

ESSB 6069 - H COMM AMD

By Committee on Consumer Protection & Business

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I

4 WASHINGTON SAVES

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

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

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

16 (1) "Administrative account" means the Washington saves
17 administrative treasury trust account created in section 12 of this
18 act.

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

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

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

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

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

3 (b) Maintains a physical presence;

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

6 (d) Employs, and at any point during the immediately preceding
7 calendar year employed, employees working a combined minimum of
8 10,400 hours.

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

10 (7) "Employer" means a person or entity engaged in a business,
11 profession, trade, or other enterprise in the state, whether for
12 profit or not for profit. "Employer" does not include federal or
13 state entities, agencies, or instrumentalities, or any political
14 subdivision thereof.

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

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

19 (10) "Governing board" means the board created in section 4 of
20 this act.

21 (11) "Individual account" means an IRA established by or for an
22 individual participant and owned by the individual participant
23 pursuant to this chapter.

24 (12) "Individual participant" means any individual who is
25 contributing to, or has a balance credited in, an IRA through the
26 program.

27 (13) "Internal revenue code" means the federal internal revenue
28 code of 1986, as amended, or any successor law.

29 (14) "IRA" means a traditional or Roth individual retirement
30 account or individual retirement annuity described in section 408(a),
31 408(b), or 408A of the internal revenue code.

32 (15) "Office" means the office of the state treasurer.

33 (16) "Payroll deduction IRA agreement" means an arrangement by
34 which a participating employer makes payroll deductions authorized by
35 this chapter and remits amounts deducted as contributions to IRAs on
36 behalf of individual participants.

37 (17) "Program" means the Washington saves program established
38 under this chapter.

39 (18) "Qualified retirement plan" means a retirement plan in
40 compliance with applicable federal law for employees including those

1 described in section 401(a), 401(k), 403(a), 403(b), 408(k), or
2 408(p) of the internal revenue code. A qualified retirement plan may
3 require continuous employment of up to one year to be eligible for
4 employee participation.

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

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

9 (a) Allows covered employees to contribute to an IRA through
10 automatic payroll deductions;

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

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

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

18 (e) Has a default escalation rate, set by the governing board by
19 rule. The default escalation rate may not exceed one percent per
20 year. The maximum contribution rate based on the default escalation
21 rate may not exceed 10 percent of wages.

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

30 (b) Contributions must be invested in the default investment
31 option unless the individual participant affirmatively elects to
32 invest some or all balances in one or more approved investment
33 options offered by the program. An individual participant must have
34 the opportunity to change investments for either future contributions
35 or existing balances, or both, subject to requirements defined by
36 rule by the governing board.

37 (c) Individual accounts are portable. A former individual
38 participant who is either unemployed, or is employed by a noncovered

1 employer, must be permitted to contribute to their individual
2 account.

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

7 (e) An individual participant's or former individual
8 participant's ability to receive distributions of contributions and
9 earnings is subject to applicable law.

10 (3) (a) Each covered employer must facilitate the opportunity for
11 covered employees to participate in the program by fulfilling the
12 following administrative duties, as defined by rule by the governing
13 board:

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

16 (ii) (A) Assist the program by offering all covered employees the
17 choice to either participate by voluntarily contributing to an IRA or
18 opt out; or

19 (B) Automatically enroll covered employees in a qualified
20 retirement plan offered by a trade association or chamber of commerce
21 and permit covered employees to opt out;

22 (iii) Timely remit participant contributions; and

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

24 (A) Information regarding the program;

25 (B) The following disclosures:

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

28 (II) Instructions about how to obtain additional information
29 about the program;

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

34 (IV) A current list of financial advisors as provided by the
35 governing board that covered employees should contact for financial
36 advice, that covered employers are not in a position to provide
37 financial advice, and that covered employers are not liable for
38 decisions covered employees make under this chapter;

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

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

3 (VII) A statement that neither a covered employer nor the state
4 will monitor or has an obligation to monitor the covered employee's
5 eligibility under the internal revenue code to make contributions to
6 an IRA or to monitor whether the covered employee's contributions to
7 the IRA established for the covered employee exceed the maximum
8 permissible IRA contribution; that it is the covered employee's
9 responsibility to monitor such matters; and that the state, the
10 program, and the covered employer have no liability with respect to
11 any failure of the covered employee to be eligible to make IRA
12 contributions or any contribution in excess of the maximum IRA
13 contribution;

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

17 (I) Making contributions to the covered employee's IRA
18 established under the program, including a description of the
19 automatic enrollment rate, the automatic escalation rate and
20 frequency, and the right to elect to make no contribution or to
21 change the contribution rate under the program;

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

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

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

30 (c) Employers are not fiduciaries with respect to, or are liable
31 for, the program, related information, educational materials, or
32 forms or disclosures approved by the governing board, or the
33 selection or performance of vendors selected by the governing board.
34 An employer is not responsible for or obligated to monitor a covered
35 employee's or individual participant's decision to participate in or
36 opt out of the program, for contribution decisions, investment
37 decisions, or failure to comply with the statutory eligibility
38 conditions or limits on IRA contributions. An employer does not
39 guarantee any investment, rate of return, or interest on assets in
40 any individual participant account or the administrative account or

1 is liable for any market losses, failure to realize gains, or any
2 other adverse consequences, including the loss of favorable tax
3 treatment or public assistance benefits, incurred by any person as a
4 result of participating in the program. Nothing in this section
5 relieves an employer from liability for criminal, fraudulent,
6 tortious, or otherwise actionable conduct including liability related
7 to the failure to remit employee contributions.

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

10 (b) An individual participant's contributions and earnings may be
11 combined for investment and custodial purposes only. Separate records
12 and accounting are required for individual accounts. Reports on the
13 status of individual accounts must be provided to each individual
14 participant at least annually. Individual participants must have
15 online access to their accounts.

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

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

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

24 (a) The state treasurer;

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

26 and

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

28 (i) Three members with demonstrated financial, legal, or other
29 relevant program experience;

30 (ii) One member representing the financial industry;

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

32 (iv) One member representing covered employees; and

33 (v) One member representing covered employers.

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

35 (4) Members who are appointed by the governor serve three-year
36 terms and may be appointed for a second three-year term at the
37 discretion of the governor. Members who are appointed by the governor
38 may serve up to two terms over the course of their lifetime. The
39 governor may stagger the terms of the appointed members.

1 (5) The governing board may appoint work groups to support the
2 design and administration of the program. Work groups do not serve a
3 voting function on the governing board and may include individuals
4 who are not members of the governing board. Any work group
5 established by the governing board is a class one group under RCW
6 43.03.220. Work group members receive compensation accordingly.

7 (6) Other state agencies must provide appropriate and reasonable
8 assistance to the program as needed, including gathering data and
9 information, in order for the governing board to carry out the
10 purposes of this chapter. The governing board may reimburse the other
11 state agencies from the administrative account for reasonable
12 expenses incurred in providing appropriate and reasonable assistance.

13 (7) (a) The governing board shall meet at least four times
14 annually and periodically as specified by the chair or a majority of
15 the governing board.

16 (b) The governing board may conduct meetings remotely by
17 teleconference or videoconference, including to obtain a quorum and
18 to take votes on any measure.

19 (c) Each governing board member has one vote. The powers of the
20 governing board must be exercised by a majority of all members
21 present at the meeting of the governing board, whether in person or
22 remotely. Four members constitute the necessary quorum to convene a
23 meeting of the governing board and to act on any measure before the
24 governing board.

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

28 (9) Regarding investments, the governing board:

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

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

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

38 (ii) The diverse needs of individual participants;

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

1 (iv) The extensive investment choices available to participants
2 outside of the program.

3 (10) Regarding the design of the program, the governing board
4 must:

5 (a) Ensure the program is designed and operated in a manner that
6 will not cause it to be subject to or preempted by the federal
7 employment retirement income security act of 1974, as amended, and
8 that any employer that is not a covered employer shall have no
9 reporting or registration obligation or requirement to take any
10 action under the program other than to claim an exemption from
11 coverage by the program;

12 (b) Design and operate the program to:

13 (i) Minimize costs to individual participants, covered employers,
14 and the state;

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

17 (iii) Facilitate and encourage employee participation in the
18 program and participant saving;

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

21 (v) Maximize portability of individual accounts;

22 (vi) Maximize financial security in retirement; and

23 (vii) Encourage covered employee and covered employer use of
24 financial advisors when making retirement decisions including, but
25 not limited to, by providing a current list of financial advisors
26 across the state to covered employers and their employees;

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

31 (d) Consult with the office, the department, the office of
32 minority and women's business enterprises, and the office of the
33 secretary of state to create a strategy to educate and inform covered
34 employers about employer administrative duties under this chapter;

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

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

40 (a) Employee registration and enrollment process;

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

5 (c) Contribution limits, the initial automatic default
6 contribution rate, and the automatic default escalation rate;

7 (d) Outreach, marketing, and educational initiatives or
8 publication of online resources, encouragement of participation,
9 retirement savings, and sound investment practices. Outreach,
10 marketing, and educational initiatives must include special
11 consideration for communities traditionally, or are known to often
12 be, excluded from, marginalized by, or face barriers to participation
13 in workplace retirement savings programs; and

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

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

21 (13) The governing board must collect administrative fees to
22 defray the costs of administering the program. If the governing board
23 creates or enters into a joint program agreement, as provided in
24 subsection (12) of this section, the rate of the administrative fee
25 for covered employees may not exceed the rate charged to covered
26 employees of another state participating in the same program.

27 (14) Members of the governing board and the office are not an
28 insurer of the funds or assets of the investment fund or individual
29 accounts. Neither of these two entities are liable for the action or
30 inaction of the other.

31 (15) Members of the governing board and the office are not liable
32 to the state, to the fund, or to any other person as a result of
33 their activities as members, whether ministerial or discretionary,
34 except for willful dishonesty or intentional violation of law.
35 Members of the governing board and the office may purchase liability
36 insurance.

37 (16) The governing board shall submit an annual report to the
38 appropriate committees of the legislature, in accordance with RCW
39 43.01.036, providing information about the program including, but not
40 limited to, the following:

- 1 (a) Participation;
 - 2 (b) Account performance;
 - 3 (c) Board decisions; and
 - 4 (d) Any recommendations to the legislature regarding the program.
- 5 (17) The governing board may consult with the state investment
6 board and the department of financial institutions regarding program
7 design and implementation.

8 NEW SECTION. **Sec. 5.** OFFICE OF THE STATE TREASURER—
9 RESPONSIBILITIES. (1) Subject to the availability of amounts
10 appropriated for this specific purpose, the office must provide staff
11 and administrative support for the governing board. The office must
12 consult with the governing board regarding staffing and
13 administrative support needs before selecting any staff pursuant to
14 this section.

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

18 NEW SECTION. **Sec. 6.** INVESTMENT MANAGER—RESPONSIBILITIES.
19 (1)(a) After consultation with the governing board, the investment
20 manager may invest funds associated with the program. The investment
21 manager, after consultation with the governing board regarding any
22 recommendations, must provide a set of options for eligible
23 individuals to choose from for self-directed investment. Any self-
24 directed investment options must comply with the internal revenue
25 code.

26 (b) All investment and operating costs of the investment manager
27 associated with making self-directed investments must be paid by
28 participants and recovered under procedures agreed to by the
29 governing board and the investment manager. All other expenses caused
30 by self-directed investments must be paid by the participant in
31 accordance with the rules established by the governing board. With
32 the exception of these expenses, all earnings from self-directed
33 investments accrue to the individual accounts.

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

36 (a) With reasonable care, skill, prudence, and diligence under
37 circumstances then prevailing which a prudent person acting in a like

1 capacity and familiar with such matters would use to conduct of an
2 activity of like character and purpose; and

3 (b) In accordance with the investment policy established by the
4 governing board.

5 (3) The authority to establish all policies relating to
6 implementation, design, and management of the program resides with
7 the governing board.

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

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

14 (a) Educate participating employers of their administrative
15 duties under this chapter;

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

20 (c) In the case of impermissible withholding of amounts due to
21 employees, investigate and enforce the complaint as an alleged
22 violation of a wage payment requirement, as defined in RCW 49.48.082;
23 and

24 (d) Facilitate a process in which employers may appeal
25 complaints.

26 (2) Collections of unpaid citations assessing civil penalties by
27 the department under this chapter must be made pursuant to RCW
28 49.48.086.

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

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

35 (a) If the complaint is filed before January 1, 2030, offer
36 technical assistance to the employer to bring them into compliance.
37 Civil penalties may not be assessed before January 1, 2030;

1 (b) If the complaint is filed on or after January 1, 2030,
2 educate the employer on how to come into compliance and, if necessary
3 and as provided in this section, enforce penalties for willful
4 violations.

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

8 (4)(a) If the department finds an employer administrative
9 violation, the department must first provide an educational letter
10 outlining the violations and provide 90 days for the employer to
11 remedy the violations. The employer may ask for an extension for good
12 cause. The department may extend the period by providing written
13 notice to the employee and the employer, specifying the duration of
14 the extension. If the employer fails to remedy the violation within
15 90 days, the department may issue a citation and notice of assessment
16 with a civil penalty.

17 (b) Except as provided otherwise in this chapter, the maximum
18 penalty for a first-time willful violation is \$100 and \$250 for a
19 second willful violation. For the purposes of this section, "willful"
20 means a knowing and intentional action that is neither accidental nor
21 the result of a bona fide dispute. For each subsequent willful
22 violation, the employer is subject to a maximum penalty amount of
23 \$500 for each violation.

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

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

1 (6) The department shall deposit all civil penalties paid under
2 this section in the supplemental pension fund established under RCW
3 51.44.033.

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

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

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

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

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

34 (6) An employer who fails to allow adequate inspection of records
35 in an investigation by the department under this section within a
36 reasonable time period may not use such records in any appeal under
37 this section to challenge the correctness of any determination by the
38 department of the penalty assessed.

1 obtained by the office or the governing board to administer this
2 chapter are private and confidential, except as otherwise provided in
3 this section.

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

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

14 (2) Persons requesting disclosure of information held by the
15 office or the governing board under this section must request such
16 disclosure from the governmental agency that provided the information
17 to the office or the governing board, rather than from the office or
18 the governing board.

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

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

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

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

32 (c) The office or the governing board may disclose information
33 and records deemed confidential under this chapter to a third party
34 acting on behalf of an individual or employer that would otherwise be
35 eligible to receive records under this section when the office or the
36 governing board receives a signed release from the individual or
37 employer. The release must include a statement:

38 (i) Specifically identifying the information that is to be
39 disclosed;

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

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

6 (iv) Indicating all parties who will receive the information
7 disclosed.

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

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

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

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

34 (b) If misuse of an unauthorized disclosure of confidential
35 records or information occurs, all parties who are aware of the
36 violation must inform the office immediately and must take all
37 reasonable available actions to rectify the disclosure to the
38 office's standards.

39 (c) The misuse or unauthorized release of records or information
40 deemed private and confidential under this chapter by any private

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

14 (d) Suit to enforce this section must be brought by the attorney
15 general and the amount of any penalties collected must be paid into
16 the administrative account created in section 12 of this act. The
17 attorney general may recover reasonable attorneys' fees for any
18 action brought to enforce this section.

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

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

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

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

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

32 (5) Any interest incurred by the account will be retained within
33 the account.

34 NEW SECTION. **Sec. 13.** INVESTMENT ACCOUNT. (1) The Washington
35 saves investment account is established as a trust, with the
36 governing board created under this chapter as its trustee.

37 (2)(a) Moneys in the account consist of moneys received from
38 individual participants and participating employers pursuant to

1 automatic payroll deductions and contributions to savings made under
2 this chapter. The governing board shall determine how the account
3 operates, provided that the account is operated so that the
4 individual accounts established under the program meet the
5 requirements for IRAs under the internal revenue code.

6 (b) The assets of the account are not state money, common cash,
7 or revenue to the state. Amounts in the account may not be commingled
8 with state funds and the state has no claim to or against, or
9 interest in, such funds.

10 (3) Disbursements from the account are exempt from appropriations
11 and the allotment provisions of chapter 43.88 RCW. An appropriation
12 is not required for expenditures.

13 (4) Only the governing board or the governing board's designee
14 may authorize expenditures from the account.

15 **PART II**
16 **RETIREMENT MARKETPLACE**

17 NEW SECTION. **Sec. 14.** RCW 43.330.730 (Finding—2015 c 296) is
18 decodified.

19 **Sec. 15.** RCW 43.330.732 and 2015 c 296 s 2 are each amended to
20 read as follows:

21 The definitions in this section apply throughout this subchapter
22 unless the context clearly requires otherwise.

23 (1) "Approved plans" means retirement plans offered by private
24 sector financial services firms that meet the requirements of this
25 chapter to participate in the marketplace.

26 (2) "Balanced fund" means a mutual fund that has an investment
27 mandate to balance its portfolio holdings. The fund generally
28 includes a mix of stocks and bonds in varying proportions according
29 to the fund's investment outlook.

30 (3) "Eligible employer" means a self-employed individual, sole
31 proprietor, or an employer with ~~((fewer than))~~ at least one
32 ~~((hundred))~~ qualified employee~~((s))~~ at the time of enrollment.

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

36 (5) ~~((("myRA" means the myRA retirement program administered by
37 the United States department of the treasury that is available to all~~

1 ~~employers and employees with no fees or no minimum contribution~~
2 ~~requirements. A myRA is a Roth IRA option and investments in these~~
3 ~~accounts are backed by the United States department of the treasury.~~

4 ~~(6))~~ (6) "Participating employer" means any eligible employer with
5 employees enrolled in an approved plan offered through the Washington
6 small business retirement marketplace who chooses to participate in
7 the marketplace and offers approved plans to employees for voluntary
8 enrollment.

9 ~~((7))~~ (6) "Private sector financial services firms" or
10 "financial services firms" mean persons or entities licensed or
11 holding a certificate of authority and in good standing by either the
12 department of financial institutions or the office of the insurance
13 commissioner and meeting all federal laws and regulations to offer
14 retirement plans.

15 ~~((8))~~ (7) "Qualified employee" means those workers who are
16 defined by the federal internal revenue service to be eligible to
17 participate in a specific qualified plan.

18 ~~((9))~~ (8) "Target date or other similar fund" means a hybrid
19 mutual fund that automatically resets the asset mix of stocks, bonds,
20 and cash equivalents in its portfolio according to a selected time
21 frame that is appropriate for a particular investor. A target date is
22 structured to address a projected retirement date.

23 ~~((10))~~ (9) "Washington small business retirement marketplace"
24 or "marketplace" means the retirement savings program created to
25 connect eligible employers and their employees with approved plans to
26 increase retirement savings.

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

29 (1) The Washington small business retirement marketplace is
30 created.

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

34 (3) The director shall consult with the Washington state
35 department of retirement systems, the Washington state investment
36 board, and the department of financial institutions in designing and
37 managing the marketplace.

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

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

15 (6) (a) Prior to approving a plan to be offered on the
16 marketplace, the department must receive verification from the
17 department of financial institutions or the office of the insurance
18 commissioner:

19 (i) That the private sector financial services firm offering the
20 plan meets the (~~requirements of~~) definition in RCW
21 43.330.732 (~~(7)~~); and

22 (ii) That the plan meets the requirements of this section
23 excluding subsection (9) of this section which is subject to federal
24 laws and regulations.

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

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

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

37 (8) In order for the marketplace to operate, there must be at
38 least two approved plans on the marketplace; however, nothing in this
39 subsection shall be construed to limit the number of private sector

1 financial services firms with approved plans from participating in
2 the marketplace.

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

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

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

20 (12) Participation in the Washington small business retirement
21 marketplace is voluntary for both eligible employers and qualified
22 employees.

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

25 **PART III**

26 **WASHINGTON SAVES - ADMINISTRATIVE ACCOUNT - RETAIN OWN INTEREST**

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

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

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

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

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

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

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

36 (c) The following accounts and funds must receive 80 percent of
37 their proportionate share of earnings based upon each account's or
38 fund's average daily balance for the period: The advance right-of-way
39 revolving fund, the advanced environmental mitigation revolving
40 account, the federal narcotics asset forfeitures account, the high

1 occupancy vehicle account, the local rail service assistance account,
2 and the miscellaneous transportation programs account.

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

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

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

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

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

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

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

35 (b) The following accounts and funds must receive their
36 proportionate share of earnings based upon each account's or fund's
37 average daily balance for the period: The 24/7 sobriety account, the
38 Washington promise scholarship account, the Gina Grant Bull memorial
39 legislative page scholarship account, the Rosa Franklin legislative

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

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

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

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

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

36
37

PART IV
MISCELLANEOUS

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

3 NEW SECTION. **Sec. 20.** (1) Section 17 of this act takes effect
4 July 1, 2024.

5 (2) Section 18 of this act takes effect July 1, 2030.

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

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

18 Correct the title.

EFFECT: Removes the requirement that covered employers need to provide a statement to covered employees that those seeking financial advice should contact their own financial advisors and instead requires covered employers to provide a current list of financial advisors that covered employees should contact for financial advice.

Requires the governing board to encourage covered employees and covered employers to use financial advisors when making retirement decisions, including by providing a current list of financial advisors across the state to covered employers and their employees.

Specifies that the governing board must design the Washington Saves program so that in addition to other elements, an employer that is not considered a covered employer has no reporting or registration obligation or requirement to take any action under the program other than to claim an exemption from coverage.

Permits covered employers to automatically enroll covered employees, unless the employee opts out, in a qualified retirement plan offered by a trade association or chamber of commerce in lieu of the individual retirement account established by the Washington Saves program.

--- END ---