
SUBSTITUTE SENATE BILL 6069

State of Washington

68th Legislature

2024 Regular Session

By Senate Ways & Means (originally sponsored by Senators Mullet, Valdez, Hunt, Llias, Nguyen, Saldaña, and Van De Wege; by request of State Treasurer)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to improving retirement security for
2 Washingtonians by establishing Washington saves, an automatic
3 enrollment individual retirement savings account program, and
4 updating the Washington retirement marketplace statute; amending RCW
5 43.330.732 and 43.330.735; reenacting and amending RCW 43.79A.040 and
6 43.79A.040; adding a new chapter to Title 19 RCW; creating a new
7 section; decodifying RCW 43.330.730; prescribing penalties; providing
8 effective dates; and providing an expiration date.

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

10 **PART I**

11 **WASHINGTON SAVES**

12 NEW SECTION. **Sec. 1.** ESTABLISHMENT. (1) Washington saves is
13 established to serve as a vehicle through which covered employees
14 may, on a voluntary basis, provide for additional retirement security
15 through a state-facilitated retirement savings program in a
16 convenient, cost-effective, and portable manner.

17 (2) Washington saves is intended as a public-private partnership
18 that will encourage, not replace or compete with, employer-sponsored
19 retirement plans.

1 NEW SECTION. **Sec. 2.** DEFINITIONS. (1) "Administrative account"

2 means the Washington saves administrative treasury trust account
3 created in section 12 of this act.

4 (2) "Complainant" means a covered employee, or that employee's
5 designee who has written or legal authority to act on behalf of the
6 employee, who files a complaint alleging an employer administrative
7 violation of section 3 of this act who learned of the alleged
8 violation by way of their employment with a covered employer.

9 (3) "Consumer price index" means the consumer price index for all
10 urban consumers, all items, for the Seattle area as calculated by the
11 United States bureau of labor statistics or its successor agency.

12 (4) "Covered employee" means an individual who is 18 years of age
13 or older, who is employed by a covered employer.

14 (5) "Covered employer" means any employer that:

15 (a) Has been in business in this state for at least two years as
16 of the immediately preceding calendar year;

17 (b) Maintains a physical presence;

18 (c) Does not offer a qualified retirement plan to their covered
19 employees who have had continuous employment of one year or more; and

20 (d) Employs, and at any point during the immediately preceding
21 calendar year employed, five or more full-time equivalent employees.

22 (6) "Department" means the department of labor and industries.

23 (7) "Employer" means a person or entity engaged in a business,
24 profession, trade, or other enterprise in the state, whether for
25 profit or not for profit. "Employer" does not include federal or
26 state entities, agencies, or instrumentalities, or any political
27 subdivision thereof.

28 (8) "Employer administrative duties" include all requirements of
29 covered employers under section 3 of this act that do not involve
30 amounts due to the employee.

31 (9) "Employment" has the same meaning as in RCW 50.04.100.

32 (10) "Full-time equivalent" means the total number of worked
33 hours during the preceding calendar year divided by 2,080.

34 (11) "Governing board" means the board created in section 4 of
35 this act.

36 (12) "Individual account" means an IRA established by or for an
37 individual participant and owned by the individual participant
38 pursuant to this chapter.

1 (13) "Individual participant" means any individual who is
2 contributing to, or has a balance credited in, an IRA through the
3 program.

4 (14) "Internal revenue code" means the federal internal revenue
5 code of 1986, as amended, or any successor law.

6 (15) "IRA" means a traditional or Roth individual retirement
7 account or individual retirement annuity described in section 408(a),
8 408(b), or 408A of the internal revenue code.

9 (16) "Office" means the office of the state treasurer.

10 (17) "Payroll deduction IRA agreement" means an arrangement by
11 which a participating employer makes payroll deductions authorized by
12 this chapter and remits amounts deducted as contributions to IRAs on
13 behalf of individual participants.

14 (18) "Program" means the Washington saves program established
15 under this chapter.

16 (19) "Qualified retirement plan" means a retirement plan in
17 compliance with applicable federal law for employees including those
18 described in section 401(a), 401(k), 403(a), 403(b), 408(k), or
19 408(p) of the internal revenue code. A qualified retirement plan may
20 require continuous employment of up to one year to be eligible for
21 employee participation.

22 (20) "Wages" means any commission, compensation, salary, or other
23 remuneration, as defined by section 219(f)(1) of the internal revenue
24 code, received by a covered employee from a covered employer.

25 NEW SECTION. **Sec. 3.** GENERAL PROVISIONS. (1) The program:

26 (a) Allows covered employees to contribute to an IRA through
27 automatic payroll deductions;

28 (b) Requires covered employers to fulfill the requirements
29 provided in subsection (3) of this section;

30 (c) Facilitates automatic enrollment for covered employees and
31 allows for covered employees to opt out of the plan;

32 (d) Has a default contribution rate, set by the governing board
33 by rule. The default contribution rate may not be less than three
34 percent or more than seven percent of wages; and

35 (e) Has a default escalation rate, set by the governing board by
36 rule. The default escalation rate may not exceed one percent per
37 year. The maximum contribution rate based on the default escalation
38 rate may not exceed 10 percent of wages.

1 (2) (a) Covered employees, who do not opt out of the program, are
2 automatically enrolled in the program at the default rate or at an
3 amount expressly specified by the employee in connection with the
4 payroll deduction IRA agreement. Individual participants may modify
5 their contribution rates or amounts or terminate their participation
6 in the program at any time, subject to procedure defined by rule by
7 the governing board. All contribution amounts are subject to the
8 dollar limits on contributions provided by federal law.

9 (b) Contributions must be invested in the default investment
10 option unless the individual participant affirmatively elects to
11 invest some or all balances in one or more approved investment
12 options offered by the program. An individual participant must have
13 the opportunity to change investments for either future contributions
14 or existing balances, or both, subject to requirements defined by
15 rule by the governing board.

16 (c) Individual accounts are portable. A former individual
17 participant who is either unemployed, or is employed by a noncovered
18 employer, must be permitted to contribute to their individual
19 account.

20 (d) An individual participant's and former individual
21 participant's ability to withdraw, roll over, or transfer account
22 balances is subject to, and liable for, all fees, penalties, and
23 taxes under applicable law.

24 (e) An individual participant's or former individual
25 participant's ability to receive distributions of contributions and
26 earnings is subject to applicable law.

27 (3) (a) Each covered employer must facilitate the opportunity for
28 covered employees to participate in the program by fulfilling the
29 following administrative duties, as defined by rule by the governing
30 board:

31 (i) Register with the program and provide the program
32 administrator relevant information about covered employees;

33 (ii) Assist the program by offering all covered employees the
34 choice to either participate by voluntarily contributing to an IRA or
35 opt out;

36 (iii) Timely remit participant contributions; and

37 (iv) Provide the following information to covered employees:

38 (A) Information regarding the program;

39 (B) The following disclosures:

1 (I) A description of the benefits and risks associated with
2 making contributions under the program;

3 (II) Instructions about how to obtain additional information
4 about the program;

5 (III) A description of the tax consequences of an IRA, which may
6 consist of or include the disclosure statement required to be
7 distributed by the trustee under the internal revenue code and
8 treasury regulations thereunder;

9 (IV) A statement that covered employees seeking financial advice
10 should contact their own financial advisers, that covered employers
11 are not in a position to provide financial advice, and that covered
12 employers are not liable for decisions covered employees make under
13 this chapter;

14 (V) A statement that the program is not an employer-sponsored
15 retirement plan;

16 (VI) A statement that the covered employee's IRA established
17 under the program is not guaranteed by the state; and

18 (VII) A statement that neither a covered employer nor the state
19 will monitor or has an obligation to monitor the covered employee's
20 eligibility under the internal revenue code to make contributions to
21 an IRA or to monitor whether the covered employee's contributions to
22 the IRA established for the covered employee exceed the maximum
23 permissible IRA contribution; that it is the covered employee's
24 responsibility to monitor such matters; and that the state, the
25 program, and the covered employer have no liability with respect to
26 any failure of the covered employee to be eligible to make IRA
27 contributions or any contribution in excess of the maximum IRA
28 contribution;

29 (C) Information, forms, and instructions to be furnished to
30 covered employees at such times as the governing board determines
31 that provide the covered employee with the procedures for:

32 (I) Making contributions to the covered employee's IRA
33 established under the program, including a description of the
34 automatic enrollment rate, the automatic escalation rate and
35 frequency, and the right to elect to make no contribution or to
36 change the contribution rate under the program;

37 (II) Making an investment election with respect to the covered
38 employee's IRA established under the program, including a description
39 of the default investment fund; and

1 (III) Making transfers, rollovers, withdrawals, and other
2 distributions from the covered employee's IRA.

3 (b) The employers' role in the program is solely ministerial. In
4 accordance with federal law, employers are prohibited from
5 contributing funds to the IRAs through the program.

6 (c) Employers are not fiduciaries with respect to, or are liable
7 for, the program, related information, educational materials, or
8 forms or disclosures approved by the governing board, or the
9 selection or performance of vendors selected by the governing board.
10 An employer is not responsible for or obligated to monitor a covered
11 employee's or individual participant's decision to participate in or
12 opt out of the program, for contribution decisions, investment
13 decisions, or failure to comply with the statutory eligibility
14 conditions or limits on IRA contributions. An employer does not
15 guarantee any investment, rate of return, or interest on assets in
16 any individual participant account or the administrative account or
17 is liable for any market losses, failure to realize gains, or any
18 other adverse consequences, including the loss of favorable tax
19 treatment or public assistance benefits, incurred by any person as a
20 result of participating in the program. Nothing in this section
21 relieves an employer from liability for criminal, fraudulent,
22 tortious, or otherwise actionable conduct including liability related
23 to the failure to remit employee contributions.

24 (4)(a) The governing board must determine the type or types of
25 IRA accounts available under the program.

26 (b) An individual participant's contributions and earnings may be
27 combined for investment and custodial purposes only. Separate records
28 and accounting are required for individual accounts. Reports on the
29 status of individual accounts must be provided to each individual
30 participant at least annually. Individual participants must have
31 online access to their accounts.

32 (c) Any moneys placed in these accounts may not be counted as
33 assets for the purposes of state or local means-tested program
34 eligibility or levels of state means-tested program eligibility.

35 NEW SECTION. **Sec. 4.** GOVERNING BOARD—RESPONSIBILITIES. (1) The
36 governing board shall design and administer the program for the
37 exclusive benefit of individual participants and beneficiaries with
38 the care and skill of a knowledgeable, prudent individual.

39 (2) The governing board is comprised of nine members as follows:

1 (a) The state treasurer;

2 (b) The director of the department or the director's designee;

3 and

4 (c) The following members, appointed by the governor:

5 (i) Three members with demonstrated financial, legal, or other

6 relevant program experience;

7 (ii) One member representing the financial industry;

8 (iii) One member representing a retirement advocacy organization;

9 (iv) One member representing covered employees; and

10 (v) One member representing covered employers.

11 (3) The state treasurer shall chair the governing board.

12 (4) Members who are appointed by the governor serve three-year

13 terms and may be appointed for a second three-year term at the

14 discretion of the governor. Members who are appointed by the governor

15 may serve up to two terms over the course of their lifetime. The

16 governor may stagger the terms of the appointed members.

17 (5) The governing board may appoint work groups to support the

18 design and administration of the program. Work groups do not serve a

19 voting function on the governing board and may include individuals

20 who are not members of the governing board. Any work group

21 established by the governing board is a class one group under RCW

22 43.03.220. Work group members receive compensation accordingly.

23 (6) Other state agencies must provide appropriate and reasonable

24 assistance to the program as needed, including gathering data and

25 information, in order for the governing board to carry out the

26 purposes of this chapter. The governing board may reimburse the other

27 state agencies from the administrative account for reasonable

28 expenses incurred in providing appropriate and reasonable assistance.

29 (7) (a) The governing board shall meet at least four times

30 annually and periodically as specified by the chair or a majority of

31 the governing board.

32 (b) The governing board may conduct meetings remotely by

33 teleconference or videoconference, including to obtain a quorum and

34 to take votes on any measure.

35 (c) Each governing board member has one vote. The powers of the

36 governing board must be exercised by a majority of all members

37 present at the meeting of the governing board, whether in person or

38 remotely. Four members constitute the necessary quorum to convene a

39 meeting of the governing board and to act on any measure before the

40 governing board.

1 (8) The governing board shall establish, design, develop,
2 implement, maintain, and oversee the program in accordance with this
3 chapter and best practices for retirement saving vehicles.

4 (9) Regarding investments, the governing board:

5 (a) Has the sole responsibility for contracting with outside
6 firms to provide investment management for the program funds and
7 manage the performance of investment managers under those contracts;

8 (b) Must adopt an investment policy statement and ensure that the
9 investment options offered, including default investment options, are
10 consistent with the objectives of the program. The menu of investment
11 options may encompass a range of risk and return opportunities and
12 must take the following into account:

13 (i) The nature and objectives of the program;

14 (ii) The diverse needs of individual participants;

15 (iii) The desirability of limiting investment choices under the
16 program to a reasonable number; and

17 (iv) The extensive investment choices available to participants
18 outside of the program.

19 (10) Regarding the design of the program, the governing board
20 must:

21 (a) Ensure the program is designed and operated in a manner that
22 will not cause it to be subject to or preempted by the federal
23 employment retirement income security act of 1974, as amended;

24 (b) Design and operate the program to:

25 (i) Minimize costs to individual participants, covered employers,
26 and the state;

27 (ii) Minimize the risk that covered employees will exceed
28 applicable annual contribution limits;

29 (iii) Facilitate and encourage employee participation in the
30 program and participant saving;

31 (iv) Maximize simplicity, including ease of administration for
32 covered employers and ease of use for individual participants;

33 (v) Maximize portability of individual accounts; and

34 (vi) Maximize financial security in retirement;

35 (c) Design the program to be compliant with all applicable
36 requirements under the internal revenue code, including requirements
37 for favorable tax treatment of IRAs, and any other applicable law or
38 regulation;

39 (d) Consult with the office, the department, the office of
40 minority and women's business enterprises, and the office of the

1 secretary of state to create a strategy to educate and inform covered
2 employers about employer administrative duties under this chapter;

3 (e) Launch the program by January 1, 2027. The board may stagger
4 implementation in stages after that date, which may include phasing
5 in implementation based on the size of employers, or other factors.

6 (11) The governing board may adopt rules to govern the program,
7 including to govern the following:

8 (a) Employee registration and enrollment process;

9 (b) Employee alternative election procedure including, but not
10 limited to, the method in which a participating individual may opt
11 out of participation, change their contribution rate, opt out of
12 auto-escalation, make nonpayroll contributions, and make withdrawals;

13 (c) Contribution limits, the initial automatic default
14 contribution rate, and the automatic default escalation rate;

15 (d) Outreach, marketing, and educational initiatives or
16 publication of online resources, encouragement of participation,
17 retirement savings, and sound investment practices. Outreach,
18 marketing, and educational initiatives must include special
19 consideration for communities traditionally, or are known to often
20 be, excluded from, marginalized by, or face barriers to participation
21 in workplace retirement savings programs; and

22 (e) A process in which individuals who are not covered employees
23 may participate in the program, including unemployed individuals,
24 self-employed individuals, and other independent contractors.

25 (12) The governing board may create or enter into, on behalf of
26 the program, a consortium, alliance, joint venture, partnership,
27 compact, or contract with another state or states or their programs
28 or boards.

29 (13) The governing board must collect administrative fees to
30 defray the costs of administering the program. If the governing board
31 creates or enters into a joint program agreement, as provided in
32 subsection (12) of this section, the rate of the administrative fee
33 for covered employees may not exceed the rate charged to covered
34 employees of another state participating in the same program.

35 (14) Members of the governing board and the office are not an
36 insurer of the funds or assets of the investment fund or individual
37 accounts. Neither of these two entities are liable for the action or
38 inaction of the other.

39 (15) Members of the governing board and the office are not liable
40 to the state, to the fund, or to any other person as a result of

1 their activities as members, whether ministerial or discretionary,
2 except for willful dishonesty or intentional violation of law.
3 Members of the governing board and the office may purchase liability
4 insurance.

5 (16) The governing board shall submit an annual report to the
6 appropriate committees of the legislature, in accordance with RCW
7 43.01.036, providing information about the program including, but not
8 limited to, the following:

- 9 (a) Participation;
- 10 (b) Account performance;
- 11 (c) Board decisions; and
- 12 (d) Any recommendations to the legislature regarding the program.

13 (17) The governing board may consult with the state investment
14 board and the department of financial institutions regarding program
15 design and implementation.

16 NEW SECTION. **Sec. 5.** OFFICE OF THE STATE TREASURER—
17 RESPONSIBILITIES. (1) Subject to the availability of amounts
18 appropriated for this specific purpose, the office must provide staff
19 and administrative support for the governing board. The office must
20 consult with the governing board regarding staffing and
21 administrative support needs before selecting any staff pursuant to
22 this section.

23 (2) The office may initiate and manage all procurement and
24 regulatory processes related to the program and carry out other
25 related functions as delegated by the governing board.

26 NEW SECTION. **Sec. 6.** INVESTMENT MANAGER—RESPONSIBILITIES.
27 (1)(a) After consultation with the governing board, the investment
28 manager may invest funds associated with the program. The investment
29 manager, after consultation with the governing board regarding any
30 recommendations, must provide a set of options for eligible
31 individuals to choose from for self-directed investment. Any self-
32 directed investment options must comply with the internal revenue
33 code.

34 (b) All investment and operating costs of the investment manager
35 associated with making self-directed investments must be paid by
36 participants and recovered under procedures agreed to by the
37 governing board and the investment manager. All other expenses caused
38 by self-directed investments must be paid by the participant in

1 accordance with the rules established by the governing board. With
2 the exception of these expenses, all earnings from self-directed
3 investments accrue to the individual accounts.

4 (2) The investment manager must invest and manage the assets
5 entrusted to it:

6 (a) With reasonable care, skill, prudence, and diligence under
7 circumstances then prevailing which a prudent person acting in a like
8 capacity and familiar with such matters would use to conduct of an
9 activity of like character and purpose; and

10 (b) In accordance with the investment policy established by the
11 governing board.

12 (3) The authority to establish all policies relating to
13 implementation, design, and management of the program resides with
14 the governing board.

15 (4) The investment manager must routinely consult and communicate
16 with the governing board on the investment policy, performance of the
17 accounts, and related needs of the program.

18 NEW SECTION. **Sec. 7.** LABOR AND INDUSTRIES—RESPONSIBILITIES. (1)
19 The department has the following responsibilities related to covered
20 employers, as provided in this chapter:

21 (a) Educate participating employers of their administrative
22 duties under this chapter;

23 (b) In the case of noncompliance with employer administrative
24 duties, investigate complaints, educate employers about how to come
25 into compliance, and, in the case of willful violations, issue
26 citations and collect penalties;

27 (c) In the case of impermissible withholding of amounts due to
28 employees, investigate and enforce the complaint as an alleged
29 violation of a wage payment requirement, as defined in RCW 49.48.082;
30 and

31 (d) Facilitate a process in which employers may appeal
32 complaints.

33 (2) Collections of unpaid citations assessing civil penalties by
34 the department under this chapter must be made pursuant to RCW
35 49.48.086.

36 NEW SECTION. **Sec. 8.** LABOR AND INDUSTRIES—COMPLIANCE WITH
37 EMPLOYER ADMINISTRATIVE DUTIES. (1) Covered employers shall comply
38 with employer administrative duties provided under this chapter.

1 (2) If a complainant files a complaint with the department
2 alleging any administrative violation, the department shall
3 investigate the complaint and:

4 (a) If the complaint is filed within the first two years of when
5 the program applies to a covered employer, offer technical assistance
6 to the employer to bring them into compliance. Civil penalties may
7 not be assessed during this education period;

8 (b) If the complaint is filed after the first two years of when
9 the program applies to the covered employer, educate the employer on
10 how to come into compliance and, if necessary and as provided in this
11 section, enforce penalties for willful violations.

12 (3) The department may not investigate any alleged violation of
13 rights that occurred more than three years before the date that the
14 complainant filed the complaint.

15 (4)(a) If the department finds an employer administrative
16 violation, the department must first provide an educational letter
17 outlining the violations and provide 90 days for the employer to
18 remedy the violations. The employer may ask for an extension for good
19 cause. The department may extend the period by providing written
20 notice to the employee and the employer, specifying the duration of
21 the extension. If the employer fails to remedy the violation within
22 90 days, the department may issue a citation and notice of assessment
23 with a civil penalty.

24 (b) Except as provided otherwise in this chapter, the maximum
25 penalty for a first-time willful violation is \$100. For the purposes
26 of this section, "willful" means a knowing and intentional action
27 that is neither accidental nor the result of a bona fide dispute. For
28 each subsequent willful violation, the employer is subject to a
29 maximum penalty amount of \$500 for each violation.

30 (c) The department may not assess a civil penalty if the employer
31 reasonably relied on: (i) A rule related to any of the requirements
32 of this chapter; (ii) a written order, ruling, approval, opinion,
33 advice, determination, or interpretation of the director of the
34 department; or (iii) an interpretive or administrative policy issued
35 by the department and filed pursuant to chapter 34.05 RCW. In
36 accordance with the department's retention schedule obligations under
37 chapter 40.14 RCW, the department shall maintain a complete and
38 accurate record of all written orders, rulings, approvals, opinions,
39 advice, determinations, and interpretations for purposes of

1 determining whether an employer is immune from civil penalties under
2 (b) of this subsection.

3 (5) The department may, at any time, waive or reduce a civil
4 penalty assessed under this section if the director of the department
5 determines that the employer has taken corrective action to resolve
6 the violation.

7 (6) The department shall deposit all civil penalties paid under
8 this section in the supplemental pension fund established under RCW
9 51.44.033.

10 NEW SECTION. **Sec. 9.** LABOR AND INDUSTRIES—ADMINISTRATIVE
11 CITATION APPEALS. (1) A person, firm, or corporation aggrieved by a
12 citation and notice of assessment by the department under this
13 chapter may appeal the citation and notice of assessment to the
14 director of the department by filing a notice of appeal with the
15 director within 30 days of the department's issuance of the citation
16 and notice of assessment. A citation and notice of assessment not
17 appealed within 30 days is final and binding, and not subject to
18 further appeal.

19 (2) A notice of appeal filed with the director of the department
20 under this section must state the effectiveness of the citation and
21 notice of assessment pending final review of the appeal by the
22 director as provided for in chapter 34.05 RCW.

23 (3) Upon receipt of a notice of appeal, the director of the
24 department must assign the hearing to an administrative law judge of
25 the office of administrative hearings to conduct the hearing and
26 issue an initial order. The hearing and review procedures must be
27 conducted in accordance with chapter 34.05 RCW, and the standard of
28 review by the administrative law judge of an appealed citation and
29 notice of assessment must be de novo. Any party who seeks to
30 challenge an initial order must file a petition for administrative
31 review with the director within 30 days after service of the initial
32 order. The director must conduct administrative review in accordance
33 with chapter 34.05 RCW.

34 (4) The director of the department must issue all final orders
35 after appeal of the initial order. The final order of the director is
36 subject to judicial review in accordance with chapter 34.05 RCW.

37 (5) Orders that are not appealed within the time period specified
38 in this section and chapter 34.05 RCW are final and binding, and not
39 subject to further appeal.

1 (6) An employer who fails to allow adequate inspection of records
2 in an investigation by the department under this section within a
3 reasonable time period may not use such records in any appeal under
4 this section to challenge the correctness of any determination by the
5 department of the penalty assessed.

6 NEW SECTION. **Sec. 10.** LABOR AND INDUSTRIES—ENFORCEMENT OF
7 AMOUNTS DUE. (1) Employers may not impermissibly withhold any amounts
8 due to the employee related to the employer's obligations under
9 section 3 of this act. If any employee files a complaint with the
10 department alleging that the employer impermissibly withheld any
11 amounts due to the employee related to the employer's obligations
12 under section 3 of this act, the department shall investigate and
13 otherwise enforce the complaint as an alleged violation of a wage
14 payment requirement, as defined in RCW 49.48.082.

15 (2) During an investigation, if the department discovers
16 information suggesting additional violations of impermissibly
17 withheld amounts due to the employees related to the employer's
18 obligations under section 3 of this act, the department may
19 investigate and take appropriate enforcement action without any
20 additional complaint. The department may also initiate an
21 investigation on behalf of one or more employees for any such
22 violation when the director otherwise has reason to believe that a
23 violation has occurred or will occur.

24 (3) The department may conduct a consolidated investigation for
25 any alleged withheld amounts due to the employees related to the
26 employer's obligations under section 3 of this act when there are
27 common questions of law or fact involving the employees. If the
28 department consolidates such matters into a single investigation, it
29 shall provide notice to the employer.

30 (4) The department may, for the purposes of enforcing this
31 section, issue subpoenas to compel the attendance of witnesses or
32 parties and the production of documents, administer oaths and examine
33 witnesses under oath, take depositions, and seek affidavits or other
34 verifications. The department may require the employer perform a
35 self-audit of any records. The results or conclusions of the self-
36 audit must be provided to the department within a reasonable time.
37 The department must specify the timelines in the self-audit request.
38 The records examined by the employer in order to perform the self-
39 audit must be made available to the department upon request.

1 (5) Any citation or determination of compliance issued under this
2 section is subject to RCW 49.48.083, 49.48.084, 49.48.085, and
3 49.48.086.

4 NEW SECTION. **Sec. 11.** PRIVATE AND CONFIDENTIAL INFORMATION. (1)
5 Any information or records concerning an individual or employer
6 obtained by the office or the governing board to administer this
7 chapter are private and confidential, except as otherwise provided in
8 this section.

9 (a) If information provided to the office or the governing board
10 by a governmental agency is held private and confidential by state or
11 federal law, the office and the governing board may not release such
12 information, unless otherwise provided in this section.

13 (b) Information provided to the office or the governing board by
14 a governmental entity conditioned upon privacy and confidentiality
15 under a provision of law is to be held private and confidential
16 according to the agreement between the office or the governing board
17 and the other governmental agency, unless otherwise provided in this
18 title.

19 (2) Persons requesting disclosure of information held by the
20 office or the governing board under this section must request such
21 disclosure from the governmental agency that provided the information
22 to the office or the governing board, rather than from the office or
23 the governing board.

24 (3) If the governing board creates or enters into, on behalf of
25 the program, a consortium, alliance, joint venture, partnership,
26 compact, or contract with another state or states or their programs
27 or boards, the laws of the state that is most protective of
28 individual and employer confidentiality governs.

29 (4) The governing board has the authority to adopt, amend, or
30 rescind rules interpreting and implementing this chapter.

31 (5)(a) An individual must have access to all records and
32 information concerning that individual held by the office or the
33 governing board.

34 (b) An employer must have access to its own records relating to
35 their compliance with the program and any audit conducted or penalty
36 assessed under this chapter.

37 (c) The office or the governing board may disclose information
38 and records deemed confidential under this chapter to a third party
39 acting on behalf of an individual or employer that would otherwise be

1 eligible to receive records under this section when the office or the
2 governing board receives a signed release from the individual or
3 employer. The release must include a statement:

4 (i) Specifically identifying the information that is to be
5 disclosed;

6 (ii) The acknowledgment that state government files will be
7 assessed to obtain that information;

8 (iii) The specific purpose for which the information is sought
9 and a statement that information obtained under the release will only
10 be used for that purpose; and

11 (iv) Indicating all parties who will receive the information
12 disclosed.

13 (d) The office or the governing board may disclose information or
14 records deemed private and confidential under this chapter to any
15 private person or organization, including the trustee, and, by
16 extension, the agents of any private person or organization, when the
17 disclosure is necessary to permit private contracting parties to
18 assist in the operation, management, and implementation of the
19 program. The private person or organization may only use the
20 information or records solely for the purpose for which the
21 information was disclosed and are bound by the same rules of privacy
22 and confidentiality as the office and the governing board.

23 (6) (a) A decision under this chapter by the office, the
24 department, the governing board, or the appeals tribunal may not be
25 deemed private and confidential under this section, unless the
26 decision is based on information obtained in a closed hearing.

27 (b) Information or records deemed private and confidential under
28 this section must be available to parties to judicial or formal
29 administrative proceedings only upon a written finding by the
30 presiding officer that the need for the information or records in the
31 proceeding outweighs any reasons for the privacy and confidentiality
32 of the information on record.

33 (7) (a) All private persons, governmental agencies, and
34 organizations authorized to receive information from the office or
35 the governing board under this chapter have an affirmative duty to
36 prevent unauthorized disclosure of confidential information and are
37 prohibited from disclosing confidential information unless expressly
38 permitted by this section.

39 (b) If misuse of an unauthorized disclosure of confidential
40 records or information occurs, all parties who are aware of the

1 violation must inform the office immediately and must take all
2 reasonable available actions to rectify the disclosure to the
3 office's standards.

4 (c) The misuse or unauthorized release of records or information
5 deemed private and confidential under this chapter by any private
6 person, governmental agency, or organization will subject the person,
7 governmental agency, or organization to a civil penalty up to \$20,000
8 in the first year of the program. Beginning the December of the
9 second year of the program and each December thereafter, the office
10 must adjust the maximum civil penalty amount by multiplying the
11 current maximum civil penalty by one plus the percentage by which the
12 most current consumer price index available on December 1st of the
13 current year exceeds the consumer price index for the prior 12-month
14 period, and rounding the result to the nearest \$1,000. If an
15 adjustment under this subsection (7)(c) would reduce the maximum
16 civil penalty, the office must not adjust the maximum civil penalty
17 for use in the following year. Other applicable sanctions under state
18 and federal law also apply.

19 (d) Suit to enforce this section must be brought by the attorney
20 general and the amount of any penalties collected must be paid into
21 the administrative account created in section 12 of this act. The
22 attorney general may recover reasonable attorneys' fees for any
23 action brought to enforce this section.

24 (8) This section does not contain a rule of evidence.

25 NEW SECTION. **Sec. 12.** WASHINGTON SAVES ADMINISTRATIVE TREASURY
26 TRUST ACCOUNT. (1) The Washington saves administrative treasury trust
27 account is created in the custody of the state treasurer.

28 (2) Expenditures from the account may be used only for the
29 purposes of administrative and operating expenses of the program
30 established under this chapter.

31 (3) Only the state treasurer or state treasurer's designee may
32 authorize expenditures from the account. The account is exempt from
33 appropriation and allotment provisions under chapter 43.88 RCW.

34 (4) The account may receive grants, gifts, or other moneys
35 appropriated for administrative purposes from the state and the
36 federal government.

37 (5) Any interest incurred by the account will be retained within
38 the account.

1 (4) "Enrollee" means any employee who is voluntarily enrolled in
2 an approved plan offered by an eligible employer through the
3 Washington small business retirement marketplace.

4 ~~(5) ("myRA" means the myRA retirement program administered by~~
5 ~~the United States department of the treasury that is available to all~~
6 ~~employers and employees with no fees or no minimum contribution~~
7 ~~requirements. A myRA is a Roth IRA option and investments in these~~
8 ~~accounts are backed by the United States department of the treasury.~~

9 ~~(6))~~ "Participating employer" means any eligible employer with
10 employees enrolled in an approved plan offered through the Washington
11 small business retirement marketplace who chooses to participate in
12 the marketplace and offers approved plans to employees for voluntary
13 enrollment.

14 ~~((7))~~ (6) "Private sector financial services firms" or
15 "financial services firms" mean persons or entities licensed or
16 holding a certificate of authority and in good standing by either the
17 department of financial institutions or the office of the insurance
18 commissioner and meeting all federal laws and regulations to offer
19 retirement plans.

20 ~~((8))~~ (7) "Qualified employee" means those workers who are
21 defined by the federal internal revenue service to be eligible to
22 participate in a specific qualified plan.

23 ~~((9))~~ (8) "Target date or other similar fund" means a hybrid
24 mutual fund that automatically resets the asset mix of stocks, bonds,
25 and cash equivalents in its portfolio according to a selected time
26 frame that is appropriate for a particular investor. A target date is
27 structured to address a projected retirement date.

28 ~~((10))~~ (9) "Washington small business retirement marketplace"
29 or "marketplace" means the retirement savings program created to
30 connect eligible employers and their employees with approved plans to
31 increase retirement savings.

32 **Sec. 16.** RCW 43.330.735 and 2017 c 69 s 1 are each amended to
33 read as follows:

34 (1) The Washington small business retirement marketplace is
35 created.

36 (2) Prior to connecting any eligible employer with an approved
37 plan in the marketplace, the director shall design a plan for the
38 operation of the marketplace.

1 (3) The director shall consult with the Washington state
2 department of retirement systems, the Washington state investment
3 board, and the department of financial institutions in designing and
4 managing the marketplace.

5 (4) The director shall approve for participation in the
6 marketplace all private sector financial services firms (~~(that meet~~
7 ~~the requirements of)~~), as defined in RCW 43.330.732 (~~((7))~~).

8 (5) A range of investment options must be provided to meet the
9 needs of investors with various levels of risk tolerance and various
10 ages. The director must approve a diverse array of private retirement
11 plan options that are available to employers on a voluntary basis,
12 including but not limited to life insurance plans that are designed
13 for retirement purposes, and plans for eligible employer
14 participation such as (~~((a) A)~~) a SIMPLE IRA-type plan that provides
15 for employer contributions to participating enrollee accounts (~~((and~~
16 ~~(b) a payroll deduction individual retirement account type plan or~~
17 ~~workplace-based individual retirement accounts open to all workers in~~
18 ~~which the employer does not contribute to the employees' account)~~).

19 (6) (a) Prior to approving a plan to be offered on the
20 marketplace, the department must receive verification from the
21 department of financial institutions or the office of the insurance
22 commissioner:

23 (i) That the private sector financial services firm offering the
24 plan meets the (~~(requirements of)~~) definition in RCW
25 43.330.732 (~~((7))~~); and

26 (ii) That the plan meets the requirements of this section
27 excluding subsection (9) of this section which is subject to federal
28 laws and regulations.

29 (b) If the plan includes either life insurance or annuity
30 products, or both, the office of the insurance commissioner may
31 request that the department of financial institutions conduct the
32 plan review as provided in (a)(ii) of this subsection prior to
33 submitting its verification to the department.

34 (c) The director may remove approved plans that no longer meet
35 the requirements of this chapter.

36 (7) The financial services firms participating in the marketplace
37 must offer a minimum of two product options: (a) A target date or
38 other similar fund, with asset allocations and maturities designed to
39 coincide with the expected date of retirement and (b) a balanced
40 fund. (~~(The marketplace must offer myRA.)~~)

1 (8) In order for the marketplace to operate, there must be at
2 least two approved plans on the marketplace; however, nothing in this
3 subsection shall be construed to limit the number of private sector
4 financial services firms with approved plans from participating in
5 the marketplace.

6 (9) Approved plans must meet federal law or regulation for
7 internal revenue service approved retirement plans.

8 (10) The approved plans must include the option for enrollees to
9 roll pretax contributions into a different individual retirement
10 account or another eligible retirement plan after ceasing
11 participation in a plan approved by the Washington small business
12 retirement marketplace.

13 (11) Financial services firms selected by the department to offer
14 approved plans on the marketplace may not charge the participating
15 employer an administrative fee and may not charge enrollees more than
16 one hundred basis points in total annual fees and must provide
17 information about their product's historical investment performance.
18 Financial services firms may charge enrollees a de minimis fee for
19 new and/or low balance accounts in amounts negotiated and agreed upon
20 by the department and financial services firms. The director shall
21 limit plans to those with total fees the director considers
22 reasonable based on all the facts and circumstances.

23 (12) Participation in the Washington small business retirement
24 marketplace is voluntary for both eligible employers and qualified
25 employees.

26 (13) Enrollment in any approved plan offered in the marketplace
27 is not an entitlement.

28 PART III

29 WASHINGTON SAVES - ADMINISTRATIVE ACCOUNT - RETAIN OWN INTEREST

30 **Sec. 17.** RCW 43.79A.040 and 2023 c 389 s 8, 2023 c 387 s 2, 2023
31 c 380 s 6, 2023 c 213 s 9, 2023 c 170 s 19, and 2023 c 12 s 2 are
32 each reenacted and amended to read as follows:

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

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

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

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

15 (b) The following accounts and funds must receive their
16 proportionate share of earnings based upon each account's or fund's
17 average daily balance for the period: The 24/7 sobriety account, the
18 Washington promise scholarship account, the Gina Grant Bull memorial
19 legislative page scholarship account, the Rosa Franklin legislative
20 internship program scholarship account, the Washington advanced
21 college tuition payment program account, the Washington college
22 savings program account, the accessible communities account, the
23 Washington achieving a better life experience program account, the
24 Washington career and college pathways innovation challenge program
25 account, the community and technical college innovation account, the
26 agricultural local fund, the American Indian scholarship endowment
27 fund, the behavioral health loan repayment program account, the Billy
28 Frank Jr. national statutory hall collection fund, the foster care
29 scholarship endowment fund, the foster care endowed scholarship trust
30 fund, the contract harvesting revolving account, the Washington state
31 combined fund drive account, the commemorative works account, the
32 county 911 excise tax account, the county road administration board
33 emergency loan account, the toll collection account, the
34 developmental disabilities endowment trust fund, the energy account,
35 the energy facility site evaluation council account, the fair fund,
36 the family and medical leave insurance account, the fish and wildlife
37 federal lands revolving account, the natural resources federal lands
38 revolving account, the food animal veterinarian conditional
39 scholarship account, the forest health revolving account, the fruit
40 and vegetable inspection account, the educator conditional

1 scholarship account, the game farm alternative account, the GET ready
2 for math and science scholarship account, the Washington global
3 health technologies and product development account, the grain
4 inspection revolving fund, the Washington history day account, the
5 industrial insurance rainy day fund, the juvenile accountability
6 incentive account, the law enforcement officers' and firefighters'
7 plan 2 expense fund, the local tourism promotion account, the low-
8 income home rehabilitation account, the medication for people living
9 with HIV rebate revenue account, the homeowner recovery account, the
10 multiagency permitting team account, the northeast Washington wolf-
11 livestock management account, the pollution liability insurance
12 program trust account, the produce railcar pool account, the public
13 use general aviation airport loan revolving account, the regional
14 transportation investment district account, the rural rehabilitation
15 account, the Washington sexual assault kit account, the stadium and
16 exhibition center account, the youth athletic facility account, the
17 self-insurance revolving fund, the children's trust fund, the
18 Washington horse racing commission Washington bred owners' bonus fund
19 and breeder awards account, the Washington horse racing commission
20 class C purse fund account, the individual development account
21 program account, the Washington horse racing commission operating
22 account, the life sciences discovery fund, the Washington state
23 library-archives building account, the reduced cigarette ignition
24 propensity account, the center for deaf and hard of hearing youth
25 account, the school for the blind account, the Millersylvania park
26 trust fund, the public employees' and retirees' insurance reserve
27 fund, the school employees' benefits board insurance reserve fund,
28 the public employees' and retirees' insurance account, the school
29 employees' insurance account, the long-term services and supports
30 trust account, the radiation perpetual maintenance fund, the Indian
31 health improvement reinvestment account, the department of licensing
32 tuition recovery trust fund, the student achievement council tuition
33 recovery trust fund, the tuition recovery trust fund, the industrial
34 insurance premium refund account, the mobile home park relocation
35 fund, the natural resources deposit fund, the Washington state health
36 insurance pool account, the federal forest revolving account, the
37 Washington saves administrative treasury trust account, and the
38 library operations account.

39 (c) The following accounts and funds must receive 80 percent of
40 their proportionate share of earnings based upon each account's or

1 fund's average daily balance for the period: The advance right-of-way
2 revolving fund, the advanced environmental mitigation revolving
3 account, the federal narcotics asset forfeitures account, the high
4 occupancy vehicle account, the local rail service assistance account,
5 and the miscellaneous transportation programs account.

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

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

16 **Sec. 18.** RCW 43.79A.040 and 2023 c 389 s 8, 2023 c 387 s 2, 2023
17 c 380 s 6, 2023 c 213 s 9, and 2023 c 12 s 2 are each reenacted and
18 amended to read as follows:

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

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

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

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

38 (b) The following accounts and funds must receive their
39 proportionate share of earnings based upon each account's or fund's

1 average daily balance for the period: The 24/7 sobriety account, the
2 Washington promise scholarship account, the Gina Grant Bull memorial
3 legislative page scholarship account, the Rosa Franklin legislative
4 internship program scholarship account, the Washington advanced
5 college tuition payment program account, the Washington college
6 savings program account, the accessible communities account, the
7 Washington achieving a better life experience program account, the
8 Washington career and college pathways innovation challenge program
9 account, the community and technical college innovation account, the
10 agricultural local fund, the American Indian scholarship endowment
11 fund, the behavioral health loan repayment program account, the Billy
12 Frank Jr. national statutory hall collection fund, the foster care
13 scholarship endowment fund, the foster care endowed scholarship trust
14 fund, the contract harvesting revolving account, the Washington state
15 combined fund drive account, the commemorative works account, the
16 county 911 excise tax account, the county road administration board
17 emergency loan account, the toll collection account, the
18 developmental disabilities endowment trust fund, the energy account,
19 the energy facility site evaluation council account, the fair fund,
20 the family and medical leave insurance account, the fish and wildlife
21 federal lands revolving account, the natural resources federal lands
22 revolving account, the food animal veterinarian conditional
23 scholarship account, the forest health revolving account, the fruit
24 and vegetable inspection account, the educator conditional
25 scholarship account, the game farm alternative account, the GET ready
26 for math and science scholarship account, the Washington global
27 health technologies and product development account, the grain
28 inspection revolving fund, the Washington history day account, the
29 industrial insurance rainy day fund, the juvenile accountability
30 incentive account, the law enforcement officers' and firefighters'
31 plan 2 expense fund, the local tourism promotion account, the low-
32 income home rehabilitation account, the medication for people living
33 with HIV rebate revenue account, the homeowner recovery account, the
34 multiagency permitting team account, the northeast Washington wolf-
35 livestock management account, the produce railcar pool account, the
36 public use general aviation airport loan revolving account, the
37 regional transportation investment district account, the rural
38 rehabilitation account, the Washington sexual assault kit account,
39 the stadium and exhibition center account, the youth athletic
40 facility account, the self-insurance revolving fund, the children's

1 trust fund, the Washington horse racing commission Washington bred
2 owners' bonus fund and breeder awards account, the Washington horse
3 racing commission class C purse fund account, the individual
4 development account program account, the Washington horse racing
5 commission operating account, the life sciences discovery fund, the
6 Washington state library-archives building account, the reduced
7 cigarette ignition propensity account, the center for deaf and hard
8 of hearing youth account, the school for the blind account, the
9 Millersylvania park trust fund, the public employees' and retirees'
10 insurance reserve fund, the school employees' benefits board
11 insurance reserve fund, the public employees' and retirees' insurance
12 account, the school employees' insurance account, the long-term
13 services and supports trust account, the radiation perpetual
14 maintenance fund, the Indian health improvement reinvestment account,
15 the department of licensing tuition recovery trust fund, the student
16 achievement council tuition recovery trust fund, the tuition recovery
17 trust fund, the industrial insurance premium refund account, the
18 mobile home park relocation fund, the natural resources deposit fund,
19 the Washington state health insurance pool account, the federal
20 forest revolving account, the Washington saves administrative
21 treasury trust account, and the library operations account.

22 (c) The following accounts and funds must receive 80 percent of
23 their proportionate share of earnings based upon each account's or
24 fund's average daily balance for the period: The advance right-of-way
25 revolving fund, the advanced environmental mitigation revolving
26 account, the federal narcotics asset forfeitures account, the high
27 occupancy vehicle account, the local rail service assistance account,
28 and the miscellaneous transportation programs account.

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

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

MISCELLANEOUS

1

2 NEW SECTION. **Sec. 19.** Section 17 of this act expires July 1,
3 2030.

4 NEW SECTION. **Sec. 20.** (1) Section 17 of this act takes effect
5 July 1, 2024.
6 (2) Section 18 of this act takes effect July 1, 2030.

7 NEW SECTION. **Sec. 21.** Sections 1 through 13 of this act
8 constitute a new chapter in Title 19 RCW.

9 NEW SECTION. **Sec. 22.** If any part of this act is found to be in
10 conflict with federal requirements that are a prescribed condition to
11 the allocation of federal funds to the state or the eligibility of
12 employers in this state for federal unemployment tax credits, the
13 conflicting part of this act is inoperative solely to the extent of
14 the conflict, and the finding or determination does not affect the
15 operation of the remainder of this act. Rules adopted under this act
16 must meet federal requirements that are a necessary condition to the
17 receipt of federal funds by the state or the granting of federal
18 unemployment tax credits to employers in this state.

--- END ---