptions, and deferrals;

(iii) Make recommendations for improving environmental production declaration data quality including, but not limited to, integrating reporting on variability in facility, product, and upstream data for key processes;

(iv) Make recommendations for consideration of scope 2 greenhouse gas emissions mitigation through green power purchases, such as energy attribute certificates and power purchase agreements;

(v) Make recommendations, if any, for changing or clarifying the definition of "actual production facilities" in section 2 of this act to better define and refine reporting and compliance obligations under chapter 39.--- RCW (the new chapter created in section 9 of this act);

(vi) Identify barriers and opportunities to the effective use of the database maintained under section 5 of this act and the data collected pursuant to this chapter;

(vii) Identify emerging and foreseeable trends in local, state, federal, and private policy on embodied carbon and the procurement and use of low carbon materials and opportunities to promote consistency across public and private embodied carbon and low carbon materials policies, rules, and regulations; and

33 (viii) Recommend approaches to designing lower embodied carbon 34 state building projects.

35 (7)(a) The department may update reporting standards and 36 requirements based on input from the technical work group.

37 (b) The department must provide updated guidance on reporting38 standards by January 1, 2027.

39 (8) This section expires January 1, 2028.

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1 Sec. 7. RCW 43.88.0301 and 2021 c 54 s 4 are each amended to 2 read as follows:

3 (1) The office of financial management must include in its 4 capital budget instructions((, beginning with its instructions for 5 the 2003-05 capital budget,)) a request for "yes" or "no" answers for 6 the following additional informational questions from capital budget 7 applicants for all proposed major capital construction projects 8 valued over ((10 million dollars)) \$10,000,000 and required to 9 complete a predesign:

10 (a) For proposed capital projects identified in this subsection 11 that are located in or serving city or county planning under RCW 12 36.70A.040:

(i) Whether the proposed capital project is identified in the host city or county comprehensive plan, including the capital facility plan, and implementing rules adopted under chapter 36.70A RCW;

17 (ii) Whether the proposed capital project is located within an 18 adopted urban growth area:

(A) If at all located within an adopted urban growth area
 boundary, whether a project facilitates, accommodates, or attracts
 planned population and employment growth;

(B) If at all located outside an urban growth area boundary,
whether the proposed capital project may create pressures for
additional development;

(b) For proposed capital projects identified in this subsectionthat are requesting state funding:

(i) Whether there was regional coordination during projectdevelopment;

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(ii) Whether local and additional funds were leveraged;

30 (iii) Whether environmental outcomes and the reduction of adverse 31 environmental impacts were examined.

32 (2) For projects subject to subsection (1) of this section, the 33 office of financial management shall request the required information 34 be provided during the predesign process of major capital 35 construction projects to reduce long-term costs and increase process 36 efficiency.

37 (3) The office of financial management, in fulfilling its duties 38 under RCW 43.88.030(6) to create a capital budget document, must take 39 into account information gathered under subsections (1) and (2) of 40 this section in an effort to promote state capital facility

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expenditures that minimize unplanned or uncoordinated infrastructure and development costs, support economic and quality of life benefits for existing communities, and support local government planning efforts.

5 (4) The office of community development must provide staff 6 support to the office of financial management and affected capital 7 budget applicants to help collect data required by subsections (1) 8 and (2) of this section.

9 <u>(5) The office of financial management must include in its</u> 10 <u>capital budget instructions, beginning with the instructions for the</u> 11 <u>2025-2027 biennium, information informing awarding authorities, as</u> 12 <u>defined in section 2 of this act, of the requirements of chapter</u> 13 <u>39.--- RCW (the new chapter created in section 9 of this act),</u> 14 <u>including the data and information requirements in section 3 of this</u> 15 <u>act.</u>

16 <u>NEW SECTION.</u> Sec. 8. This act may be known and cited as the buy 17 clean and buy fair Washington act.

18 <u>NEW SECTION.</u> Sec. 9. Sections 2 through 6 of this act 19 constitute a new chapter in Title 39 RCW.

20 <u>NEW SECTION.</u> Sec. 10. If any provision of this act or its 21 application to any person or circumstance is held invalid, the 22 remainder of the act or the application of the provision to other 23 persons or circumstances is not affected.

> Passed by the House March 5, 2024. Passed by the Senate March 1, 2024. Approved by the Governor March 28, 2024. Filed in Office of Secretary of State March 29, 2024.

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