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**SUBSTITUTE HOUSE BILL 1124**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** House College & Workforce Development (originally sponsored by Representatives Pollet and Frame)

AN ACT Relating to regulating degree-granting institutions not exempt under chapter 28B.85 RCW, private vocational schools not exempt under chapter 28C.10 RCW, schools under chapter 18.16 RCW, and other for-profit schools, for the purposes of promoting accountability and providing consumer protection to students and the public; amending RCW 28B.85.020, 28B.85.095, 28B.85.175, 28C.10.050, 28C.10.110, 18.16.150, 28B.85.090, 28C.10.120, 18.16.160, 28B.77.110, 28B.85.070, 28B.85.230, 18.16.310, and 28C.10.084; reenacting and amending RCW 43.79A.040 and 43.84.092; adding a new section to chapter 28B.85 RCW; adding a new section to chapter 28C.10 RCW; adding a new section to chapter 18.16 RCW; adding a new section chapter 82.32 RCW; adding a new section to chapter 43.41 RCW; adding a new section to chapter 28B.77 RCW; and creating new sections.

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

**DATA COLLECTION AND GAINFUL EMPLOYMENT RULES**

NEW SECTION. **Sec.**  For-profit and formerly for-profit degree-granting institutions and private vocational schools that offer nondegree certificates and training are designed to prepare students for gainful employment in recognized occupations. Students' debt-to-earnings ratios can be a factor in determining whether a program, school, or institution is adequately preparing students for employment. Debt-to-earnings ratios can also represent a reliable measure of the ability of program completers to reasonably repay the educational debt incurred for their attendance at the school or institution. The legislature recognizes that gainful employment requirements will further the goal of keeping for-profit and formerly for-profit degree-granting institutions and private vocational schools accountable to students and the public. In addition, the legislature seeks to clarify that although some for-profit degree-granting institutions have reorganized as nonprofit entities, chapters 28B.85, 28C.10, and 19.86 RCW, apply to those formerly for-profit institutions unless otherwise exempt.

**Sec.**  RCW 28B.85.020 and 2013 c 218 s 3 are each amended to read as follows:

(1) The council:

(a) Shall adopt by rule, in accordance with chapter 34.05 RCW, minimum standards for degree-granting institutions concerning granting of degrees, quality of education, unfair business practices, financial stability, gainful employment requirements as defined in section 3 of this act, and other necessary measures to implement this chapter and protect citizens of this state against substandard, fraudulent, or deceptive practices. The rules shall require that an institution operating in Washington:

(i) Be accredited;

(ii) Have applied for accreditation and such application is pending before the accrediting agency;

(iii) Have been granted a waiver by the council waiving the requirement of accreditation; or

(iv) Have been granted an exemption by the council from the requirements of this subsection (1)(a);

(b) May investigate any entity the council reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the council may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the council deems relevant or material to the investigation. The council, including its staff and any other authorized persons, may conduct site inspections, the cost of which shall be borne by the institution, and examine records of all institutions subject to this chapter;

(c) May negotiate and enter into interstate reciprocity agreements with other state or multistate entities if the agreements are consistent with the purposes in this chapter as determined by the council;

(d) May enter into agreements with degree-granting institutions of higher education based in this state, that are otherwise exempt under the provisions of ((~~subsection (1)~~))(a) of this subsection, for the purpose of ensuring consistent consumer protection in interstate distance delivery of higher education;

(e) Shall develop an interagency agreement with the workforce training and education coordinating board to regulate degree-granting private vocational schools with respect to degree and nondegree programs; and

(f) Shall develop and disseminate information to the public about entities that sell or award degrees without requiring appropriate academic achievement at the postsecondary level, including but not limited to, a description of the substandard and potentially fraudulent practices of these entities, and advice about how the public can recognize and avoid the entities. To the extent feasible, the information shall include links to additional resources that may assist the public in identifying specific institutions offering substandard or fraudulent degree programs.

(2) Financial disclosures provided to the council by degree-granting private vocational schools are not subject to public disclosure under chapter 42.56 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.85 RCW to read as follows:

(1)(a) The council shall require that programs offered by degree-granting institutions authorized to operate under this chapter must prepare students for gainful employment in a recognized occupation. Gainful employment requirements must be based on debt-to-earnings rates, or where necessary, cost-to-earnings rates, demonstrating whether students completing the program will likely be able to reasonably repay student loan debts incurred for attending the institution, based on earnings from employment.

(b) The council shall consult with the workforce training and education coordinating board in establishing debt-to-earnings rates and cost-to-earnings rates, including methods of calculation, types of student-level data and institutional data needed to calculate debt-to-earnings rates, and any relevant factors to be taken into consideration in establishing acceptable rates for different types of programs.

(2)(a) The council shall determine acceptable debt-to-earnings rates, or where necessary under subsection (3)(c) of this section, cost-to-earnings rates, for programs and institutions for the purposes of determining whether the program or institution continues to be eligible to participate in the state's financial aid programs or to operate in the state.

(b) For determining the eligibility of private vocational schools under section 7 of this act and for schools under section 9 of this act to continue to participate in the state's financial aid programs, the council shall rely on notification from the workforce training and education coordinating board or the department of licensing that a program or school within the respective licensing authority of those agencies has not met the appropriate gainful employment standards and has not invoked or exhausted its appeal rights.

(3)(a) To implement this section, the council shall require degree-granting institutions authorized to operate under this chapter to collect student-level data. At a minimum, student-level data must include a student's social security number if available to the institution, birth date, and financial aid awards if the student received financial aid. Financial aid awards include the amount of federal, state, and institutional loans, grants, or scholarships the student received of which the institution is aware.

(b) Degree-granting institutions authorized to operate under this chapter shall make student-level data available to the workforce training and education coordinating board for analysis and calculation.

(c) The council, in consultation with the workforce training and education coordinating board, shall establish the minimum threshold of students required in a program cohort to have a meaningful debt-to-earnings rate for a particular program or institution. If meaningful debt-to-earnings rates cannot be established for a particular program or institution, the workforce training and education coordinating board shall evaluate student-level data and other information to assess earnings in relation to cost of attendance, taking into consideration the length of the particular program. The workforce training and education coordinating board shall publish its assessment of cost-to-earnings in lieu of debt-to-earnings rates.

(4) Beginning no later than July 1, 2021, and every year thereafter, each degree-granting institution authorized to operate under this chapter shall publish the debt-to-earnings rates, or where necessary, cost-to-earnings rates, of its programs on the institution's web site. The workforce training and education coordinating board shall also publish the institution's debt-to-earnings rates, or where necessary, cost-to-earnings rates, on the workforce training and education coordinating board's web site.

(5) The council may adopt rules to implement this section, including rules for:

(a) The collection of student, school, and program data as provided under this section; and

(b) Providing probationary or graduated sanctions for violations of the gainful employment requirements, when appropriate.

**Sec.**  RCW 28B.85.095 and 2018 c 203 s 4 are each amended to read as follows:

(1)(a) The council may deny, revoke, or suspend the authorization of any degree-granting institution authorized to operate under this chapter that is found to be in violation of this chapter.

(b) The council may not delegate to any other state its authority to oversee and enforce compliance with this chapter or its authority to respond to complaints by students in this state, regardless of whether the institution is authorized by, or has its home in, another state. Under RCW 28B.85.020(1)(c), participation in interstate reciprocity agreements consistent with the purposes of this chapter does not delegate authority for compliance with this chapter or authority to respond to student complaints.

(2) It is a violation of this chapter for a degree-granting institution authorized to operate under this chapter or an agent employed by such a degree-granting institution to:

(a) Provide prospective students with any testimonial, endorsement, or other information that a reasonable person would find was likely to mislead or deceive prospective students or the public regarding current practices of the school, current conditions for employment opportunities, postgraduation employment by industry, or probable earnings in the occupation for which the education was designed, the likelihood of obtaining financial aid or low-interest loans for tuition, or the ability of graduates to repay loans;

(b) Use any official United States military logo in advertising or promotional materials; ((~~or~~))

(c) Violate the provision of RCW 28B.85.175(1)(b) regarding the sale of, or inducing of students to obtain, specific consumer student loan products; or

(d) Not be in compliance with the gainful employment requirements established by rule.

**Sec.**  RCW 28B.85.175 and 2018 c 203 s 5 are each amended to read as follows:

(1) A degree-granting institution authorized to operate under this chapter must:

(a) ((~~Present~~)) Post data about its completion rates, gainful employment, employment rates, loan or indebtedness metrics, or its graduates' median hourly and annual earnings, ((~~the posted data~~)) consistent with the data posted on the workforce training and education coordinating board's career bridge web site or the data posted by the United States department of education, if the board or the department of education has posted such data;

(b) Not engage in any practice regarding the sale of, or inducing of students to obtain, specific consumer student loan products to fund education that financially benefits any person or entity that has an ownership interest in the institution, unless the institution can demonstrate to the council that the student has exhausted all federal aid options and has been denied noninstitutional private commercial loan products. The prohibition in this subsection (1)(b) applies to any degree-granting institution authorized to operate under this chapter, and any agent of the institution, that has at least one hundred fifty students or more enrolled in the state in any given year or that has been operating in the state for less than two consecutive years. A financial benefit for purposes of this subsection (1)(b) does not include merely having an interest in students with loans enrolling in the institution or assisting students with financial aid matters. For purposes of this subsection (1)(b), "agent" means any employee, officer, or contractor working on behalf of the institution; and

(c) Disclose to the council regarding any pending investigations by an oversight entity, including the nature of that investigation, within thirty days of the degree-granting institution's first knowledge of the investigation. For the purposes of this subsection, "investigation" means any inquiry into possible violations of any applicable laws or accreditation standards. For the purposes of this subsection, "oversight entity" means all of the following:

(i) Any federal or state entity that provides financial aid to students of the institution or approves the institution for participation in a financial aid program;

(ii) Any state or federal attorney general's office or department of justice;

(iii) Any regulator that approves the operation of the private vocational school;

(iv) The federal consumer financial protection bureau or the federal securities and exchange commission; and

(v) Any accrediting agency.

(2) A violation of any provision of this section is also a violation of RCW 19.86.020 of the consumer protection act. The penalties authorized pursuant to subsection (1) of this section do not preclude remedies available under the provisions of the consumer protection act.

**Sec.**  RCW 28C.10.050 and 2018 c 203 s 6 are each amended to read as follows:

(1) The agency shall adopt by rule minimum standards for entities operating private vocational schools. The minimum standards shall include, but not be limited to, requirements to assess whether a private vocational school is eligible to obtain and maintain a license in this state.

(2) The requirements adopted by the agency shall, at a minimum, require a private vocational school to:

(a) Disclose to the agency information about its ownership and financial position and demonstrate to the agency that the school is financially viable and responsible and that it has sufficient financial resources to fulfill its commitments to students. Financial disclosures provided to the agency shall not be subject to public disclosure under chapter 42.56 RCW;

(b) Follow a uniform statewide cancellation and refund policy as specified by the agency;

(c) Disclose through use of a school catalog, web site, brochure, or other written material, necessary information to students so that students may make informed enrollment decisions. The agency shall specify what data and information are required. To the extent that these web sites or materials present any data on the completion rates, employment rates, gainful employment, loan or indebtedness metrics, and its graduates' median hourly and annual earnings for any of the private vocational schools or its programs, the posted data must be consistent with the data posted on the agency's career bridge web site or the data posted by the United States department of education, if the agency or the department of education has posted such data. Nothing in this subsection requires the agency to make changes to the career bridge web site or add new elements or features to the career bridge web site;

(d) Use an enrollment contract or agreement that includes: (i) The school's cancellation and refund policy, (ii) a brief statement that the school is licensed under this chapter and that inquiries, concerns, or complaints may be made to the agency, and (iii) other necessary information as determined by the agency;

(e) Describe accurately and completely in writing to students before their enrollment prerequisites and requirements for (i) completing successfully the programs of study in which they are interested and (ii) qualifying for the fields of employment for which their education is designed;

(f) Comply with the requirements of RCW 28C.10.084;

(g) Assess the basic skills and relevant aptitudes of each potential student to determine that a potential student has the basic skills and relevant aptitudes necessary to complete and benefit from the program in which the student plans to enroll, including but not limited to administering a United States department of education-approved English as a second language exam before enrolling students for whom English is a second language unless the students provide proof of graduation from a United States high school or proof of completion of a high school equivalency certificate as provided in RCW 28B.50.536 in English or results of another academic assessment determined appropriate by the agency. Guidelines for such assessments shall be developed by the agency, in consultation with the schools;

(h) Discuss with each potential student the potential student's obligations in signing any enrollment contract and/or incurring any debt for educational purposes. The discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given employment opportunities and average starting salaries in the potential student's chosen occupation;

(i) Ensure that any enrollment contract between the private vocational school and its students has an attachment in a format provided by the agency. The attachment shall be signed by both the school and the student. The attachment shall stipulate that the school has complied with (h) of this subsection and that the student understands and accepts his or her responsibilities in signing any enrollment contract or debt application. The attachment shall also stipulate that the enrollment contract shall not be binding for at least five days, excluding Sundays and holidays, following signature of the enrollment contract by both parties;

(j) Comply with the requirements related to qualifications of administrators and instructors; ((~~and~~))

(k) Comply with the requirements of section 7 of this act; and

(l) Disclose to the agency regarding any pending investigations by an oversight entity, including the nature of that investigation, within thirty days of the school's first knowledge of the investigation. For the purposes of this subsection, "investigation" means any inquiry into possible violations of any applicable laws or accreditation standards. For the purposes of this subsection, "oversight entity" means all of the following:

(i) Any federal or state entity that provides financial aid to students of the institution or approves the school for participation in a financial aid program;

(ii) Any state or federal attorney general's office or department of justice;

(iii) Any regulator that approves the operation of the private vocational school;

(iv) The federal consumer financial protection bureau or the federal securities and exchange commission; and

(v) Any accrediting agency.

(3) A private vocational school that has at least one hundred fifty students or more in the state during any given year, or that has been operating in the state for less than two consecutive years, or that has not had at least one of its programs recognized by the agency as an eligible training provider for at least two consecutive years, may not engage in any practice regarding the sale of, or inducing of students to obtain, specific consumer student loan products to fund education that financially benefits any person or entity that has an ownership interest in the institution, unless the institution can demonstrate to the agency that the student has exhausted all federal aid options and has been denied noninstitutional private commercial loan products. A financial benefit for purposes of this subsection does not include merely having an interest in students with loans enrolling in the institution or assisting students with financial aid matters. For purposes of this subsection, "agent" means any employee, officer, or contractor working on behalf of the institution.

(4) The agency may deny a private vocational school's application for licensure if the school fails to meet the requirements in this section.

(5) The agency may determine that a licensed private vocational school or a particular program of a private vocational school is at risk of closure or termination if:

(a) There is a pattern or history of substantiated student complaints filed with the agency pursuant to RCW 28C.10.120; or

(b) The private vocational school fails to meet minimum licensing requirements and has a pattern or history of failing to meet the minimum requirements.

(6) If the agency determines that a private vocational school or a particular program is at risk of closure or termination, the agency shall require the school to take corrective action.

NEW SECTION. **Sec.**  A new section is added to chapter 28C.10 RCW to read as follows:

(1) The agency shall require that programs offered by private vocational schools authorized to operate under this chapter must prepare students for gainful employment in a recognized occupation. Gainful employment requirements must be based on debt-to-earnings rates, or where necessary, cost-to-earnings rates, demonstrating whether students completing the program will likely be able to reasonably repay student loan debts incurred for attending the private vocational school, based on earnings from employment.

(2) The agency shall determine acceptable debt-to-earnings rates, or where necessary under subsection (3)(c) of this section, cost-to-earnings rates, for programs and private vocational schools for the purposes of determining whether the program or private vocational school continues to be eligible to participate in the state's financial aid programs or to operate in the state. In determining acceptable rates, the agency shall establish the relevant factors to be taken into consideration to establish acceptable rates for different types of programs.

(3)(a) To implement this section, the agency shall require private vocational schools authorized to operate under this chapter to collect student level data. At a minimum, student-level data must include a student's social security number if available to the private vocational school, birth date, and financial aid awards if the student received financial aid. Financial aid awards include the amount of federal, state, and institutional loans, grants, or scholarships the student received of which the private vocational school is aware.

(b) Private vocational schools authorized to operate under this chapter shall make student-level data available to the agency for analysis and calculation.

(c) The agency shall establish the minimum threshold of students required in a program cohort to have a meaningful debt-to-earnings rate for a particular program or private vocational school. If meaningful debt-to-earnings rates cannot be established for a particular program or private vocational school, the agency shall evaluate student level data and other information to assess earnings in relation to cost of attendance, taking into consideration the length of the particular program. The agency shall publish its assessment of cost-to-earnings in lieu of debt-to-earnings rates.

(4) Beginning no later than July 1, 2021, and every year thereafter, each private vocational school must publish on its web site the debt-to-earnings rates, or where necessary, cost-to-earnings rates. The agency shall also publish on its web site the debt-to-earnings rates, or where necessary, cost-to-earnings rates, of programs and private vocational schools.

(5) The agency may adopt rules to implement this section, including rules for:

(a) The collection of student, school, and program data as provided under this section and sections 3 and 9 of this act; and

(b) Providing probationary or graduated sanctions for violations of the gainful employment requirements, when appropriate, and providing notice to the student achievement council when a program's or private vocational school's noncompliance impacts eligibility to participate in the state's financial aid programs.

**Sec.**  RCW 28C.10.110 and 2018 c 203 s 7 are each amended to read as follows:

(1) It is a violation of this chapter for an entity operating a private vocational school to engage in an unfair business practice. The agency may deny, revoke, or suspend the license of any entity that is found to have engaged in a substantial number of unfair business practices or that has engaged in significant unfair business practices.

(2) It is an unfair business practice for an entity operating a private vocational school or an agent employed by a private vocational school to:

(a) Fail to comply with the terms of a student enrollment contract or agreement;

(b) Use an enrollment contract form, catalog, brochure, or similar written material affecting the terms and conditions of student enrollment other than that previously submitted to the agency and authorized for use;

(c) Advertise in the help wanted section of a newspaper or otherwise represent falsely, directly or by implication, that the school is an employment agency, is making an offer of employment or otherwise is attempting to conceal the fact that what is being represented are course offerings of a school;

(d) Represent falsely, directly or by implication, that an educational program is approved by a particular industry or that successful completion of the program qualifies a student for admission to a labor union or similar organization or for the receipt of a state license in any business, occupation, or profession;

(e) Represent falsely, directly or by implication, that a student who successfully completes a course or program of instruction may transfer credit for the course or program to any institution of higher education;

(f) Represent falsely, directly or by implication, in advertising or in any other manner, the school's size, location, facilities, equipment, faculty qualifications, number of faculty, or the extent or nature of any approval received from an accrediting association;

(g) Represent that the school is approved, recommended, or endorsed by the state of Washington or by the agency, except the fact that the school is authorized to operate under this chapter may be stated;

(h) Provide prospective students with: Any testimonial, endorsement, or other information that a reasonable person would find likely to mislead or deceive prospective students or the public, including those regarding current practices of the school; information regarding rates of completion or postgraduation employment by industry, or its graduates' median hourly or annual earnings, that is not consistent with the presentation of data as established under RCW 28C.10.050(2)(c); current conditions for employment opportunities; postgraduation employment by industry or probable earnings in the occupation for which the education was designed; total cost to obtain a diploma or certificate; the acceptance of a diploma or certificate by employers as a qualification for employment; the acceptance of courses, a diploma, or certificate by higher education institutions; the likelihood of obtaining financial aid or low-interest loans for tuition; and the ability of graduates to repay loans;

(i) Designate or refer to sales representatives as "counselors," "advisors," or similar terms which have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives;

(j) Make or cause to be made any statement or representation in connection with the offering of education if the school or agent knows or reasonably should have known the statement or representation to be false, substantially inaccurate, or misleading;

(k) Engage in methods of advertising, sales, collection, credit, or other business practices which are false, deceptive, misleading, or unfair, as determined by the agency by rule;

(l) Attempt to recruit students in or within forty feet of a building that contains a welfare or unemployment office. Recruiting includes, but is not limited to canvassing and surveying. Recruiting does not include leaving materials at or near an office for a person to pick up of his or her own accord, or handing a brochure or leaflet to a person provided that no attempt is made to obtain a name, address, telephone number, or other data, or to otherwise actively pursue the enrollment of the individual;

(m) Violate RCW 28C.10.050(3) regarding the sale of, or inducing of students to obtain, specific consumer student loan products; ((~~or~~))

(n) Use any official United States military logos in advertising or promotional materials; or

(o) Not be in compliance with the gainful employment requirements established by rule.

NEW SECTION. **Sec.**  A new section is added to chapter 18.16 RCW to read as follows:

(1) The director, in consultation with the workforce training and education coordinating board, shall require that programs offered by schools authorized to operate under this chapter must prepare students for gainful employment in a recognized occupation. Gainful employment requirements must be based on debt-to-earnings rates, or where necessary, cost-to-earnings rates, demonstrating whether students completing the program will likely be able to reasonably repay student loan debts incurred for attending the school, based on earnings from employment.

(2) The director, in consultation with the workforce training and education coordinating board, shall determine acceptable debt-to-earnings rates, or where necessary under subsection (3)(c) of this section, cost-to-earnings rates, for programs and schools for the purposes of determining whether the program or school continues to be eligible to participate in the state's financial aid programs or to operate in the state. In determining acceptable rates, the director, in consultation with the workforce training and education coordinating board, shall establish the relevant factors to be taken into consideration to establish acceptable rates for different types of programs.

(3)(a) To implement this section, the director shall require schools authorized to operate under this chapter to collect student-level data. At a minimum, student-level data must include a student's social security number if available to the school, birth date, and financial aid awards if the student received financial aid. Financial aid awards include the amount of federal, state, and institutional loans, grants, or scholarships the student received of which the school is aware.

(b) Schools authorized to operate under this chapter shall make student-level data available to the workforce training and education coordinating board for analysis and calculation.

(c) The director, in consultation with the workforce training and education coordinating board, shall establish the minimum threshold of students required in a program cohort to have a meaningful debt-to-earnings rate for a particular program or school. If meaningful debt-to-earnings rates cannot be established for a particular program or school, the workforce training and education coordinating board shall evaluate student-level data and other information to assess earnings in relation to cost of attendance, taking into consideration the length of the particular program. The workforce training and education coordinating board shall publish its assessment of cost-to-earnings in lieu of debt-to-earnings rates.

(4) Beginning no later than July 1, 2021, and every year thereafter, a school authorized to operate under this chapter shall publish on its web site the school's debt-to-earnings rates, or where necessary, cost-to-earnings rates. The workforce training and education coordinating board shall also publish on its web site the debt-to-earnings rates, or where necessary, cost-to-earnings rates, of programs and schools authorized to operate under this chapter.

(5) The department may adopt rules to implement this section, including rules for:

(a) The collection of student, school, and program data as provided under this section; and

(b) Providing probationary or graduated sanctions for violations of the gainful employment requirements, when appropriate, and providing notice to the student achievement council when a program's or school's noncompliance impacts eligibility to participate in the state's financial aid programs.

**Sec.**  RCW 18.16.150 and 2002 c 86 s 215 are each amended to read as follows:

(1) Schools shall be audited and inspected by the director or the director's designee for compliance with this chapter at least once a year. If the director determines that a licensed school is not maintaining the standards required according to this chapter, written notice thereof shall be given to the school. A school which fails to correct these conditions to the satisfaction of the director within a reasonable time may be subject to penalties imposed under RCW 18.235.110.

(2) If the director determines that a licensed school is not in compliance with the gainful employment requirements, the director may take corrective action, as provided by rules adopted under section 9 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 82.32 RCW to read as follows:

For the purposes of the workforce training and education coordinating board implementing sections 3, 7, and 9 of this act, and to improve the accuracy of other federal and state performance reporting, the department shall work with the workforce training and education coordinating board to use available tax records for addressing the gap in data for self-employed individuals. Data shared by the department under any data sharing agreement entered into under this section remains privileged and confidential and exempt from disclosure under the public records act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.41 RCW to read as follows:

For the purposes of the workforce training and education coordinating board implementing sections 3, 7, and 9 of this act, the education data center shall assist the workforce training and education coordinating board in maximizing the collection of students' employment and earnings. Data shared by the office under any data sharing agreement entered into under this section remains privileged and confidential and exempt from disclosure under the public records act.

**OMBUDS FOR STUDENTS OF FOR-PROFIT HIGHER EDUCATION INSTITUTIONS**

NEW SECTION. **Sec.**  A new section is added to chapter 28B.77 RCW to read as follows:

(1) There is created an ombuds office for the purposes of providing advocacy, support, and assistance to students of for-profit and formerly for-profit degree-granting institutions, private vocational schools, and other for-profit schools. The ombuds office is housed within the council and the student loan advocate designated under RCW 28B.77.007 shall act as the ombuds. The ombuds may employ technical experts and other staff to carry out the purposes of the ombuds office.

(2) The ombuds is available to all students of for-profit and formerly for-profit degree-granting institutions authorized to operate under chapter 28B.85 RCW, private vocational schools regulated by the workforce training and education coordinating board, and schools, as defined under RCW 18.16.020, licensed by the department of licensing. The ombuds shall be responsive to the needs of students regardless of which agency provides oversight.

(3) The ombuds shall, at a minimum:

(a) Assist students in submitting complaints to the appropriate oversight agencies, and when appropriate, be an advocate for students filing complaints;

(b) To the extent there is no conflict when acting as an advocate for a particular student's complaint, provide consultation, information, or other assistance to the council, workforce training and education coordinating board, department of licensing, the office of the attorney general, or other agency that is investigating or working towards resolving a student's complaint;

(c) Coordinate and share information with the office of the attorney general on claims alleging violations of the consumer protection act and work with the office of the attorney general to track patterns of complaints and responses from institutions and schools;

(d) Coordinate with the oversight agencies on administering the complaint portal created under RCW 28B.77.110 and ensuring the ombuds has access to information on complaints received through the portal;

(e) Track the status of complaints and collect data about the nature and volume of complaints, the timeline for complaint resolutions, and student satisfaction with the complaint process;

(f) Participate in meetings with students and agencies regarding school closures;

(g) Develop and maintain resources for students affected by school closures, including articulation agreements; and

(h) Provide information and support to students affected by school closures, specifically to the academic and financial impacts the school closure has on students.

(4) Beginning December 1, 2020, the ombuds shall submit a report every six months to the council, the workforce training and education coordinating board, and the department of licensing, that includes, at a minimum:

(a) The number of students who contacted the ombuds in the prior six months;

(b) The number of complaints for which the ombuds provided assistance and the number of complaints for which the ombuds acted as an advocate, and the outcomes of the complaints;

(c) Any patterns the ombuds identifies regarding the frequency and types of complaints per institution or school and per type of institution or school, and the responsiveness of the institution or school; and

(d) Any outstanding or unresolved concerns or recommendations by the ombuds.

(5) The ombuds is not liable for the good faith performance of his or her duties.

**Sec.**  RCW 28B.85.090 and 2018 c 203 s 3 are each amended to read as follows:

(1) Complaints may be filed with the council under this chapter by a person claiming loss of tuition or fees as a result of an unfair business practice. The complaint shall set forth the alleged violation and shall contain information required by the council. A complaint may also be filed with the council by an authorized staff member of the council or by the attorney general.

(2) The council shall investigate any complaint under this section and may work with the ombuds office created under section 13 of this act and attempt to bring about a settlement. The council may hold a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, in order to determine whether a violation has occurred. If the council prevails, the degree-granting institution shall pay the costs of the administrative hearing.

(3) If, after the hearing, the council finds that the institution or its agent engaged in or is engaging in any unfair business practice, the council shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties under RCW 28B.85.095 and 28B.85.100. If the council finds that the complainant has suffered loss as a result of the act or practice, the council may order full or partial restitution for the loss. The complainant is not bound by the council's determination of restitution and may pursue any other legal remedy.

(4) If the ombuds office created under section 13 of this act was not involved in the complaint, the council shall forward information about the complaint and information about any settlement or other resolution to the ombuds office for the purposes of tracking complaints.

**Sec.**  RCW 28C.10.120 and 2014 c 11 s 7 are each amended to read as follows:

(1) Complaints may be filed under this chapter only by a current student or exiter of a program or training affected by an unfair business practice. The complaint shall set forth the alleged violation and shall contain information required by the agency on forms provided for that purpose. A complaint may also be filed with the agency by an authorized staff member of the agency or by the attorney general.

(2) The agency shall investigate any complaint under this section and shall first attempt to bring about a negotiated settlement. The agency director or the director's designee may conduct an informal hearing with the affected parties in order to determine whether a violation has occurred. The agency may work with the ombuds office created in section 13 of this act in attempting to resolve the complaint.

(3) If the agency finds that the private vocational school or its agent engaged in or is engaging in any unfair business practice, the agency shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties provided under RCW 28C.10.130. If the agency finds that the complainant has suffered loss as a result of the act or practice, the agency may order the violator to pay full or partial restitution of any amounts lost. The loss may include any money paid for tuition, required or recommended course materials, and any reasonable living expenses incurred by the complainant during the time the complainant was enrolled at the school.

(4) The complainant is not bound by the agency's determination of restitution. The complainant may reject that determination and may pursue any other legal remedy, including contacting the ombuds office created in section 13 of this act for assistance.

(5) The violator may, within twenty days of being served any order described under subsection (3) of this section, file an appeal under the administrative procedure act, chapter 34.05 RCW. Timely filing stays the agency's order during the pendency of the appeal. If the agency prevails, the appellant shall pay the costs of the administrative hearing.

(6) If a private vocational school closes without providing adequate notice to its enrolled students, the agency shall provide transition assistance to the school's students including, but not limited to, information regarding: (a) Transfer options available to students; (b) financial aid discharge eligibility and procedures; (c) the labor market, job search strategies, and placement assistance services; and (d) other support services available to students.

(7) If the ombuds office created in section 13 of this act was not involved in the complaint, the agency shall forward information about the complaint and information about any settlement or other resolution to the ombuds office for the purposes of tracking complaints.

**Sec.**  RCW 18.16.160 and 2004 c 51 s 8 are each amended to read as follows:

(1) In addition to any other legal remedy, any student or instructor-trainee having a claim against a school may bring suit upon the approved security required in RCW 18.16.140(1)(d) in the superior or district court of Thurston county or the county in which the educational services were offered by the school. Action upon the approved security shall be commenced by filing the complaint with the clerk of the appropriate superior or district court within one year from the date of the cancellation of the approved security: PROVIDED, That no action shall be maintained upon the approved security for any claim which has been barred by any nonclaim statute or statute of limitations of this state. Service of process in an action upon the approved security shall be exclusively by service upon the director. Two copies of the complaint shall be served by registered or certified mail upon the director at the time the suit is started. Such service shall constitute service on the approved security and the school. The director shall transmit the complaint or a copy thereof to the school at the address listed in the director's records and to the surety within forty-eight hours after it has been received. The approved security shall not be liable in an aggregate amount in excess of the amount named in the approved security. In any action on an approved security, the prevailing party is entitled to reasonable attorney's fees and costs.

(2) The director shall maintain a record, available for public inspection, of all suits commenced under this chapter upon approved security. The director shall also forward information about the suit and information about any settlement or other resolution to the ombuds office created under section 13 of this act for the purposes of tracking complaints.

**Sec.**  RCW 28B.77.110 and 2018 c 203 s 13 are each amended to read as follows:

(1) Within existing resources, the student achievement council, the workforce training and education coordinating board, and the department of licensing shall collaborate to create a single portal for student complaints regarding issues related to consumer protection, disclosures, school or program closures, or other violations committed by institutions regulated by those three agencies. The persons staffing the portal shall refer complaints to the appropriate agency and work with the ombuds created under section 13 of this act as a liaison between the student and relevant agency to assist in resolving the concerns or complaint. Each agency shall ensure that all students enrolled in, applying to enroll in, or obtaining loans at, institutions regulated by the agency are informed of the portal, including how to contact staff at the portal and how to file complaints. The persons staffing the portal will report to the legislature annually by November 1, 2018, the number of complaints and their resolution status.

(2) Each agency shall coordinate with the ombuds office created under section 13 of this act to ensure that the ombuds has access to information regarding complaints received through the portal.

(3) Each agency shall ensure that the institutions and schools the agency regulates provide prominent and clear notice to students about the complaint portal and the ombuds office. The institution's and school's notice must contain the same information as the notices provided by the agencies regarding the portal's web site address, how to contact staff at the portal, how to file complaints, and how to contact the ombuds office. The notice must be easily accessible on the institution's or school's web site and in written materials.

**TUITION RECOVERY TRUST FUNDS AND SURETY BONDS**

NEW SECTION. **Sec.**  The legislature recognizes that program closures can create unique challenges and financial harm to students whose programs have been terminated before the students complete the programs. "Teach out" options often do not offer students reasonable options for completing programs. Those students face similar challenges as students experiencing schools closures. Therefore, the legislature intends to allow tuition recovery trust funds and surety bonds to be used, not just in the event of schools closures, but also to address harm created by program closures and violations of the law governing the various degree-granting institutions and private vocational schools.

**Sec.**  RCW 28B.85.070 and 2012 c 229 s 548 are each amended to read as follows:

(1) The council may:

(a) Require any degree-granting institution to have on file with the council an approved surety bond or other security in lieu of a bond in an amount determined by the council; and

(b) Eliminate the bond requirement for any degree-granting institution if the threshold amount for the student achievement council tuition recovery trust fund created in RCW 28B.85.230 has been met and the council determines that students of the degree-granting institution would be adequately protected without a surety bond or other security in lieu of a bond.

(2) In lieu of a surety bond, an institution may deposit with the council a cash deposit or other negotiable security acceptable to the council. The security deposited with the council in lieu of the surety bond shall be returned to the institution one year after the institution's authorization has expired or been revoked if legal action has not been instituted against the institution or the security deposit at the expiration of the year. The obligations and remedies relating to surety bonds authorized by this section, including but not limited to the settlement of claims procedure in subsection (5) of this section, shall apply to deposits filed with the council, as applicable.

(3) Each bond shall:

(a) Be executed by the institution as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state for the benefit and protection of any student or enrollee of an institution, or, in the case of a minor, his or her parents or guardian;

(c) Be conditioned on compliance with all provisions of this chapter and the council's rules adopted under this chapter;

(d) Require the surety to give written notice to the council at least thirty-five days before cancellation of the bond; and

(e) Remain in effect for one year following the effective date of its cancellation or termination as to any obligation occurring on or before the effective date of cancellation or termination.

(4) Upon receiving notice of a bond cancellation, the council shall notify the institution that the authorization will be suspended on the effective date of the bond cancellation unless the institution files with the council another approved surety bond or other security. The council may suspend or revoke the authorization at an earlier date if it has reason to believe that such action will prevent students from losing their tuition or fees.

(5) If a complaint is filed under RCW 28B.85.090(1) or any other provision under this chapter against an institution, the council may file a claim against the surety and settle claims against the surety by following the procedure in this subsection.

(a) The council shall attempt to notify all potential claimants. If the absence of records or other circumstances makes it impossible or unreasonable for the council to ascertain the names and addresses of all the claimants, the council after exerting due diligence and making reasonable inquiry to secure that information from all reasonable and available sources, may make a demand on a bond on the basis of information in the council's possession. The council is not liable or responsible for claims or the handling of claims that may subsequently appear or be discovered.

(b) Thirty days after notification, if a claimant fails, refuses, or neglects to file with the council a verified claim, the council shall be relieved of further duty or action under this chapter on behalf of the claimant.

(c) After reviewing the claims, the council may make demands upon the bond on behalf of those claimants whose claims have been filed. The council may settle or compromise the claims with the surety and may execute and deliver a release and discharge of the bond.

(d) If the surety refuses to pay the demand, the council may bring an action on the bond in behalf of the claimants. If an action is commenced on the bond, the council may require a new bond to be filed.

(e) Within ten days after a recovery on a bond or other posted security has occurred, the institution shall file a new bond or otherwise restore its security on file to the required amount.

(6) The liability of the surety shall not exceed the amount of the bond.

**Sec.**  RCW 28B.85.230 and 2018 c 203 s 11 are each amended to read as follows:

(1)(a) For the purposes of providing relief to students impacted by the voluntary or involuntary closure of schools ((~~regulated~~)) or programs, loss of accreditation, or other actions or events for which students may file complaints against schools authorized to operate under this chapter, the council shall establish, maintain, and administer a student achievement council tuition recovery trust fund created in RCW 28B.85.240. All funds collected for the student achievement council tuition recovery trust fund are payable to the state for the benefit and protection of any student or enrollee of ((~~a private school licensed~~)) an institution authorized to operate under this chapter, for purposes including but not limited to the settlement of claims related to school closures and other actions or events for which students may file complaints. Funds in the tuition recovery trust fund may only be used for the purposes as provided under this section and no part of the fund may be transferred or diverted to any other fund or for any other use.

(b) No liability accrues to the state from claims made against the student achievement council tuition recovery trust fund.

(c) The council may require a student to reimburse the council for any moneys provided to the student from the student achievement council tuition recovery trust fund if the student was provided relief from or through a source other than the student achievement council tuition recovery trust fund. Relief from other sources includes, for example, student loan forgiveness or damages awarded under a cause of action alleging violations of the consumer protection act.

(2)(a) The council may impose a fee structure, set forth in rule, on ((~~schools licensed~~)) institutions authorized to operate under this chapter to fund the student achievement council tuition recovery trust fund.

(b) The council must determine an amount that would be sufficient in the student achievement council tuition recovery trust fund to provide relief to students ((~~in the event of a school closure~~)). The council shall adopt schedules of times and amounts for effecting payments of fees. To reach the amount determined, the council may phase in the collection of fees, but must achieve the amount determined to be sufficient no later than ((~~five~~)) seven years from June 7, 2018. Nothing in this section prohibits the council from collecting fees beyond the minimum threshold amount the council has determined is sufficient and to collect tuition recovery trust fund fees from newly authorized institutions even if the amount the council has determined is sufficient has been met.

(3) Money from the student achievement council tuition recovery trust fund may be used for:

(a) Providing refunds to students ((~~affected by school~~)) of tuition and fees that were paid for courses in which the student was unable to earn credits due to program or institution closures;

(b) Providing relief, including direct damages if appropriate, to students affected by an institution's actions that are determined to be violations of this chapter;

(c) Securing and administering student records; and

((~~(c)~~)) (d) Any other response the council determines is necessary to mitigate impacts of a potential or actual ((~~school~~)) institution closure or of an event or action taken by the institution that is in violation of this chapter.

(4) In order for ((~~a school~~)) an institution to be and remain ((~~licensed~~)) authorized under this chapter, each ((~~school owner~~)) institution shall, in addition to other requirements under this chapter, make cash deposits on behalf of the ((~~school~~)) institution into a student achievement council tuition recovery trust fund.

(5) The student achievement council tuition recovery trust fund's liability with respect to each participating ((~~school~~)) institution commences on the date of the initial deposit into the student achievement council tuition recovery trust fund made on its behalf and ceases one year from the date the ((~~school~~)) institution is no longer licensed under this chapter.

(6) The council shall adopt by rule a matrix for calculating the deposits into the student achievement council tuition recovery trust fund on behalf of each ((~~school~~)) institution.

(7) No vested right or interest in deposited funds is created or implied for the depositor at any time during the operation of the student achievement council tuition recovery trust fund or at any such future time that the student achievement council tuition recovery trust fund may be dissolved. All funds deposited are payable to the state for the purposes described under this section. The council shall maintain the student achievement council tuition recovery trust fund, serve appropriate notices to affected ((~~owners~~)) institutions when scheduled deposits are due, collect deposits, and make disbursements to settle claims against the student achievement council tuition recovery trust fund.

(8) The council shall adopt rules to address notifying potential claimants, settling claims, disbursing funds, and any other processes necessary to implement the purpose of this section.

**Sec.**  RCW 18.16.310 and 2018 c 203 s 9 are each amended to read as follows:

(1)(a) For the purposes of providing relief to students impacted by the voluntary or involuntary closure of schools or programs, loss of accreditation, or other actions or events for which students may file complaints against schools regulated under this chapter, the director shall establish, maintain, and administer a department of licensing tuition recovery trust fund created in RCW 18.16.320. The department of licensing tuition recovery trust fund shall be established no later than January 1, 2019. All funds collected for the department of licensing tuition recovery trust fund are payable to the state for the benefit and protection of any student or enrollee of a private school licensed under this chapter, for purposes including but not limited to the settlement of claims related to school closures and other actions or events for which students may file complaints. Funds in the tuition recovery trust fund may only be used for the purposes as provided under this section and no part of the fund may be transferred or diverted to any other fund or for any other use.

(b) No liability accrues to the state from claims made against the department of licensing tuition recovery trust fund.

(c) The department may require a student to reimburse the department for any moneys provided to the student from the department of licensing tuition recovery trust fund if the student was provided relief from or through a source other than the department of licensing tuition recovery trust fund. Relief from other sources includes, for example, loan forgiveness or damages awarded under a cause of action alleging violations of the consumer protection act.

(2)(a) The director may impose a fee structure, set forth in rule, on schools licensed under this chapter to fund the department of licensing tuition recovery trust fund.

(b) The director must determine an amount that would be sufficient in the department of licensing tuition recovery trust fund to provide relief to students ((~~in the event of a school closure~~)). The director shall adopt schedules of times and amounts for effecting payments of fees. To reach the amount determined, the director may phase in the collection of fees, but must achieve the amount determined to be sufficient no later than ((~~five~~)) seven years from June 7, 2018.

(3) Money from the department of licensing tuition recovery trust fund may be used for:

(a) Providing refunds to students ((~~affected by~~)) of tuition and fees that were paid for courses in which the student was unable to earn credits due to program or school closures;

(b) Providing relief, including direct damages if appropriate, to students affected by a school's actions that are determined to be violations of this chapter;

(c) Securing and administering student records; and

((~~(c)~~)) (d) Any other response the director determines is necessary to mitigate impacts of a potential or actual school closure or of an event or action taken by the school that is in violation of this chapter.

(4) In order for a school to be and remain licensed under this chapter, each school owner shall, in addition to other requirements under this chapter, make cash deposits on behalf of the school into the department of licensing tuition recovery trust fund.

(5) The department of licensing tuition recovery trust fund's liability with respect to each participating school commences on the date of the initial deposit into the department of licensing tuition recovery trust fund made on its behalf and ceases one year from the date the school is no longer licensed under this chapter.

(6) The director shall adopt by rule a matrix for calculating the deposits into the department of licensing tuition recovery trust fund on behalf of each school.

(7) No vested right or interest in deposited funds is created or implied for the depositor at any time during the operation of the department of licensing tuition recovery trust fund or at any such future time that the department of licensing tuition recovery trust fund may be dissolved. All funds deposited are payable to the state for the purposes described in this section. The director shall maintain the department of licensing tuition recovery trust fund, serve appropriate notices to affected owners when scheduled deposits are due, collect deposits, and make disbursements to settle claims against the department of licensing tuition recovery trust fund.

(8) The director shall adopt rules to address notifying potential claimants, settling claims, disbursing funds, and any other processes necessary to implement the purpose of this section.

**Sec.**  RCW 28C.10.084 and 2014 c 11 s 5 are each amended to read as follows:

(1) The agency shall establish, maintain, and administer a tuition recovery trust fund. All funds collected for the tuition recovery trust fund are payable to the state for the benefit and protection of any student or enrollee of a private vocational school licensed under this chapter, in the case of a minor, his or her parents or guardian, or an agency or business that paid tuition and fees on behalf of Washington state students, for purposes including but not limited to the settlement of claims related to school closures under subsection (10) of this section and the settlement of claims under RCW 28C.10.120. The fund shall be liable for settlement of claims and costs of administration but shall not be liable to pay out or recover penalties assessed under RCW 28C.10.130 or 28C.10.140. No liability accrues to the state of Washington from claims made against the fund. Funds in the tuition recovery trust fund may only be used for the purposes as provided under this section and no part of the fund may be transferred or diverted to any other fund or for any other use.

(2) By June 30, 1998, a minimum operating balance of one million dollars shall be achieved in the fund and maintained thereafter. If disbursements reduce the operating balance below two hundred thousand dollars at any time before June 30, 1998, or below one million dollars thereafter, each participating owner shall be assessed a pro rata share of the deficiency created, based upon the incremental scale created under subsection (6) of this section for each private vocational school. The agency shall adopt schedules of times and amounts for effecting payments of assessment.

(3) In order for a private vocational school to be and remain licensed under this chapter each owner shall, in addition to other requirements under this chapter, make cash deposits on behalf of the school into a tuition recovery trust fund as a means to assure payment of claims brought under this chapter.

(4) The amount of liability that can be satisfied by this fund on behalf of each private vocational school licensed under this chapter shall be the amount of unearned prepaid tuition and fees. If the claimant provides evidence to the agency of the lack of availability to continue his or her program of study at another institution, the agency's executive director or the executive director's designee has the authority to reimburse the student, agency, or business up to the full value of tuition and fees paid to date, subject to subsection (10) of this section. The agency may use the fund to pay for prior learning assessments for students who choose to attend another institution.

(5) The fund's liability with respect to each participating private vocational school commences on the date of the initial deposit into the fund made on its behalf and ceases one year from the date the school is no longer licensed under this chapter.

(6) The agency shall adopt by rule a matrix for calculating the deposits into the fund on behalf of each vocational school. Proration shall be determined by factoring the school's share of liability in proportion to the aggregated liability of all participants under the fund by grouping such prorations under the incremental scale created by subsection (4) of this section. Expressed as a percentage of the total liability, that figure determines the amount to be contributed when factored into a fund containing one million dollars. The total amount of its prorated share, minus the amount paid for initial capitalization, shall be payable in up to twenty increments over a ten-year period, commencing with the sixth month after the initial capitalization deposit has been made on behalf of the school. Additionally, the agency shall require deposits for initial capitalization, under which the amount each owner deposits is proportionate to the school's share of two hundred thousand dollars, employing the matrix developed under this subsection.

(7) No vested right or interests in deposited funds is created or implied for the depositor, either at any time during the operation of the fund or at any such future time that the fund may be dissolved. All funds deposited are payable to the state for the purposes described under this section. The agency shall maintain the fund, serve appropriate notices to affected owners when scheduled deposits are due, collect deposits, and make disbursements to settle claims against the fund. When the aggregated deposits total five million dollars and the history of disbursements justifies such modifications, the agency may at its own option reduce the schedule of deposits whether as to time, amount, or both and the agency may also entertain proposals from among the licensees with regard to disbursing surplus funds for such purposes as vocational scholarships.

(8) Based on annual financial data supplied by the owner, the agency shall determine whether the increment assigned to that private vocational school on the incremental scale established under subsection (6) of this section has changed. If an increase or decrease in gross annual tuition income has occurred, a corresponding change in the school's incremental position and contribution schedule shall be made before the date of the owner's next scheduled deposit into the fund. Such adjustments shall only be calculated and applied annually.

(9) If the majority ownership interest in a private vocational school is conveyed through sale or other means into different ownership, all contributions made to the date of transfer remain in the fund. The new owner shall continue to make contributions to the fund until the original ten-year cycle is completed. All tuition recovery trust fund contributions shall remain with the private vocational school transferred, and no additional cash deposits may be required beyond the original ten-year contribution cycle.

(10)(a) To settle claims adjudicated under RCW 28C.10.120 and claims resulting when a private vocational school ceases to provide educational services, the agency may make disbursements from the fund. Students enrolled under a training contract executed between a school and a public or private agency or business are not eligible to make a claim against the fund until January 1, 2016.

(b) In addition to the processes described for making reimbursements related to claims under RCW 28C.10.120, the following procedures are established to deal with reimbursements related to school closures:

(i) The agency shall attempt to notify all potential claimants. The unavailability of records and other circumstances surrounding a school closure may make it impossible or unreasonable for the agency to ascertain the names and whereabouts of each potential claimant but the agency shall make reasonable inquiries to secure that information from all likely sources. The agency shall then proceed to settle the claims on the basis of information in its possession. The agency is not responsible or liable for claims or for handling claims that may subsequently appear or be discovered.

(ii) Thirty days after identified potential claimants have been notified, if a claimant refuses or neglects to file a claim verification as requested in such notice, the agency may be relieved of further duty or action on behalf of the claimant under this chapter. The executive director of the agency or the executive director's designee will determine if an exemption to the thirty days shall be granted if the claimant furnishes proof of an extraordinary or exigent circumstance.

(iii) After verification and review, the agency may disburse funds from the tuition recovery trust fund to settle or compromise the claims for an amount up to the value of unearned prepaid tuition and fees. If the claimant provides evidence to the agency of the lack of availability to continue his or her program of study at another institution, the agency's executive director or the executive director's designee has the authority to reimburse the student, agency, or business up to the full value of tuition and fees paid to date, subject to (a) of this subsection. The agency may use the fund to pay for prior learning assessments for students who choose to attend another institution.

(iv) In the instance of claims against a closed school, the agency shall seek to recover such disbursed funds from the assets of the defaulted owner, including but not limited to asserting claims as a creditor in bankruptcy proceedings.

(11) When funds are disbursed to settle claims against a licensed private vocational school, the agency shall make demand upon the owner for recovery. The agency shall adopt schedules of times and amounts for effecting recoveries. An owner's failure to perform subjects the school's license to suspension or revocation under RCW 28C.10.050 in addition to any other available remedies.

(12) For purposes of this section, "owner" includes, but is not limited to, a person, company, firm, society, association, partnership, corporation, or trust having a controlling ownership interest in a private vocational school.

(13) The agency may require a student to reimburse the agency for any moneys provided to the student from the tuition recovery trust fund if the student was provided relief from or through a source other than the tuition recovery trust fund. Relief from other sources includes, for example, loan forgiveness or damages awarded under a cause of action alleging violations of the consumer protection act.

**Sec.**  RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and 2018 c 127 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the department of licensing tuition recovery trust fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, ((~~[the]~~)) the public employees' and retirees' insurance account, ((~~[the]~~)) the school employees' insurance account, ((~~and~~)) the student achievement council tuition recovery trust fund, the radiation perpetual maintenance fund, and the tuition recovery trust fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec.**  RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, ((~~the department of licensing tuition recovery trust fund,~~)) the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, ((~~the high capacity transportation account,~~)) the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide tourism marketing account, ((~~the student achievement council tuition recovery trust fund,~~)) the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, ((~~the tuition recovery trust fund,~~)) the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**--- END ---**