

**FIRST DAY**

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NOON SESSION

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Senate Chamber, Olympia, Wednesday, April 29, 2015

In accordance with Gubernatorial Proclamation issued pursuant to Article II, Section 12 and Article III, Section 7 of the Washington State Constitution, the Senate of the 2015 Extraordinary Session of the Sixty-Fourth Legislature of the State of Washington assembled in the Senate Chamber at the State Capitol at Olympia.

At 12:00 o'clock noon, Wednesday, April 29, 2015, the Senate of the 2015 Extraordinary Session was called to order by the President of the Senate, Lieutenant Governor Brad Owen presiding. The Secretary called the roll and announced to the President that all senators were present with the exception of Senators Liias, McAuliffe and Ranker.

The Sergeant at Arms Color Guard consisting of Legislative Assistants, Ms. Dasha Narog and Ms. Jennifer Minich, presented the Colors. Dr. William Adam, Detective & Chaplain for the Mason County Sherriff's Office offered the prayer.

MOTION

On motion of Senator Fain, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR

PROCLAMATION BY THE GOVERNOR

15-08

WHEREAS, in accordance with Article II, Section 12 (Amendment 68) of the Washington State Constitution, the Legislature adjourned it's 2015 regular session on April 24, 2015, the 103<sup>rd</sup> day of the session; and

WHEREAS, work remains to be done with respect to the 2015-2017 biennial operating and capital budgets and bills necessary to implement those budget; and

WHEREAS, work remains to be done with respect to the 2015-2017 biennial transportation budget and bills necessary to implement that budget; and

WHEREAS, work remains to be done with respect to critical policy bills that need to be acted upon by the Legislature; and

WHEREAS, the Speaker of the House, House Minority Leader, Senate Republican Leader, and Senate Democratic Leader, working together with the Governor may agree upon additional matters that are necessary for the Legislature to address;

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, by virtue of the authority vested in me by Article II, Section 12 (Amendment 68) and Article III, Section 7 of the Washington State Constitution, do hereby convene the Washington State Legislature in Special Session in the Capitol at Olympia on Wednesday, April 29, 2015, at 12:00 p.m. for the purpose of enacting legislation as described above.

Signed and sealed with the official seal of the state of Washington this 24<sup>th</sup> day of April, A.D. Two-thousand and Fifteen at Olympia, Washington.

JAY INSLEE, Governor

By the Governor

Kim Wyman, Secretary of State

Senator Fain announced a meeting of the Majority Coalition Caucus immediately upon going at ease.

Senator Nelson announced that the Senate Democratic Caucus would not meet.

MOTION

At 12:06 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

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AFTERNOON SESSION

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The Senate was called to order at 12:37 p.m. by President Owen.

MOTION

On motion of Senator Fain, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 29, 2015

MR. PRESIDENT:

The House has adopted:  
HOUSE CONCURRENT RESOLUTION NO. 4406  
and the same is herewith transmitted.

BERNAARD DEAN, Deputy Chief Clerk

MOTION

On motion of Senator Fain, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6116 by Senators Sheldon, Baumgartner, Hewitt, Braun, Rivers, Becker, Ericksen, Schoesler and Honeyford

AN ACT Relating to educational employees' benefits and compensation during strikes and work stoppages; and amending RCW 28A.400.200.

Referred to Committee on Commerce & Labor.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

HCR 4406 by Representatives Sullivan and Kretz

Specifying the status of bills, memorials, and resolutions for the 2015 first special session of the sixty-fourth legislature.

MOTION

On motion of Senator Fain, all measures listed on the Introduction and First Reading report were referred to the committees as designated and House Concurrent Resolution No. 4406 which, without objection, was placed on the second reading calendar under suspension of the rules.

MOTION

On motion of Senator Fain, the Senate advanced to the sixth order of business.

#### SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4406, by Representatives Sullivan and Kretz

Specifying the status of bills, memorials, and resolutions for the 2015 first special session of the sixty-fourth legislature.

The measure was read the second time.

#### MOTION

On motion of Senator Fain, the rules were suspended, House Concurrent Resolution No. 4406 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Concurrent Resolution No. 4406.

HOUSE CONCURRENT RESOLUTION NO. 4406 having received a majority was adopted by voice vote.

Senator Fain announced a meeting of the Committee on Rules in the Majority Leader's office immediately upon going at ease; a hearing of the Committee on Ways & Means at 1:00 o'clock p.m.; and expectations that the Caucuses would meet at 2:15 p.m. to review measures moved out of the Committee on Rules.

Senator Fraser announced a meeting of the Senate Democratic Caucus at 2:15 p.m. following the hearing by the Committee on Ways & Means.

Senator Parlette announced that the Majority Coalition Caucus would also meet at 2:15 p.m.

#### MOTION

At 12:41 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:59 p.m. by President Owen.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

April 29, 2015

MR. PRESIDENT:

The House has passed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1174,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1491,

SUBSTITUTE HOUSE BILL NO. 1570,

SUBSTITUTE HOUSE BILL NO. 1676,  
SUBSTITUTE HOUSE BILL NO. 1696,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1713,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1825,  
SUBSTITUTE HOUSE BILL NO. 2107,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2136,  
HOUSE BILL NO. 2217.  
and the same are herewith transmitted.

BERNAARD DEAN, Deputy Chief Clerk

#### MOTION

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

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5355, by Senate Committee on Higher Education (originally sponsored by Senators Bailey, Kohl-Welles, Roach, Conway, Braun, Baumgartner, Rolfes, O'Ban, McAuliffe and Chase).

Modifying the definition of resident student to comply with federal requirements established by the veterans access, choice, and accountability act of 2014.

The bill was read on Third Reading.

Senator Bailey spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Mullet, Senators Liias, McAuliffe and Ranker were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5355.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5355 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon and Warnick

Absent: Senators Billig and Darneille

Excused: Senators Liias, McAuliffe and Ranker

SUBSTITUTE SENATE BILL NO. 5355, 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.

#### THIRD READING

SENATE BILL NO. 5442, by Senators Warnick and Hatfield.

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Concerning eligibility criteria for the community economic revitalization board programs.

The bill was read on Third Reading.

Senator Warnick spoke in favor of passage of the bill.

MOTION

On motion of Senator Mullet, Senator Darneille was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5442.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5442 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Dansel, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon and Warnick

Voting nay: Senators Conway and Hasegawa

Excused: Senators Darneille, Liias, McAuliffe and Ranker

SENATE BILL NO. 5442, 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.

THIRD READING

SUBSTITUTE SENATE BILL NO. 5681, by Senate Committee on Ways & Means (originally sponsored by Senators Hill and Angel).

Concerning state lottery accounts.

The bill was read on Third Reading.

Senator Hill spoke in favor of passage of the bill.

MOTION

On motion of Senator Habib, Senator Hatfield was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5681.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5681 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon and Warnick

Excused: Senators Darneille, Hatfield, Liias, McAuliffe and Ranker

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SUBSTITUTE SENATE BILL NO. 5681, 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.

THIRD READING

ENGROSSED SENATE BILL NO. 5944, by Senators Hill, Rivers, Litzow, Bailey, Braun, Brown, Parlette, Hewitt and Benton.

Implementing the periodic review of state spending programs.

The bill was read on Third Reading.

Senator Hill spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5944.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5944 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 6; Absent, 0; Excused, 5.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Cleveland, Conway, Dammeier, Dansel, Ericksen, Fain, Fraser, Habib, Hargrove, Hewitt, Hill, Hobbs, Honeyford, King, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon and Warnick

Voting nay: Senators Chase, Frockt, Hasegawa, Jayapal, Keiser and Kohl-Welles

Excused: Senators Darneille, Hatfield, Liias, McAuliffe and Ranker

ENGROSSED SENATE BILL NO. 5944, 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.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5954, by Senate Committee on Ways & Means (originally sponsored by Senators Braun, Bailey, Hill, Becker, Fain, Miloscia, Parlette, Angel, Schoesler, Brown, Litzow, Warnick, Honeyford, Sheldon, Rivers, Roach and Benton).

Reducing tuition.

The bill was read on Third Reading.

MOTION

Senator Frockt moved that the rules be suspended and Engrossed Substitute Senate Bill No. 5954 be returned to second reading for the purposes of amendment.

Senator Frockt spoke in favor of the motion.

Senator Braun spoke against the motion.

REMARKS BY THE PRESIDENT

President Owen: "Senator Kohl-Welles, the motion at this point is not debatable. I always allow a statement on each side which we have done."

Senator Rolfes demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

#### PARLIAMENTARY INQUIRY

Senator Padden: "How many votes does it take for this motion to be successful?"

#### REPLY BY THE PRESIDENT

President Owen: "Simple majority, Senator, for special session."

The President declared the question before the Senate to be the motion by Senator Frockt that that the rules be suspended and that Engrossed Substitute Senate Bill No. 5954 be returned to second reading for the purposes of amendment.

The Secretary called the roll on the motion by Senator Frockt, the motion failed and the measure was not returned to second reading by the following vote: Yeas, 18; Nays, 26; Absent, 0; Excused, 5.

Voting yea: Senators Billig, Chase, Cleveland, Conway, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hobbs, Jayapal, Keiser, Kohl-Welles, McCoy, Mullet, Nelson, Pedersen and Rolfes

Voting nay: Senators Angel, Bailey, Baumgartner, Becker, Benton, Braun, Brown, Dammeier, Dansel, Ericksen, Fain, Hewitt, Hill, Honeyford, King, Litzow, Miloscia, O'Ban, Padden, Parlette, Pearson, Rivers, Roach, Schoesler, Sheldon and Warnick

Excused: Senators Darneille, Hatfield, Liias, McAuliffe and Ranker

#### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5954, by Senate Committee on Ways & Means (originally sponsored by Senators Braun, Bailey, Hill, Becker, Fain, Miloscia, Parlette, Angel, Schoesler, Brown, Litzow, Warnick, Honeyford, Sheldon, Rivers, Roach and Benton).

Reducing tuition.

The bill was read on Third Reading.

Senators Braun, Baumgartner, Bailey, Angel, Habib and Ericksen spoke in favor of passage of the bill.

Senators Kohl-Welles, Chase, Hargrove and Keiser spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5954.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5954 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 10; Absent, 0; Excused, 5.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Cleveland, Conway, Dammeier, Dansel, Ericksen, Fain, Habib, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, King, Litzow, Miloscia, Mullet, O'Ban, Padden, Parlette, Pearson, Rivers, Roach, Rolfes, Schoesler, Sheldon and Warnick

Voting nay: Senators Chase, Fraser, Frockt, Hargrove, Jayapal, Keiser, Kohl-Welles, McCoy, Nelson and Pedersen

Excused: Senators Darneille, Hatfield, Liias, McAuliffe and Ranker

ENGROSSED SUBSTITUTE SENATE BILL NO. 5954, 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.

#### THIRD READING

SENATE BILL NO. 5978, by Senators Roach, Liias and Fain.

Modifying presidential primary provisions.

The bill was read on Third Reading.

Senators Roach, Padden and Benton spoke in favor of passage of the bill.

Senator Chase spoke against passage of the bill.

#### POINT OF ORDER

Senator Nelson: "Mr. President, I believe that's impugning the motives of some of the members on this floor and I object."

#### RULING BY THE PRESIDENT

President Owen: "Senator Benton, please be careful with your remarks. Senator Benton."

Senator Fraser spoke against passage of the bill.

Senators Sheldon and Dansel spoke in favor of passage of the bill.

Senator Jayapal spoke on final passage of the bill.

#### POINT OF ORDER

Senator Schoesler: "Mr. President. I believe several of the comments are not related to a Presidential Primary."

#### RULING BY THE PRESIDENT

President Owen: "Senator Jayapal, it is required that you do speak to the issue before us."

Senators Schoesler, Fain, O'Ban, Ericksen and Baumgartner spoke in favor of passage of the bill.

Senator Nelson spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5978.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5978 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 13; Absent, 0; Excused, 5.

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Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Dammeier, Dansel, Ericksen, Fain, Hewitt, Hill, Hobbs, Honeyford, King, Litzow, Miloscia, Mullet, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon and Warnick

Voting nay: Senators Chase, Cleveland, Conway, Fraser, Frockt, Habib, Hargrove, Hasegawa, Jayapal, Keiser, Kohl-Welles, McCoy and Nelson

Excused: Senators Darneille, Hatfield, Liias, McAuliffe and Ranker

SENATE BILL NO. 5978, 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.

## THIRD READING

ENGROSSED SENATE BILL NO. 6092, by Senator Roach.

Providing funding for certain commissioned court marshals of county sheriff's offices to be added to the definition of uniformed personnel for the purposes of public employees' collective bargaining. (REVISED FOR ENGROSSED: Adding certain commissioned court marshals of county sheriff's offices to the definition of uniformed personnel for the purposes of public employees' collective bargaining. )

The bill was read on Third Reading.

## MOTION

On motion of Senator Roach, the rules were suspended and Senate Bill No. 6092 was returned to second reading for the purpose of amendment.

## SECOND READING

SENATE BILL NO. 6092, by Senator Roach

Providing funding for certain commissioned court marshals of county sheriff's offices to be added to the definition of uniformed personnel for the purposes of public employees' collective bargaining.

The measure was read the second time.

## MOTION

Senator Roach moved that the following amendment by Senator Roach be adopted:

On page 4, beginning on line 12, strike all of section 2.

Senator Roach spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 4, line 12 to Engrossed Senate Bill No. 6092.

The motion by Senator Roach carried and the amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 strike the title and insert "AN ACT Relating to adding certain commissioned court marshals of county sheriff's offices to the definition of uniformed personnel for the purposes of

public employees' collective bargaining; and amending RCW 41.56.030."

## MOTION

On motion of Senator Roach, the rules were suspended, Second Engrossed Senate Bill No. 6092 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 6092.

## ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 6092 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 10; Absent, 0; Excused, 5.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Chase, Cleveland, Conway, Dammeier, Dansel, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hill, Hobbs, Jayapal, Keiser, Kohl-Welles, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Pearson, Pedersen, Roach, Rolfes, Schoesler and Warnick

Voting nay: Senators Baumgartner, Braun, Brown, Hewitt, Honeyford, King, Padden, Parlette, Rivers and Sheldon

Excused: Senators Darneille, Hatfield, Liias, McAuliffe and Ranker

SECOND ENGROSSED SENATE BILL NO. 6092, 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.

## THIRD READING

SECOND SUBSTITUTE SENATE BILL NO. 5105, by Senate Committee on Ways & Means (originally sponsored by Senators Padden, Frockt, O'Ban, Fain, Fraser, Pearson, Roach and Darneille).

Making a fourth driving under the influence offense a felony.

The bill was read on Third Reading.

Senator Padden spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5105.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5105 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon and Warnick

Excused: Senators Darneille, Hatfield, Liias, McAuliffe and Ranker

SECOND SUBSTITUTE SENATE BILL NO. 5105, 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.

### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5857, by Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Conway, Becker and Pearson).

Addressing registration and regulation of pharmacy benefit managers.

The bill was read on Third Reading.

### MOTION

On motion of Senator Parlette, the rules were suspended and Engrossed Substitute Senate Bill No. 5857 was returned to second reading for the purpose of amendment.

### SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5857, by Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Conway, Becker and Pearson)

Addressing registration and regulation of pharmacy benefit managers.

The measure was read the second time.

### MOTION

Senator Parlette moved that the following striking amendment by Senator Parlette and others be adopted:

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 19.340.030 and 2014 c 213 s 2 are each amended to read as follows:

(1) To conduct business in this state, a pharmacy benefit manager must register with the ~~((department of revenue's business licensing service))~~ office of the insurance commissioner and annually renew the registration.

(2) To register under this section, a pharmacy benefit manager must:

(a) Submit an application requiring the following information:

(i) The identity of the pharmacy benefit manager;

(ii) The name, business address, phone number, and contact person for the pharmacy benefit manager; and

(iii) Where applicable, the federal tax employer identification number for the entity; and

(b) Pay a registration fee ~~((of two hundred dollars))~~ established in rule by the commissioner. The registration fee must be set to allow the registration and oversight activities to be self-supporting.

(3) To renew a registration under this section, a pharmacy benefit manager must pay a renewal fee ~~((of two hundred dollars))~~ established in rule by the commissioner. The renewal fee must be set to allow the renewal and oversight activities to be self-supporting.

(4) All receipts from registrations and renewals collected by the ~~((department))~~ commissioner must be deposited into the ~~((business license account created in RCW 19.02.210))~~ insurance commissioner's regulatory account created in RCW 48.02.190.

**NEW SECTION. Sec. 2.** A new section is added to chapter 19.340 RCW to read as follows:

(1) The commissioner shall have enforcement authority over this chapter and shall have authority to render a binding decision in any dispute between a pharmacy benefit manager, or third-party administrator of prescription drug benefits, and a pharmacy arising out of an appeal regarding drug pricing and reimbursement.

(2) Any person, corporation, or third-party administrator of prescription drug benefits, pharmacy benefit manager, or business entity which violates any provision of this chapter shall be subject to a civil penalty in the amount of one thousand dollars for each act in violation of this chapter or, if the violation was knowing and willful, a civil penalty of five thousand dollars for each violation of this chapter.

**Sec. 3.** RCW 19.340.010 and 2014 c 213 s 1 are each amended to read as follows:

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

(1) "Claim" means a request from a pharmacy or pharmacist to be reimbursed for the cost of filling or refilling a prescription for a drug or for providing a medical supply or service.

(2) "Commissioner" means the insurance commissioner established in chapter 48.02 RCW.

(3) "Insurer" has the same meaning as in RCW 48.01.050.

~~((3))~~ (4) "Pharmacist" has the same meaning as in RCW 18.64.011.

~~((4))~~ (5) "Pharmacy" has the same meaning as in RCW 18.64.011.

~~((5))~~ (6)(a) "Pharmacy benefit manager" means a person that contracts with pharmacies on behalf of an insurer, a third-party payor, or the prescription drug purchasing consortium established under RCW 70.14.060 to:

(i) Process claims for prescription drugs or medical supplies or provide retail network management for pharmacies or pharmacists;

(ii) Pay pharmacies or pharmacists for prescription drugs or medical supplies; or

(iii) Negotiate rebates with manufacturers for drugs paid for or procured as described in this subsection.

(b) "Pharmacy benefit manager" does not include a health care service contractor as defined in RCW 48.44.010.

~~((6))~~ (7) "Third-party payor" means a person licensed under RCW 48.39.005.

**Sec. 4.** RCW 19.340.100 and 2014 c 213 s 10 are each amended to read as follows:

(1) As used in this section:

(a) "Denial" of an appeal includes failing to reimburse a pharmacy or pharmacist and reimbursing a pharmacy or pharmacist for less than the amount that the pharmacy or pharmacist paid to the supplier of the drug.

(b) "List" means the list of drugs for which maximum allowable costs have been established.

~~((b))~~ (c) "Maximum allowable cost" means the maximum amount that a pharmacy benefit manager will reimburse a pharmacy for the cost of a drug.

~~((c))~~ (d) "Multiple source drug" means a therapeutically equivalent drug that is available from at least two manufacturers.

~~((d))~~ (e) "Network pharmacy" means a retail drug outlet licensed as a pharmacy under RCW 18.64.043 that contracts with a pharmacy benefit manager.

~~((e))~~ (f) "Therapeutically equivalent" has the same meaning as in RCW 69.41.110.

(2) A pharmacy benefit manager:

(a) May not place a drug on a list unless ~~((are is))~~ there are at least two therapeutically equivalent multiple source drugs, or at least one generic drug available from only one manufacturer,

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generally available for purchase by network pharmacies from national or regional wholesalers;

(b) Shall ensure that all drugs on a list are ~~((generally))~~ readily available for purchase by network pharmacies in this state from national or regional wholesalers that serve community pharmacies in Washington;

(c) Shall ensure that all drugs on a list are not obsolete;

(d) Shall make available to each network pharmacy at the beginning of the term of a contract, and upon renewal of a contract, the sources utilized to determine the maximum allowable cost pricing of the pharmacy benefit manager;

(e) Shall make a list available to a network pharmacy upon request in a format that is readily accessible to and usable by the network pharmacy;

(f) Shall update each list maintained by the pharmacy benefit manager every seven business days and make the updated lists, including all changes in the price of drugs, available to network pharmacies in a readily accessible and usable format;

(g) Shall ensure that dispensing fees are not included in the calculation of maximum allowable cost.

(3) A pharmacy benefit manager must establish a process by which a network pharmacy may appeal its reimbursement for a drug subject to maximum allowable cost pricing. A network pharmacy may appeal a maximum allowable cost if the reimbursement for the drug is less than the net amount that the network pharmacy paid to the supplier of the drug. The pharmacy benefit manager shall reimburse the network pharmacy or pharmacist the amount that the network pharmacy or pharmacist paid to the supplier of the drug if the network pharmacy or pharmacist can demonstrate that it is unable to purchase a therapeutically equivalent interchangeable product from its supplier at the pharmacy benefit manager's list price. An appeal requested under this section must be completed within thirty calendar days of the pharmacy making the claim for which an appeal has been requested. If after thirty days the network pharmacy has not received the decision on the appeal from the pharmacy benefit manager, then the appeal is considered denied.

(4) A pharmacy benefit manager must provide as part of the appeals process established under subsection (3) of this section:

(a) A telephone number at which a network pharmacy may contact the pharmacy benefit manager and speak with an individual who is responsible for processing appeals;

(b) A final response to an appeal of a maximum allowable cost within seven business days; and

(c) If the appeal is denied, the reason for the denial and the national drug code of a drug that may be purchased by similarly situated pharmacies at a price that is equal to or less than the maximum allowable cost.

(5)(a) If an appeal is upheld under this section, the pharmacy benefit manager shall make an adjustment on a date no later than one day after the date of determination. The pharmacy benefit manager shall make the adjustment effective for all ~~((similarly situated))~~ network pharmacies in this state ~~((that are within the network))~~.

(b) If the request for an adjustment has come from a critical access pharmacy, as defined by the state health care authority by rule for purposes related to the prescription drug purchasing consortium established under RCW 70.14.060, the adjustment approved under (a) of this subsection shall apply only to critical access pharmacies.

(6) If a network pharmacy appeal to the pharmacy benefit manager is denied or if the network pharmacy is unsatisfied with the outcome of the appeal, the pharmacy or pharmacist may dispute the denial and request review by the commissioner.

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(a) All relevant information from the parties may be presented to the commissioner, and the commissioner may enter an order directing the pharmacy benefit manager to make an adjustment to the disputed claim, deny the network pharmacy appeal, or take other actions deemed fair and equitable. An appeal requested under this section must be completed within thirty calendar days of the pharmacy making the claim for which an appeal has been requested.

(b) Upon resolution of the dispute, the commissioner shall provide a copy of the decision to both parties within seven calendar days.

(7) This section does not apply to the state medical assistance program.

NEW SECTION. Sec. 5. A new section is added to chapter 48.02 RCW to read as follows:

(1) The commissioner shall accept registration of pharmacy benefit managers as established in RCW 19.340.030 and receipts shall be deposited in the insurance commissioner's regulatory account.

(2) The commissioner shall have enforcement authority over chapter 19.340 RCW consistent with requirements established in section 2 of this act.

(3) The commissioner may write rules to implement chapter 19.340 RCW and to establish registration and renewal fees that ensure the registration, renewal, and oversight activities are self-supporting.

NEW SECTION. Sec. 6. The joint select committee on health care oversight must convene a stakeholder work group comprised of participants in the prescription drug delivery chain, including pharmacy benefit managers, drug manufacturers, wholesalers, pharmacy service administrative organizations, pharmacies, health plans, and other payors. The work group assignments may include, but are not limited to the following:

(1) Review the entire drug supply chain including plan and pharmacy benefit manager reimbursements to independent pharmacies, wholesaler or pharmacy service administrative organization price to independent pharmacies, and drug manufacturer prices to independent pharmacies;

(2) Discuss suggestions that recognize the unique nature of small retail pharmacies and possible options that support a viable business model that do not increase the cost of pharmacy products;

(3) Review the availability of all drugs on the list and list prices for retail pharmacies;

(4) Review the phone contacts and standards for response times and availability;

(5) Review the pharmacy acquisition cost from national or regional wholesalers that serve retail pharmacies in Washington, and consider when or whether to make an adjustment and under what standards. The review may assess the timing of pharmacy purchases of products and the relative risk of list price changes related to the timing of dispensing the products; and

(6) The work group must provide periodic updates to the joint select committee on health care oversight.

NEW SECTION. Sec. 7. Section 1 of this act takes effect January 1, 2016."

#### POINT OF INQUIRY

Senator Frockt: "Would the Senator from the Twelfth District yield to a question? Just so we're clear, because our caucus has not caucused on the amendment, ..."

Senator Parlette: "Nor has ours."

## POINT OF INQUIRY

Senator Frockt: “Okay, I wonder if you could explain a little bit more detail? I think we’re fine with the underlying bill but it would be helpful to us if we understood exactly what the amendment does versus the one we passed off the floor a few weeks ago.”

Senator Parlette: “Yes. Well, it changes a word to the word ‘network’ and I’m not sure where that is but supposedly that clarifies it and therefore reduces the cost of the fiscal note. So, it’s sort of a clarifying amendment. Where it says ‘similarly situated’ on page 5, line 20 it changes to the word ‘network’ pharmacies.”

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Parlette and others to Engrossed Substitute Senate Bill No. 5857.

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

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "managers;" strike the remainder of the title and insert "amending RCW 19.340.030, 19.340.010, and 19.340.100; adding a new section to chapter 19.340 RCW; adding a new section to chapter 48.02 RCW; creating a new section; prescribing penalties; and providing an effective date."

## MOTION

On motion of Senator Parlette, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5857 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Parlette and Conway spoke in favor of passage of the bill.

## MOTION

On motion of Senator Fain, further consideration of Second Engrossed Substitute Senate Bill No. 5857 was deferred and the bill held its place on the calendar.

## MOTION

At 5:31 p.m., on motion of Senator Fain, the Senate adjourned until 8:00 o’clock a.m. Friday, May 1, 2015.

BRAD OWEN, President of the Senate

HUNTER G. GOODMAN, Secretary of the Senate



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