
SENATE BILL 5949

State of Washington

66th Legislature

2019 Regular Session

By Senators Hasegawa, Nguyen, Hunt, Van De Wege, Randall, Conway, Das, and Wilson, C.

Read first time 02/18/19. Referred to Committee on Financial Institutions, Economic Development & Trade.

1 AN ACT Relating to establishing the Washington investment trust;
2 amending RCW 30A.04.020, 43.08.135, and 43.84.080; reenacting and
3 amending RCW 42.56.270 and 42.56.400; adding a new section to chapter
4 39.58 RCW; adding a new section to chapter 41.06 RCW; adding a new
5 chapter to Title 43 RCW; creating a new section; providing an
6 expiration date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** FINDINGS—INTENT. (1)(a) The legislature
9 finds that there are significant public infrastructure and program
10 needs of the state that are unmet, and that the level of unmet need
11 has been exacerbated by numerous factors including our self-limiting
12 constitutional debt ceiling, declining per capita revenues which
13 limits the debt calculation and our ability to service debt while at
14 the same time meet the basic social and economic development needs of
15 the people, and our growing population which leads to increasing
16 demands on our already overburdened infrastructure and services.

17 (b) The legislature also finds that the costs to the people for
18 bonded debt is roughly twice as much as the original amount borrowed
19 over the usual twenty-five to thirty years' life of the bond, and
20 that this debt service payment from the general fund comes at the
21 expense of other more needed programs and services. The state issues

1 new bonds for needed capital year after year, which has pushed our
2 debt to the constitutional limit. This has proven to be an
3 unsustainable practice as directly evidenced by our inability to
4 maintain existing infrastructure or fund new needed infrastructure
5 for the development of our economy.

6 (c) Furthermore, the legislature finds that the general fund is
7 being tasked with doing more with less: Students suffer under
8 crushing debt, public housing capacity is diminishing even as our
9 population is growing at a record rate, income and wealth inequality
10 is expanding to historical highs which exposes our regressive revenue
11 structure and leads to lower per capita revenue while increasing our
12 need for services, addressing our share of global climate change will
13 require huge investments into renewable energy sources, small
14 businesses suffer from lack of access to capital while big
15 corporations are amassing enormous wealth and the power it wields,
16 and much of our public infrastructure is at a critical state of
17 failure.

18 (d) The legislature further finds that there is a strategic
19 opportunity to use the state's depository assets to generate
20 additional benefit for the people and the economy of the state by
21 creating a public depository and lending institution that is owned by
22 the people of the state of Washington for the benefit of the people
23 of the state of Washington. This state-owned bank will produce new
24 revenue for the state without raising taxes while also creating
25 greatly expanded financing capacity for infrastructure and other
26 projects for public benefit that will grow much needed capacity for
27 future generations.

28 (e) The legislature also finds that public banking is a well-
29 proven strategy globally. On the other hand, the public financing
30 paradigm in the United States has been to rely on commercial banking
31 rather than public banking. The exception to our United States
32 paradigm is North Dakota, which has owned its own bank, known as the
33 bank of North Dakota. This one hundred year old publicly owned bank
34 in 2018 reported its fourteenth consecutive year of record profits
35 for the people of the state of North Dakota with the people earning
36 seventeen percent return on their investment in the bank, while
37 increasing public financing capacity for the state and also working
38 in partnership with community banks to increase access to capital for
39 its people and businesses through student loans, farming and small
40 business loans, and other economic development programs. The bank of

1 North Dakota has provided stability and capacity to the people of
2 North Dakota throughout adverse cycles like the great recession of
3 2009 and the oil price crash of 2013.

4 (f) The legislature also finds that the leveraging capacity of a
5 public depository bank would increase our public financing capacity
6 by an order of magnitude. Other proposals to create so-called
7 infrastructure banks are actually revolving loan accounts that are
8 not really banks and cannot offer this basic leveraging capacity
9 benefit of a bank because they are not the state's tax revenue
10 depository.

11 (g) Finally, the legislature finds that a state bank is the
12 cornerstone of a much larger and needed comprehensive economic
13 development and social development strategy. While a game changing
14 step forward on its own, it needs the follow-up with a larger
15 comprehensive economic development and social development strategy
16 that includes revenue reform, renewed commitment to public housing,
17 transportation investments that support current and future needs
18 including high speed rail, educational and workforce training
19 investments, small and new business start-up supports, global
20 marketing, and social safety net investments.

21 (h) Therefore, the legislature intends to create a publicly owned
22 depository to be known as the Washington investment trust as a legacy
23 institution that amasses sufficient capital reserves to address
24 social and economic opportunities now and in the future.

25 (2) The legislature intends that the investment trust may:

26 (a) Facilitate investment in, and financing of, public
27 infrastructure systems that will increase public health and safety;

28 (b) Offer cooperative ownership and services opportunities to
29 political subdivisions within the state;

30 (c) Leverage the financial capital and resources of Washington
31 state by working in partnership with local financial institutions
32 that benefit local communities, or with community-based
33 organizations, economic development organizations, local governments,
34 guaranty agencies, and other stakeholder groups to create jobs and
35 economic opportunities within our state for public benefit; and

36 (d) Pursue other opportunities in furtherance of its mission as
37 directed by the people through initiative, or by act of the
38 legislature with the concurrence of the commission.

39 (3) The legislature intends for the trust to apply business
40 strategies to manage taxpayer revenues for the best interests of the

1 state and people while concurrently meeting identified needs and
2 strategic opportunities across the state.

3 (4) The mission of the trust is to use Washington's depository
4 assets in ways that afford most efficient use of taxpayer revenues
5 and public resources for the benefit of the people and economy of the
6 state.

7 (5) In achieving its purpose, the legislature intends for the
8 trust to adhere to the following priority principles:

- 9 (a) Institutional safety and soundness;
- 10 (b) Long-term viability;
- 11 (c) Social return and monetary return on investments;
- 12 (d) Highest ethical, accountability, and transparency standards;
- 13 (e) Prudent and best banking and business practices; and
- 14 (f) Insulation from political influence.

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

18 (1) "Board" means the advisory board of the Washington investment
19 trust.

20 (2) "Commission" means the Washington investment trust
21 commission.

22 (3) "Department" means the department of financial institutions.

23 (4) "Director" means the director of the department of financial
24 institutions.

25 (5) "Public infrastructure system" means a system of a local
26 government or political subdivision, a special purpose district, a
27 public school district, an institution of higher education as defined
28 in RCW 28B.10.016, a federally recognized Indian tribe, or the state,
29 including but not limited to a system involving: Wastewater
30 treatment; storm water management; solid waste disposal; drinking
31 water treatment; flood control levees; energy efficiency
32 enhancements; roads, streets, and bridges; transportation
33 infrastructure, including freight rail and transit; broadband and
34 telecommunications infrastructure; outdoor recreation and habitat
35 protection facilities; community, social service, or public safety
36 facilities; schools and educational facilities; and affordable
37 housing as defined in RCW 43.63A.510.

38 (6) "State moneys" has the same meaning as in RCW 43.85.200.

39 (7) "Treasurer" means the treasurer of the state of Washington.

1 (8) "Trust" means the Washington investment trust.

2 NEW SECTION. **Sec. 3.** CREATION. The Washington investment trust
3 is created.

4 NEW SECTION. **Sec. 4.** COMMISSION. (1) The Washington investment
5 trust commission is created as the primary governing authority of the
6 trust. The commission shall consist of five statewide elected state
7 officials: The governor, the lieutenant governor, the attorney
8 general, the state treasurer, and the state auditor.

9 (2) The commission may adopt rules regarding the:

10 (a) Safety and soundness standards of the trust;

11 (b) Transparency requirements for trust operations;

12 (c) Ethics and conflict of interest requirements for the
13 commission, the board, and officers and employees of the trust,
14 including rules to ensure that they perform their functions in
15 compliance with chapter 42.52 RCW; and

16 (d) Other topics as needed for efficient administration of the
17 trust.

18 (3) The commission shall commence trust operations by July 1,
19 2020.

20 (4) The commission may delegate to the trust president such
21 duties and powers as deemed necessary to carry on the business of the
22 trust and enforce this chapter efficiently and effectively. The
23 commission may not delegate its rule-making or policy-making
24 authority.

25 (5) The commission may adopt policies and procedures for its own
26 governance.

27 (6) The commission may establish technical advisory committees or
28 consult with public and private sector experts in substantive areas
29 related to the trust's mission, objectives, and duties.

30 NEW SECTION. **Sec. 5.** TRANSITION BOARD. (1)(a) The trust
31 transition board is established, with members as provided in this
32 subsection.

33 (i) The president of the senate shall appoint one member from
34 each of the two largest caucuses of the senate.

35 (ii) The speaker of the house of representatives shall appoint
36 one member from each of the two largest caucuses of the house of
37 representatives.

1 (iii) The president of the senate and the speaker of the house of
2 representatives jointly shall appoint seven citizen members with a
3 background in financial issues.

4 (b) The president of the senate and the speaker of the house of
5 representatives jointly shall select the chair from among the citizen
6 membership. The chair shall convene the initial meeting of the trust
7 transition board within forty-five days after the effective date of
8 this section.

9 (2) The trust transition board shall develop and recommend the
10 following to the commission within the timeline established by the
11 commission:

12 (a) A start-up business plan for the trust that includes plans
13 and timelines for functions that are new and functions transitioning
14 to the trust that were previously performed by another entity;

15 (b) Initial capital requirements of the trust;

16 (c) Options for capitalizing the trust including but not limited
17 to: Federal transportation funds, Taft-Hartley trust funds, revenue
18 or general obligation bond proceeds, state health care unemployment
19 or workers' compensation reserves, consolidation of state revolving
20 loan accounts, housing trust funds, state investment board and local
21 government investment pool investments, and other core capital
22 reserves not needed for liquidity; and

23 (d) Other items requested by the commission in order to commence
24 trust operations by July 1, 2020.

25 (3) Legislative members of the trust transition board must be
26 reimbursed for travel expenses in accordance with RCW 44.04.120.
27 Nonlegislative members, except those representing an employer or
28 organization, are entitled to be reimbursed for expenses incurred in
29 the discharge of their duties under chapter 43.--- RCW (the new
30 chapter created in section 26 of this act) in accordance with RCW
31 43.03.050 and 43.03.060.

32 (4) The trust transition board may appoint an interim president
33 and other necessary staff who are exempt from the provisions of
34 chapter 41.06 RCW, and who serve at the board's pleasure on such
35 terms and conditions as the board determines but subject to chapter
36 42.52 RCW. The department must provide technical assistance to the
37 trust transition board. The board may also contract with additional
38 persons who have specific technical expertise if the expertise is
39 necessary to carry out the requirements of this section.

40 (5) This section expires July 1, 2020.

1 NEW SECTION. **Sec. 6.** DEPOSIT OF PUBLIC FUNDS. (1) (a) The trust
2 shall serve as the depository for state moneys or funds belonging to
3 or in the custody of the state once the trust has built sufficient
4 capacity to accept and manage state moneys or funds, as determined by
5 the commission. The commission shall establish a process and time
6 frame for the deposit of state moneys into the trust. In determining
7 whether the trust has built sufficient capacity, the commission shall
8 consider the minimum leverage capital requirements specified in 12
9 C.F.R. Sec. 325.3 (2012).

10 (b) The treasurer and local government agencies shall deposit
11 state moneys or funds in the trust in accordance with the time frame
12 and guidelines determined by the commission under this subsection.

13 (2) All deposits in the trust are guaranteed by the state rather
14 than insured by the federal deposit insurance corporation.

15 (3) All income earned by the trust on state moneys or funds that
16 are deposited in or invested with the trust constitute income of the
17 trust and must be credited to the trust except as otherwise required
18 by law.

19 (4) The trust may accept deposits of public funds, but is exempt
20 from the requirements of chapter 39.58 RCW.

21 (5) The trust may accept funds from any public source, including
22 federal funds or other public funds.

23 (6) The commission shall review state accounts that contain
24 public funds that are not state moneys, and make recommendations to
25 the governor and the appropriate committees of the legislature as to
26 which accounts should be deposited in the trust.

27 (7) (a) Administrative and strategic planning expenses of the
28 trust are funded from the earnings of the trust, subject to
29 legislative authorization, and from any other appropriations provided
30 by the legislature.

31 (b) The commission shall establish a separate administrative
32 account within the trust from which its administrative and strategic
33 planning costs must be funded. In each biennial operating budget, the
34 legislature shall authorize the commission to incur a maximum
35 expenditure from the administrative account.

36 (c) In an amount not to exceed the authorized expenditures, the
37 commission shall proportionally allocate interest earnings from
38 accounts and moneys under its management and shall transfer this
39 amount to the administrative fund. This transfer shall precede the
40 distribution of remaining earnings under applicable statutes.

1 (d) The trust shall deposit in the general fund any interest
2 earnings that exceed the total of those necessary to make required
3 distributions and those necessary for the continued sound operation
4 of the trust as determined by the commission.

5 NEW SECTION. **Sec. 7.** INVESTMENT OF STATE MONEYS. The commission
6 and the state treasurer shall jointly determine the amount of funds
7 necessary to meet the operational needs of state government. The
8 state treasurer retains authority to manage and invest the amount of
9 funds necessary to meet the operational needs of state government.

10 NEW SECTION. **Sec. 8.** FEDERAL MEMBERSHIP. The trust may become a
11 member of the federal reserve system or the federal home loan bank.

12 NEW SECTION. **Sec. 9.** INFRASTRUCTURE FUNDING. The trust is
13 authorized to manage and invest state moneys in order to facilitate
14 investment in, and financing of, construction, rehabilitation,
15 replacement, and improvement of new and existing public
16 infrastructure systems. By November 1, 2019, the commission must
17 present an implementation plan and any necessary legislation to the
18 governor and appropriate legislative committees that:

19 (1) Identifies any existing accounts in the state treasury
20 associated with state infrastructure programs that the trust
21 recommends be transferred under its umbrella, and the steps and
22 timelines for the transitions;

23 (2) Identifies additional infrastructure funding that the trust
24 recommends be sought and secured under its umbrella, and the steps
25 and timelines required; and

26 (3) Demonstrates how the trust plans to maximize revenues and
27 public benefit.

28 NEW SECTION. **Sec. 10.** LEGISLATIVE AND STATE AGENCIES
29 AUTHORITIES. Nothing in this chapter affects:

30 (1) The ability of the legislature to appropriate from public
31 accounts deposited at the trust, including the ability to place any
32 conditions or limitations on those appropriations; or

33 (2) After the legislature appropriates moneys from public
34 accounts deposited at the trust, the use of those moneys by the state
35 agencies receiving the appropriations.

1 NEW SECTION. **Sec. 11.** MANAGEMENT. (1) The commission shall
2 appoint a trust president. The president is exempt from the
3 provisions of chapter 41.06 RCW. The president shall serve at the
4 commission's pleasure, on such terms and conditions as the commission
5 determines, but subject to chapter 42.52 RCW.

6 (2) The president shall provide support to the commission and the
7 advisory board, carry out trust policies and programs, and exercise
8 additional authority as may be delegated by the commission.

9 (3) Subject to available funding and consistent with commission
10 direction, the trust president:

11 (a) May employ such additional personnel as are necessary to the
12 bank's operations. This employment shall be in accordance with the
13 state civil service law, chapter 41.06 RCW; and

14 (b) May contract with persons who have the technical expertise
15 needed to carry out a specific, time-limited project.

16 NEW SECTION. **Sec. 12.** ADVISORY BOARD. (1)(a) An investment
17 trust advisory board consisting of eleven members is created to
18 review the trust's operations and make recommendations relating to
19 the trust's management, services, policies, and procedures.

20 (b) The governor shall appoint members of the advisory board,
21 subject to confirmation by the senate. The members of the advisory
22 board must represent a diversity of experience relevant to activities
23 of the trust. Six or more of the members must have expertise in
24 finance. Advisory board members serve at the pleasure of the
25 governor.

26 (c) The board shall choose its chair from among its membership.

27 (2) The term of the members is three years. Five of the initial
28 board members must be appointed to serve an initial term of three
29 years, three must be appointed to serve an initial term of two years,
30 and the three remaining members must be appointed to serve an initial
31 term of one year. All subsequent terms are three years. To ensure
32 that the board can continue to act, a member whose term expires shall
33 continue to serve until his or her replacement is appointed. In the
34 case of any vacancy on the board for any reason, the governor shall
35 appoint a new member to serve out the term of the person whose
36 position has become vacant. A board member may be removed for cause
37 by the governor.

1 (3) Members of the advisory board are entitled to reimbursement
2 for expenses incurred in the discharge of their duties under this
3 chapter, as provided in RCW 43.03.050 and 43.03.060.

4 NEW SECTION. **Sec. 13.** FINANCIAL OVERSIGHT AND AUDIT. (1) The
5 trust must maintain capital adequacy and other standard indicators of
6 safety and soundness as are appropriate for a publicly owned
7 financial institution.

8 (2) The director shall examine the trust, taking into
9 consideration the unique circumstances of a publicly owned financial
10 institution. The trust shall pay the director for the reasonable
11 costs of examinations.

12 (3) The state auditor shall conduct an annual postaudit on all
13 accounts and financial transactions of the trust.

14 NEW SECTION. **Sec. 14.** REPORTING REQUIREMENTS. (1) The trust
15 shall submit quarterly reports to the commission in a manner and form
16 prescribed by the commission.

17 (2) The commission shall make a report to the legislature on the
18 affairs of the trust by December 1st of each year.

19 NEW SECTION. **Sec. 15.** ETHICAL REQUIREMENTS. The trust may not
20 make a loan to any advisory board member, the president, or employees
21 of the trust. Advisory board members, the president, and employees of
22 the trust must follow applicable ethical requirements in chapter
23 42.52 RCW and in rules, policies, and procedures adopted by the
24 commission.

25 NEW SECTION. **Sec. 16.** FEES AND TAXES. The trust is exempt from
26 payment of all fees and taxes levied by the state or any of its
27 subdivisions.

28 NEW SECTION. **Sec. 17.** TRUST RECORDS. (1) Under RCW 42.56.270
29 and 42.56.400, certain trust business records and records of the
30 department relating to the trust are exempt from public disclosure.

31 (2) Financial and commercial information and records submitted to
32 either the department or the commission for the purpose of
33 administering this chapter may be shared between the department and
34 the treasurer. These records may also be used in any suit or
35 administrative hearing involving any provision of this chapter.

1 (3) This section does not prohibit:

2 (a) The issuance of general statements based on the reports of
3 persons subject to this chapter as long as the statements do not
4 identify the information furnished by any person; or

5 (b) The publication by the director or the commission of the name
6 of any person violating this chapter and a statement of the manner of
7 the violation of that person.

8 NEW SECTION. **Sec. 18.** CAPITALIZATION. The commission must make
9 recommendations to the appropriate fiscal committees of the
10 legislature on options for capitalization of the trust. Any
11 recommendations must include draft legislation for consideration by
12 the legislature.

13 NEW SECTION. **Sec. 19.** A new section is added to chapter 39.58
14 RCW to read as follows:

15 The Washington investment trust created in section 3 of this act
16 may accept deposits of public funds, but is not a public depository
17 and is not subject to the requirements of this chapter.

18 NEW SECTION. **Sec. 20.** A new section is added to chapter 41.06
19 RCW to read as follows:

20 In addition to the exemptions under RCW 41.06.070, the provisions
21 of this chapter do not apply to the president of the Washington
22 investment trust in section 11 of this act.

23 **Sec. 21.** RCW 30A.04.020 and 2014 c 37 s 103 are each amended to
24 read as follows:

25 (1) The name of every bank shall contain the word "bank" and the
26 name of every trust company shall contain the word "trust," or the
27 word "bank." Except as provided in RCW 33.08.030 or as otherwise
28 authorized by this section or approved by the director, only a
29 national bank, federal savings bank, a bank or trust company, savings
30 bank under Title 32 RCW, bank holding company or financial holding
31 company, a holding company authorized by this title or Title 32 RCW,
32 or a foreign or alien corporation or other legal person authorized by
33 this title to do so, shall:

34 (a) Use as a part of his or her or its name or other business
35 designation, as a prominent syllable within a word comprising all or
36 a portion of its name or other business designation, or in any manner

1 as if connected with his or her or its business or place of business
2 any of the following words or the plural thereof, to wit: "bank,"
3 "banking," "banker," "bancorporation," "bancorp," or "trust," or any
4 foreign language designations thereof, including, by way of example,
5 "banco" or "banque."

6 (b) Use any sign, logo, or marketing message, in any media, or
7 use any letterhead, billhead, note, receipt, certificate, blank,
8 form, or any written, printed, electronic or internet-based
9 instrument or material representation whatsoever, directly or
10 indirectly indicating that the business of such person is that of a
11 bank or trust company.

12 (2) A foreign corporation or other foreign domiciled legal
13 person, whose name contains the words "bank," "banker," "banking,"
14 "bancorporation," "bancorp," or "trust," or the foreign language
15 equivalent thereof, or whose articles of incorporation empower it to
16 engage in banking or to engage in a trust business, may not engage in
17 banking or in a trust business in this state unless the corporation
18 or other legal person (a) is expressly authorized to do so under this
19 title, under federal law, or by the director, and (b) complies with
20 all applicable requirements of Washington state law regarding foreign
21 corporations and other foreign legal persons. If an activity would
22 not constitute "transacting business" within the meaning of RCW
23 23B.15.010(1) or chapter 23B.18 RCW, then the activity shall not
24 constitute banking or engaging in a trust business. Nothing in this
25 subsection shall prevent operations by an alien bank in compliance
26 with chapter 30A.42 RCW.

27 (3) This section shall not prevent a lender approved by the
28 United States secretary of housing and urban development for
29 participation in any mortgage insurance program under the National
30 Housing Act from using the words "mortgage banker" or "mortgage
31 banking" in the conduct of its business, but only if both words are
32 used together in either of the forms which appear in quotations in
33 this sentence.

34 (4) Any individual or legal person, or director, officer, or
35 manager of such legal person, who knowingly violates any provision of
36 this section shall be guilty of a gross misdemeanor.

37 (5) This section does not prevent the Washington investment trust
38 created in section 3 of this act from being called a trust or from
39 providing banking services without being called a bank.

1 **Sec. 22.** RCW 42.56.270 and 2018 c 201 s 8008, 2018 c 196 s 21,
2 and 2018 c 4 s 9 are each reenacted and amended to read as follows:

3 The following financial, commercial, and proprietary information
4 is exempt from disclosure under this chapter:

5 (1) Valuable formulae, designs, drawings, computer source code or
6 object code, and research data obtained by any agency within five
7 years of the request for disclosure when disclosure would produce
8 private gain and public loss;

9 (2) Financial information supplied by or on behalf of a person,
10 firm, or corporation for the purpose of qualifying to submit a bid or
11 proposal for (a) a ferry system construction or repair contract as
12 required by RCW 47.60.680 through 47.60.750 or (b) highway
13 construction or improvement as required by RCW 47.28.070;

14 (3) Financial and commercial information and records supplied by
15 private persons pertaining to export services provided under chapters
16 43.163 and 53.31 RCW, and by persons pertaining to export projects
17 under RCW 43.23.035;

18 (4) Financial and commercial information and records supplied by
19 businesses or individuals during application for loans or program
20 services provided by chapters 43.325, 43.163, 43.160, 43.330, 43.---
21 (the new chapter created in section 26 of this act), and 43.168 RCW,
22 or during application for economic development loans or program
23 services provided by any local agency;

24 (5) Financial information, business plans, examination reports,
25 and any information produced or obtained in evaluating or examining a
26 business and industrial development corporation organized or seeking
27 certification under chapter 31.24 RCW;

28 (6) Financial and commercial information supplied to the state
29 investment board by any person when the information relates to the
30 investment of public trust or retirement funds and when disclosure
31 would result in loss to such funds or in private loss to the
32 providers of this information;

33 (7) Financial and valuable trade information under RCW 51.36.120;

34 (8) Financial, commercial, operations, and technical and research
35 information and data submitted to or obtained by the clean Washington
36 center in applications for, or delivery of, program services under
37 chapter 70.95H RCW;

38 (9) Financial and commercial information requested by the public
39 stadium authority from any person or organization that leases or uses
40 the stadium and exhibition center as defined in RCW 36.102.010;

1 (10)(a) Financial information, including but not limited to
2 account numbers and values, and other identification numbers supplied
3 by or on behalf of a person, firm, corporation, limited liability
4 company, partnership, or other entity related to an application for a
5 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
6 marijuana producer, processor, or retailer license, liquor license,
7 gambling license, or lottery retail license;

8 (b) Internal control documents, independent auditors' reports and
9 financial statements, and supporting documents: (i) Of house-banked
10 social card game licensees required by the gambling commission
11 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
12 by tribes with an approved tribal/state compact for class III gaming;

13 (11) Proprietary data, trade secrets, or other information that
14 relates to: (a) A vendor's unique methods of conducting business; (b)
15 data unique to the product or services of the vendor; or (c)
16 determining prices or rates to be charged for services, submitted by
17 any vendor to the department of social and health services or the
18 health care authority for purposes of the development, acquisition,
19 or implementation of state purchased health care as defined in RCW
20 41.05.011;

21 (12)(a) When supplied to and in the records of the department of
22 commerce:

23 (i) Financial and proprietary information collected from any
24 person and provided to the department of commerce pursuant to RCW
25 43.330.050(8); and

26 (ii) Financial or proprietary information collected from any
27 person and provided to the department of commerce or the office of
28 the governor in connection with the siting, recruitment, expansion,
29 retention, or relocation of that person's business and until a siting
30 decision is made, identifying information of any person supplying
31 information under this subsection and the locations being considered
32 for siting, relocation, or expansion of a business;

33 (b) When developed by the department of commerce based on
34 information as described in (a)(i) of this subsection, any work
35 product is not exempt from disclosure;

36 (c) For the purposes of this subsection, "siting decision" means
37 the decision to acquire or not to acquire a site;

38 (d) If there is no written contact for a period of sixty days to
39 the department of commerce from a person connected with siting,
40 recruitment, expansion, retention, or relocation of that person's

1 business, information described in (a)(ii) of this subsection will be
2 available to the public under this chapter;

3 (13) Financial and proprietary information submitted to or
4 obtained by the department of ecology or the authority created under
5 chapter 70.95N RCW to implement chapter 70.95N RCW;

6 (14) Financial, commercial, operations, and technical and
7 research information and data submitted to or obtained by the life
8 sciences discovery fund authority in applications for, or delivery
9 of, grants under chapter 43.350 RCW, to the extent that such
10 information, if revealed, would reasonably be expected to result in
11 private loss to the providers of this information;

12 (15) Financial and commercial information provided as evidence to
13 the department of licensing as required by RCW 19.112.110 or
14 19.112.120, except information disclosed in aggregate form that does
15 not permit the identification of information related to individual
16 fuel licensees;

17 (16) Any production records, mineral assessments, and trade
18 secrets submitted by a permit holder, mine operator, or landowner to
19 the department of natural resources under RCW 78.44.085;

20 (17)(a) Farm plans developed by conservation districts, unless
21 permission to release the farm plan is granted by the landowner or
22 operator who requested the plan, or the farm plan is used for the
23 application or issuance of a permit;

24 (b) Farm plans developed under chapter 90.48 RCW and not under
25 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
26 to RCW 42.56.610 and 90.64.190;

27 (18) Financial, commercial, operations, and technical and
28 research information and data submitted to or obtained by a health
29 sciences and services authority in applications for, or delivery of,
30 grants under RCW 35.104.010 through 35.104.060, to the extent that
31 such information, if revealed, would reasonably be expected to result
32 in private loss to providers of this information;

33 (19) Information gathered under chapter 19.85 RCW or RCW
34 34.05.328 that can be identified to a particular business;

35 (20) Financial and commercial information submitted to or
36 obtained by the University of Washington, other than information the
37 university is required to disclose under RCW 28B.20.150, when the
38 information relates to investments in private funds, to the extent
39 that such information, if revealed, would reasonably be expected to
40 result in loss to the University of Washington consolidated endowment

1 fund or to result in private loss to the providers of this
2 information;

3 (21) Market share data submitted by a manufacturer under RCW
4 70.95N.190(4);

5 (22) Financial information supplied to the department of
6 financial institutions or to a portal under RCW 21.20.883, when filed
7 by or on behalf of an issuer of securities for the purpose of
8 obtaining the exemption from state securities registration for small
9 securities offerings provided under RCW 21.20.880 or when filed by or
10 on behalf of an investor for the purpose of purchasing such
11 securities;

12 (23) Unaggregated or individual notices of a transfer of crude
13 oil that is financial, proprietary, or commercial information,
14 submitted to the department of ecology pursuant to RCW
15 90.56.565(1)(a), and that is in the possession of the department of
16 ecology or any entity with which the department of ecology has shared
17 the notice pursuant to RCW 90.56.565;

18 (24) Financial institution and retirement account information,
19 and building security plan information, supplied to the liquor and
20 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
21 69.50.345, when filed by or on behalf of a licensee or prospective
22 licensee for the purpose of obtaining, maintaining, or renewing a
23 license to produce, process, transport, or sell marijuana as allowed
24 under chapter 69.50 RCW;

25 (25) Marijuana transport information, vehicle and driver
26 identification data, and account numbers or unique access identifiers
27 issued to private entities for traceability system access, submitted
28 by an individual or business to the liquor and cannabis board under
29 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
30 69.50.345 for the purpose of marijuana product traceability.
31 Disclosure to local, state, and federal officials is not considered
32 public disclosure for purposes of this section;

33 (26) Financial and commercial information submitted to or
34 obtained by the retirement board of any city that is responsible for
35 the management of an employees' retirement system pursuant to the
36 authority of chapter 35.39 RCW, when the information relates to
37 investments in private funds, to the extent that such information, if
38 revealed, would reasonably be expected to result in loss to the
39 retirement fund or to result in private loss to the providers of this
40 information except that (a) the names and commitment amounts of the

1 private funds in which retirement funds are invested and (b) the
2 aggregate quarterly performance results for a retirement fund's
3 portfolio of investments in such funds are subject to disclosure;

4 (27) Proprietary financial, commercial, operations, and technical
5 and research information and data submitted to or obtained by the
6 liquor and cannabis board in applications for marijuana research
7 licenses under RCW 69.50.372, or in reports submitted by marijuana
8 research licensees in accordance with rules adopted by the liquor and
9 cannabis board under RCW 69.50.372;

10 (28) Trade secrets, technology, proprietary information, and
11 financial considerations contained in any agreements or contracts,
12 entered into by a licensed marijuana business under RCW 69.50.395,
13 which may be submitted to or obtained by the state liquor and
14 cannabis board; (~~and~~)

15 (29) Financial, commercial, operations, and technical and
16 research information and data submitted to or obtained by the Andy
17 Hill cancer research endowment program in applications for, or
18 delivery of, grants under chapter 43.348 RCW, to the extent that such
19 information, if revealed, would reasonably be expected to result in
20 private loss to providers of this information; and

21 (30) Proprietary information filed with the department of health
22 under chapter 69.48 RCW.

23 **Sec. 23.** RCW 42.56.400 and 2018 c 260 s 32 and 2018 c 30 s 9 are
24 each reenacted and amended to read as follows:

25 The following information relating to insurance and financial
26 institutions is exempt from disclosure under this chapter:

27 (1) Records maintained by the board of industrial insurance
28 appeals that are related to appeals of crime victims' compensation
29 claims filed with the board under RCW 7.68.110;

30 (2) Information obtained and exempted or withheld from public
31 inspection by the health care authority under RCW 41.05.026, whether
32 retained by the authority, transferred to another state purchased
33 health care program by the authority, or transferred by the authority
34 to a technical review committee created to facilitate the
35 development, acquisition, or implementation of state purchased health
36 care under chapter 41.05 RCW;

37 (3) The names and individual identification data of either all
38 owners or all insureds, or both, received by the insurance
39 commissioner under chapter 48.102 RCW;

1 (4) Information provided under RCW 48.30A.045 through 48.30A.060;
2 (5) Information provided under RCW 48.05.510 through 48.05.535,
3 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and
4 48.46.600 through 48.46.625;
5 (6) Examination reports and information obtained by the
6 department of financial institutions from banks under RCW 30A.04.075,
7 from savings banks under RCW 32.04.220, from savings and loan
8 associations under RCW 33.04.110, from credit unions under RCW
9 31.12.565, from the Washington investment trust under chapter 43.---
10 RCW (the new chapter created in section 26 of this act), from check
11 cashers and sellers under RCW 31.45.030(3), and from securities
12 brokers and investment advisers under RCW 21.20.100, all of which is
13 confidential and privileged information;
14 (7) Information provided to the insurance commissioner under RCW
15 48.110.040(3);
16 (8) Documents, materials, or information obtained by the
17 insurance commissioner under RCW 48.02.065, all of which are
18 confidential and privileged;
19 (9) Documents, materials, or information obtained by the
20 insurance commissioner under RCW 48.31B.015(2) (l) and (m),
21 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential
22 and privileged;
23 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
24 7.70.140 that, alone or in combination with any other data, may
25 reveal the identity of a claimant, health care provider, health care
26 facility, insuring entity, or self-insurer involved in a particular
27 claim or a collection of claims. For the purposes of this subsection:
28 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
29 (b) "Health care facility" has the same meaning as in RCW
30 48.140.010(6).
31 (c) "Health care provider" has the same meaning as in RCW
32 48.140.010(7).
33 (d) "Insuring entity" has the same meaning as in RCW
34 48.140.010(8).
35 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
36 (11) Documents, materials, or information obtained by the
37 insurance commissioner under RCW 48.135.060;
38 (12) Documents, materials, or information obtained by the
39 insurance commissioner under RCW 48.37.060;

- 1 (13) Confidential and privileged documents obtained or produced
2 by the insurance commissioner and identified in RCW 48.37.080;
- 3 (14) Documents, materials, or information obtained by the
4 insurance commissioner under RCW 48.37.140;
- 5 (15) Documents, materials, or information obtained by the
6 insurance commissioner under RCW 48.17.595;
- 7 (16) Documents, materials, or information obtained by the
8 insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and
9 (7) (a) (ii);
- 10 (17) Documents, materials, or information obtained by the
11 insurance commissioner in the commissioner's capacity as receiver
12 under RCW 48.31.025 and 48.99.017, which are records under the
13 jurisdiction and control of the receivership court. The commissioner
14 is not required to search for, log, produce, or otherwise comply with
15 the public records act for any records that the commissioner obtains
16 under chapters 48.31 and 48.99 RCW in the commissioner's capacity as
17 a receiver, except as directed by the receivership court;
- 18 (18) Documents, materials, or information obtained by the
19 insurance commissioner under RCW 48.13.151;
- 20 (19) Data, information, and documents provided by a carrier
21 pursuant to section 1, chapter 172, Laws of 2010;
- 22 (20) Information in a filing of usage-based insurance about the
23 usage-based component of the rate pursuant to RCW 48.19.040(5) (b);
- 24 (21) Data, information, and documents, other than those described
25 in RCW 48.02.210(2) as it existed prior to repeal by section 2,
26 chapter 7, Laws of 2017 3rd (~~(sp.s.)~~) sp. sess., that are submitted
27 to the office of the insurance commissioner by an entity providing
28 health care coverage pursuant to RCW 28A.400.275 as it existed on
29 January 1, 2017, and (~~(RCW)~~) RCW 48.02.210 as it existed prior to
30 repeal by section 2, chapter 7, Laws of 2017 3rd (~~(sp.s.)~~) sp. sess.;
- 31 (22) Data, information, and documents obtained by the insurance
32 commissioner under RCW 48.29.017;
- 33 (23) Information not subject to public inspection or public
34 disclosure under RCW 48.43.730(5);
- 35 (24) Documents, materials, or information obtained by the
36 insurance commissioner under chapter 48.05A RCW;
- 37 (25) Documents, materials, or information obtained by the
38 insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6),
39 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents,
40 materials, or information independently qualify for exemption from

1 disclosure as documents, materials, or information in possession of
2 the commissioner pursuant to a financial conduct examination and
3 exempt from disclosure under RCW 48.02.065;

4 (26) Nonpublic personal health information obtained by, disclosed
5 to, or in the custody of the insurance commissioner, as provided in
6 RCW 48.02.068;

7 (27) Data, information, and documents obtained by the insurance
8 commissioner under RCW 48.02.230;

9 (28) Documents, materials, or other information, including the
10 corporate annual disclosure obtained by the insurance commissioner
11 under RCW 48.195.020; and

12 (29) All claims data, including health care and financial related
13 data received under RCW 41.05.890, received and held by the health
14 care authority.

15 **Sec. 24.** RCW 43.08.135 and 2009 c 549 s 5044 are each amended to
16 read as follows:

17 The state treasurer shall maintain at all times cash, or demand
18 deposits in the Washington investment trust created in section 3 of
19 this act or qualified public depositories in an amount needed to meet
20 the operational needs of state government: PROVIDED, That the state
21 treasurer shall not be considered in violation of RCW 9A.56.060(1) if
22 he or she maintains demand accounts in public depositories in an
23 amount less than all treasury warrants issued and outstanding.

24 **Sec. 25.** RCW 43.84.080 and 2016 c 152 s 18 are each amended to
25 read as follows:

26 Subject to the limitations in section 7 of this act, wherever
27 there is in any fund or in cash balances in the state treasury more
28 than sufficient to meet the current expenditures properly payable
29 therefrom, the state treasurer may invest or reinvest such portion of
30 such funds or balances as the state treasurer deems expedient in the
31 following:

32 (1) Certificates, notes, or bonds of the United States, or other
33 obligations of the United States or its agencies, or of any
34 corporation wholly owned by the government of the United States or
35 United States dollar denominated bonds, notes, or other obligations
36 that are issued or guaranteed by supranational institutions, provided
37 that, at the time of investment, the institution has the United
38 States government as its largest shareholder;

1 (2) In state, county, municipal, or school district bonds, notes,
2 or in warrants of taxing districts of the state. Such bonds and
3 warrants shall be only those found to be within the limit of
4 indebtedness prescribed by law for the taxing district issuing them
5 and to be general obligations. The state treasurer may purchase such
6 bonds or warrants directly from the taxing district or in the open
7 market at such prices and upon such terms as it may determine, and
8 may sell them at such times as it deems advisable;

9 (3) In federal home loan bank notes and bonds, federal land bank
10 bonds and federal national mortgage association notes, debentures and
11 guaranteed certificates of participation, or the obligations of any
12 other government sponsored corporation whose obligations are or may
13 become eligible as collateral for advances to member banks as
14 determined by the board of governors of the federal reserve system;

15 (4) Bankers' acceptances purchased on the secondary market;

16 (5) Commercial paper purchased on the secondary market, provided
17 that the state treasurer adheres to the investment policies and
18 procedures adopted by the state investment board;

19 (6) General obligation bonds of any state and general obligation
20 bonds of local governments of other states, which bonds have at the
21 time of investment one of the three highest credit ratings of a
22 nationally recognized rating agency; and

23 (7) Corporate notes purchased on the secondary market, provided
24 that the state treasurer adheres to the investment policies and
25 procedures adopted by the state investment board.

26 NEW SECTION. **Sec. 26.** Sections 1 through 4 and 6 through 18 of
27 this act constitute a new chapter in Title 43 RCW.

28 NEW SECTION. **Sec. 27.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of
30 the state government and its existing public institutions, and takes
31 effect immediately.

32 NEW SECTION. **Sec. 28.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

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