

1 AN ACT Relating to ---; amending RCW 49.60.400; and creating a new  
2 section.

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4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:  
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6 NEW SECTION. **Sec. 1.** While the legislature continues to recognize  
7 the need to ensure that all members of our community are protected from  
8 discriminatory treatment; the legislature also recognizes that there is  
9 an educational benefit in maintaining a diverse student population in  
10 our universities and colleges. The presence of a diverse learning  
11 environment helps better prepare students for entering the world as  
12 productive citizens. The U.S. Supreme Court has recognized the benefits  
13 of promoting diversity as a compelling state interest as long as the  
14 means are within narrowly tailored guidelines that ensure that  
15 individuals are not unduly impacted. In light of this recognition, it is  
16 the intent of the legislature to give universities and colleges some  
17 flexibility in using minority status as a positive factor in their  
18 admission and transfer policies. To ensure the highest quality of  
19 education is provided at our universities and colleges; they must have  
20 the ability to engage in a holistic review of each applicant that  
21 includes all the positive qualities and experiences that an applicant  
22 possesses. It is not the intent of the legislature to allow any form of  
23 quota or set aside system to be implemented by a university or college  
24 that would insulate an applicant from comparison with all other  
25 candidates based solely on his or her racial status.  
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27 **Sec. 2.** RCW 49.60.400 and 1999 c 3 s 1 are each amended to read as  
28 follows:

29 (1) The state shall not discriminate against, or grant preferential  
30 treatment to, any individual or group on the basis of race, sex, color,

1 ethnicity, or national origin in the operation of public employment,  
2 public education, or public contracting.

3 (2) This section applies only to action taken after December 3,  
4 1998.

5 (3) This section does not affect any law or governmental action  
6 that does not discriminate against, or grant preferential treatment to,  
7 any individual or group on the basis of race, sex, color, ethnicity, or  
8 national origin.

9 (4) This section does not affect any otherwise lawful  
10 classification that:

11 (a) Is based on sex and is necessary for sexual privacy or medical  
12 or psychological treatment; or

13 (b) Is necessary for undercover law enforcement or for film, video,  
14 audio, or theatrical casting; or

15 (c) Provides for separate athletic teams for each sex.

16 (5) This section does not invalidate any court order or consent  
17 decree that is in force as of December 3, 1998.

18 (6) This section does not prohibit action that must be taken to  
19 establish or maintain eligibility for any federal program, if  
20 ineligibility would result in a loss of federal funds to the state.

21 (7) This section does not prohibit a public college, university,  
22 or community college from considering race in its admission or transfer  
23 policies for the purpose of promoting diversity at the campus if the  
24 policy meets the following minimum requirements:

25 (a) no admission slots may be set aside for members of any racial  
26 group nor shall any racial group be considered separately based solely  
27 on its status as a racial group;

28 (b) every policy shall require individualized consideration and a  
29 holistic review of each applicant;

30 (c) any racial consideration used shall not be given a  
31 predetermined numerical value;

32 (d) the policy must include a termination date and provisions for  
33 periodic reviews as to whether the consideration of race is still  
34 necessary to promote diversity; and

