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**SENATE BILL 5194**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Liias, Hasegawa, Das, Hunt, Keiser, Nguyen, and Wilson, C.

AN ACT Relating to providing for equity and access in the community and technical colleges; amending RCW 28B.92.030, 28B.96.010, 28B.15.012, and 82.04.299; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 28B.92 RCW; adding a new chapter to Title 28B RCW; creating new sections; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec.**  INTENT. The legislature recognizes that student completion rates for workforce training certification and degree programs at community and technical colleges are far lower than desirable to ensure that students may utilize the opportunities of postsecondary education to lift themselves and their families out of poverty and to meet our state's student achievement council road map goals, including for 70 percent of Washington residents to have a postsecondary certification or degree to meet workforce needs. The legislature recognizes that first-generation college-attending students and underrepresented minority students face far greater obstacles to apply, remain in school, and complete programs. This disparate impact greatly affects our state's commitment to equity.

The legislature recognizes that offering tuition financial support to first-generation and underrepresented minority students is necessary for students to enroll and attend college but must also be accompanied by proven supports for them to complete their degrees or workforce training programs.

The legislature recognizes that there are mentorship and advising programs based on strong evidence that have been proven to be successful in greatly increasing retention and degree or workforce training completion rates for first-generation students, underrepresented minority students, and for all students at community and technical colleges. It is the legislature's intent that successful programs such as guided pathways, integrated basic education skills and training, and mentoring programs along with improved advising for students be implemented at all community and technical colleges with the goal of doubling completion rates (as measured by completion in six years) for students in the next eight years. To accomplish this goal, the legislature intends that all students receiving Washington college grants, college bound scholarships, or federal Pell grants should receive the supports, including mentoring, that have been proven to increase completion rates.

The legislature recognizes the success of the City University of New York's accelerated study in associate programs, also known as ASAP. The accelerated study in associate programs' goal is to have at least 50 percent of students earn an associate degree within three years by removing barriers to completion with financial and comprehensive academic supports. The program began in 2007 at six City University of New York colleges with a little over 1,000 students. Today, the program has expanded to nine colleges with over 22,000 students with consistent results. In addition, the program has been replicated at other colleges in Ohio, California, and New York. To date, the accelerated study in associate programs average three-year graduation rate is 53 percent. The 2013 national three-year graduation rate for public two-year colleges was just 19 percent and Washington's graduation rate was just under 29 percent. The MDRC, a nonprofit nonpartisan research organization, evaluated the impacts of the accelerated study in associate programs with a random assignment design and found that the program doubled graduation rates, which was the largest effect MDRC has found in any of its evaluations of community college reforms. In addition, MDRC found that at the three-year point, the cost per degree was lower for the accelerated study in associate programs because the program generated so many additional graduates. The legislature intends for all students who receive Washington college grants, college bound scholarships, or Pell grants to receive the supports under this act and related programs in order to enable them to remain enrolled and complete their programs in a reasonable period of time.

The legislature further finds that research establishes that students from underrepresented minorities are far more likely to complete degrees or workforce training certification programs if the faculty and staff of the college reflect the diversity of the student body. Therefore, the legislature intends for the state's community and technical colleges to develop and implement plans to increase faculty and staff diversity.

NEW SECTION. **Sec.**  FINDINGS. The legislature finds that there is a need to expand investments in community and technical colleges for the purpose of guaranteeing both equitable access and educational success for all residents of the state, particularly for students from communities of color and low-income communities. The legislature finds further that equality of opportunity for all students requires investments to support services that are critical to: The success of students of color and low-income students; provide systemwide equity initiatives intended to make community and technical college campuses welcoming, benevolent places; overcome the digital divide for all students; and provide qualified and available counseling throughout the community and technical college system. The legislature also finds that a more full-time, stable, fairly compensated, and diverse community and technical college faculty is necessary to enhance student success and to improve the mentoring available for a diverse student body. The legislature also finds that resources for student aid and workforce investment need to be adequate to meet the needs of all students in the state, particularly those from families of color and low-income families.

NEW SECTION. **Sec.**  DIVERSITY, EQUITY, AND INCLUSION STRATEGIC PLAN. (1) Beginning July 30, 2022, all community and technical colleges must submit, on an annual basis, strategic plans to the state board for community and technical colleges for achieving diversity, equity, and inclusion on their campuses.

(2) Colleges must create their strategic plans using an inclusive process of stakeholders including, but not limited to, classified staff, faculty, administrative exempt staff, students, and community organizations. Colleges are encouraged to use campus climate surveys to develop and update strategic plans for diversity, equity, and inclusion. The state board for community and technical colleges shall develop a model campus climate survey tool relating to diversity, equity, and inclusion, and may contract for carrying out surveys at individual colleges.

(3) In addition to planning, each community and technical college shall include in its diversity program opportunities for students from diverse communities to form student-based organizations, and to use community-based organizations, that permit students to work together to mentor and assist one another in navigating the educational system and to access trained mentors using evidence-based mentoring strategies.

(4) Each community and technical college shall establish a culturally appropriate outreach program to communities of color and low-income communities designed to assist potential students to understand the opportunities available in the community and technical college system and to assist with navigating the student aid system. Outreach programs shall include partnerships with appropriate community-based organizations and use research and supports from the student achievement council.

(5) Colleges may request funds from the state board for community and technical colleges to implement and maintain their strategic plan. A college's request for funds to implement and maintain its strategic plan must include funding for staff whose primary responsibilities are to implement and monitor the effectiveness of the strategic plan.

(6) A college's overhead costs to implement the strategic plan may not exceed five percent of the funds allocated to the college for implementation of the strategic plan.

(7) Each college shall assess its progress towards meeting the goals of diversity, equity, and inclusion. The assessment must detail progress on each goal, describe obstacles encountered, prioritize goals in the strategic plan for the following year, and identify resources needed for continued progress.

NEW SECTION. **Sec.**  ESTABLISHING AND EXPANDING PROVEN MENTORSHIP AND ADVISING PROGRAMS AT COMMUNITY AND TECHNICAL COLLEGES. In order to improve the degree and workforce certification completion rates for students receiving Washington college grants, college bound scholarships, opportunity scholarships, or federal Pell grants, each community and technical college shall establish for implementation in the 2023-24 academic year a student success support program using programs that the state board for community and technical colleges, in consultation with the student achievement council, finds have been effective to improve student completion rates for students of similar backgrounds to those attending each community and technical college and that include:

(1) A student success support program that is either a credit-based class, orientation program, or peer mentoring program that is based on research or documented evidence of success at other institutions with comparable student populations. The student success support program may include elements of:

(a) Learning about study skills, time management, and college success skills;

(b) Academic advising and career planning;

(c) Basic financial literacy and information and requirements for financial aid, including student loan programs and debt, particularly for students from cultural or economic backgrounds with limited knowledge of student loans and debt;

(d) Acclimating students to the institution's campus, resources, services, and culture, including the expectations and demands of postsecondary education;

(e) Tutoring or peer tutoring;

(f) Cohort-based programs; and

(g) Peer mentorship;

(2) An evidence-based remedial program, such as the integrated basic education and skills training program, for those students with remedial mathematics or English education needs. The remedial program may include elements of:

(a) Team teaching;

(b) Mixed basic skills and college-level curriculum;

(c) Accelerated basic skills curriculum; and

(d) Flipped classroom instruction;

(3) Subject to the availability of amounts appropriated for this specific purpose, the guided pathways program;

(4) Advising programs for students receiving state or federal need grant aid that includes the following staff persons who are dedicated solely to the program:

(a) A program director to oversee, train, and coordinate program staff and faculty, in addition to leading efforts on evaluation and data collection;

(b) A program advisor or advisors, who each shall:

(i) Have a maximum caseload of 150 students and whose caseloads are made up of only students participating in the program;

(ii) Meet with program students at least once per month throughout the students' time in the program; and

(iii) Communicate and coordinate with faculty regarding program students' progress;

(c) A career and employment specialist to work with program students individually and in groups to:

(i) Facilitate career exploration, awareness, and preparation;

(ii) Assist students with finding immediate employment compatible with their course schedules; and

(iii) Encourage networking and internship opportunities;

(5) In addition to dedicated program staff:

(a) Adequate numbers of tutors that are available for program students with remedial needs who are required to attend tutoring and for other program students who may voluntarily seek academic assistance; or

(b) Expanded use of integrated remedial and workforce or academic learning using the state board for community and technical colleges' integrated basic education and skills training program model.

NEW SECTION. **Sec.**  FACULTY DIVERSITY PROGRAM. (1) By December 1, 2023, each community and technical college shall establish a faculty diversity program designed to provide for the retention and recruitment of faculty from diverse racial, ethnic, and cultural backgrounds. The program must meet minimum standards established by the state board for community and technical colleges.

(2) The standards for faculty diversity programs under this section developed by the state board for community and technical colleges must be based on the 17 steps for diversity and equity in hiring and professional development in the hiring process developed by the collective of professionals from the Washington state community and technical colleges. In developing the standards, the state board for community and technical colleges must also consider model faculty diversity programs from other institutions, including recommended methods for mentoring students, staff, and members of the community to become faculty in the system. The standards must also include requirements for consultation with students from diverse backgrounds and faculty bargaining representatives in their development and implementation.

(3) Subject to the availability of amounts appropriated for this specific purpose, the state board for community and technical colleges shall grant to each community and technical college an annual grant not to exceed $150,000 to be used exclusively for the purpose of developing and administering faculty diversity programs required under this section.

(4) Each community and technical college shall report to the state board for community and technical colleges an annual assessment of progress toward faculty diversity goals.

NEW SECTION. **Sec.**  TENURE-TRACK FACULTY. (1) By December 31, 2023, the state board for community and technical colleges must create a plan to achieve a systemwide ratio, determined by employee headcount, of full-time, tenure-track faculty to nontenure-track faculty of at least 70 percent and establish equal-pay-for-equal-work for all faculty members by the end of the 2030-31 academic year. Except as provided in subsection (2) of this section, the plan must be implemented in phases, with the first phase-in of the plan to begin in the fall quarter of 2024. The state board for community and technical colleges must develop this systemwide plan in collaboration with academic employee collective bargaining representatives. To support the state board for community and technical colleges' planning process, each community and technical college district must develop, in collaboration with academic employee bargaining representatives at the college, a college-level plan to achieve these goals at each college and provide it to the state board for community and technical colleges by November 1, 2023.

(2) The first priority for the plans must be the faculty in programs that provide basic education for adults. The required 70 percent ratio of full-time to part-time faculty for instructors in the basic education for adults program must be achieved by the 2026 academic year.

(3) The plan must: Include as nontenure-track faculty all academic employees who are not tenured or on the tenure track, including all associate, adjunct, contingent, and part-time faculty; create new, full-time tenure-track faculty positions and more opportunities for nontenure-track faculty; and include as part of the planning process open public meetings to ensure inclusion of student and community member perspectives and ideas.

(4) The state board for community and technical colleges shall report to the higher education committees of the legislature by December 1, 2024, and by December 1st every two years thereafter until 2030 regarding phase-in of the systemwide plan required by this section and information regarding the systemwide plan and each college's progress in achieving the plan.

(5) The standards used in this section to determine equal-pay-for-equal-work must be based on the instructional work of the faculty, including direct student support, time in class, preparation for class, grading and assessment, and office hours equivalent to those required for full-time tenure-track faculty under the relevant collective bargaining agreement.

(6) For the purposes of this section, "academic employee" has the same meaning as in RCW 28B.50.489.

NEW SECTION. **Sec.**  COUNSELOR STAFFING. (1) Beginning the fall academic quarter of 2021, every community and technical college must have and maintain a staffing ratio of no more than 900 aid-eligible students to one full-time equivalent faculty counselor, based on the previous fall quarter's unduplicated student head count.

(2) The ratio required under this section applies to counselor positions that are state-funded. Counselor positions that are funded by sources other than state funds may not be counted when determining if a community or technical college has met the student-to-counselor ratio requirement.

(3) The state board for community and technical colleges shall include data on each community and technical college's student-to-counselor ratio in its annual fall quarter enrollment and staffing report.

(4) The requirements and standards imposed through this subsection shall not apply to an individual employed by a college district as a counselor before the effective date of this section.

(5) For purposes of this section, the following definitions apply:

(a) "Aid-eligible student" means a student who qualifies for the federal Pell grant, Washington college grant, or college bound scholarship.

(b) "Counselor" means persons who meet minimum standards established by the state board for community and technical colleges. For the purposes of counselors employed under this section, these minimum standards must include:

(i) A graduate or professional degree from a regionally accredited institution in counseling psychology, school counseling, clinical social work, or a related field;

(ii) Completion of appropriate graduate coursework with content covering assessment and testing, career counseling, crisis intervention and management, legal and ethical issues in counseling, lifespan development, multicultural counseling, theories of counseling, and treatment planning; and

(iii) Completion of a supervised practicum and internship at the graduate level.

NEW SECTION. **Sec.**  FINDINGS. The legislature finds that child care is a significant need of students in the community and technical colleges. The need for child care is a barrier that prevents students from entering the system and contributes to the low student completion rate.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.50 RCW to read as follows:

CHILDCARE SERVICES.

(1) The state board for community and technical colleges, after consultation with the student achievement council and the department of children, youth, and families, shall design a program to help both full-time and part-time students to access child care services and to assist eligible students to qualify for child care subsidies.

(2) Subject to the availability of amounts appropriated for this specific purpose, by December 31, 2021, the state board for community and technical colleges shall conduct a comprehensive survey of the child care needs of students, employees, and faculty in the community and technical colleges and to report their findings to the legislature, along with recommendations to improve access to child care subsidies and services. The recommendations developed pursuant to this subsection must include recommendations concerning how to achieve access to quality and affordable child care for all community and technical college students, faculty, and staff.

(3) The program design and survey provided for in subsections (1) and (2) of this section are subject to the availability of amounts appropriated for this specific purpose.

**Sec.**  RCW 28B.92.030 and 2019 c 406 s 21 are each amended to read as follows:

As used in this chapter:

(1) "Council" means the student achievement council.

(2) "Financial aid" means ((~~either~~)) loans, grants, stipends for student support, or ((~~both~~)) any combination of these forms of aid, to students who demonstrate financial need enrolled or accepted for enrollment as a student at institutions of higher education.

(3) "Financial need" means a demonstrated financial inability to bear the total cost of education as directed in rule by the office.

(4) "Institution" or "institutions of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level that is a member institution of an accrediting association recognized by rule of the council for the purposes of this section and that agrees to and complies with program rules adopted pursuant to RCW 28B.92.150. However, any institution, branch, extension or facility operating within the state of Washington that is affiliated with an institution operating in another state must be:

(i) A separately accredited member institution of any such accrediting association;

(ii) A branch of a member institution of an accrediting association recognized by rule of the council for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students;

(iii) A nonprofit institution recognized by the state of Washington as provided in RCW 28B.77.240; or

(iv) An approved apprenticeship program under chapter 49.04 RCW.

(5) "Maximum Washington college grant":

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, is tuition and estimated fees for fifteen quarter credit hours or the equivalent, as determined by the office, including operating fees, building fees, and services and activities fees.

(b) For students attending private four-year not-for-profit institutions of higher education in Washington, in the 2019-20 academic year, is nine thousand seven hundred thirty-nine dollars and may increase each year afterwards by no more than the tuition growth factor.

(c) For students attending two-year private not-for-profit institutions of higher education in Washington, in the 2019-20 academic year, is three thousand six hundred ninety-four dollars and may increase each year afterwards by no more than the tuition growth factor.

(d) For students attending four-year private for-profit institutions of higher education in Washington, in the 2019-20 academic year, is eight thousand five hundred seventeen dollars and may increase each year afterwards by no more than the tuition growth factor.

(e) For students attending two-year private for-profit institutions of higher education in Washington, in the 2019-20 academic year, is two thousand eight hundred twenty-three dollars and may increase each year afterwards by no more than the tuition growth factor.

(f) For students attending Western Governors University-Washington, as established in RCW 28B.77.240, in the 2019-20 academic year, is five thousand six hundred nineteen dollars and may increase each year afterwards by no more than the tuition growth factor.

(g) For students attending approved apprenticeship programs, is tuition and fees, as determined by the office, in addition to required program supplies and equipment.

(6) "Office" means the office of student financial assistance.

(7) "Tuition growth factor" means an increase of no more than the average annual percentage growth rate of the median hourly wage for Washington for the previous fourteen years as the wage is determined by the federal bureau of labor statistics.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.92 RCW to read as follows:

WASHINGTON COLLEGE GRANT STIPEND PROGRAM.

(1) The Washington college grant stipend program is created. All eligible students may be eligible for student support stipends for housing, transportation, food, and medical care. The amount of stipend awards is subject to the availability of amounts appropriated for this specific purpose.

(2) Eligible students may use the stipends to cover the cost of books, materials, or equipment required for the completion of their course of study but not covered by other sources of student aid.

(3) The office shall adopt rules regarding the distribution and awarding of stipends.

**Sec.**  RCW 28B.96.010 and 2020 c 326 s 2 are each amended to read as follows:

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

(1) "Eligible student" means a student who:

(a) Is a resident student;

(b) Demonstrates financial need as defined in RCW 28B.92.030;

(c) Has indicated they will attend an institution of higher education or is making satisfactory progress in a program, as defined in rule by the office, at an institution of higher education;

(d) Fills out the Washington application for state financial aid; and

(e) Does not qualify for federally funded student financial aid because of their citizenship status.

(2) "Institution of higher education" has the same meaning as in RCW 28B.92.030.

(3) "Office" means the office of student financial assistance created in RCW 28B.76.090.

(4) "Participant" means an eligible student who has received an undocumented student support loan.

(5) "Resident student" means:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) Any student:

(i) Who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state;

(ii) Whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school; and

(iii) Who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year; or

(d) Any person((~~:~~

~~(i) Who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma;~~

~~(ii) Who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent;~~

~~(iii) Who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education; and~~

~~(iv) Who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses~~)) who meets the requirements under RCW 28B.15.012(2)(e).

**Sec.**  RCW 28B.15.012 and 2020 c 232 s 1 are each amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community or technical college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed ((~~the full senior year of high school~~)) and obtained a high school diploma, ((~~both at a Washington public high school or private high school approved under chapter 28A.195 RCW,~~)) or a person who has received the equivalent of a diploma; ((~~who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent;~~)) who has continuously lived in the state of Washington ((~~after receiving the diploma or its equivalent and until such time as~~)) for at least a year before the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is on active military duty or a member of the Washington national guard who meets the following conditions:

(i) Entered service as a Washington resident;

(ii) Has maintained a Washington domicile; and

(iii) Is stationed out-of-state;

(i) A student who is the spouse or a dependent of a person defined in (g) of this subsection. If the person defined in (g) of this subsection is reassigned out-of-state, the student maintains the status as a resident student so long as the student is either:

(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or

(ii) Enrolled in an institution and remains continuously enrolled at the institution;

(j) A student who is the spouse or a dependent of a person defined in (h) of this subsection;

(k) A student who is eligible or entitled to transferred federal post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec. 3301 et seq.) benefits based on the student's relationship as a spouse, former spouse, or child to an individual who is on active duty in the uniformed services;

(l) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;

(m) A student who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service; is eligible for educational assistance benefits under Title 38 U.S.C.; and enters an institution of higher education in Washington within three years of the date of separation;

(n) A student who is on terminal, transition, or separation leave pending separation, or release from active duty, from the uniformed services with any period of honorable service after at least ninety days of active duty service and is eligible for educational assistance benefits under Title 38 U.S.C.;

(o) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship as a spouse, former spouse, or child to an individual who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service, and who enters an institution of higher education in Washington within three years of the service member's date of separation;

(p) A student who is the spouse or child to an individual who has separated from the uniformed services with at least ten years of honorable service and at least ninety days of active duty service, and who enters an institution of higher education in Washington within three years of the service member's date of separation;

(q) A student who has separated from the uniformed services who was discharged due to the student's sexual orientation or gender identity or expression;

(r) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship with a deceased member of the uniformed services who died in the line of duty;

(s) A student who is entitled to federal vocational rehabilitation and employment services for veterans with service-connected disabilities under 38 U.S.C. Sec. 3102(a);

(t) A student who is defined as a covered individual in 38 U.S.C. Sec. 3679(c)(2) as it existed on July 28, 2019, or such subsequent date as the student achievement council may determine by rule;

(u) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;

(v) A student who meets the requirements of RCW 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(w) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

(x) A student who resides in Washington and is the spouse or a dependent of a person defined in (w) of this subsection. If the person defined in (w) of this subsection moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is either:

(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or

(ii) Enrolled in an institution and remains continuously enrolled at the institution.

(3)(a) A student who qualifies under subsection (2)(k), (m), (n), (o), (p), (q), (r), (s), or (t) of this section and who remains continuously enrolled at an institution of higher education shall retain resident student status.

(b) Nothing in subsection (2)(k), (m), (n), (o), (p), (q), (r), (s), or (t) of this section applies to students who have a dishonorable discharge from the uniformed services, or to students who are the spouse or child of an individual who has had a dishonorable discharge from the uniformed services, unless the student is receiving veterans administration educational assistance benefits.

(4) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or (u) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah, Clatsop, Clackamas, or Washington county, Oregon participating in the border county pilot project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.

(b) A person who is not a citizen of the United States of America, unless the person meets and complies with all applicable requirements in this section and RCW 28B.15.013 and is one of the following:

(i) A lawful permanent resident;

(ii) A temporary resident;

(iii) A person who holds "refugee-parolee," "conditional entrant," or U or T nonimmigrant status with the United States citizenship and immigration services;

(iv) A person who has been issued an employment authorization document by the United States citizenship and immigration services that is valid as of the date the person's residency status is determined;

(v) A person who has been granted deferred action for childhood arrival status before, on, or after June 7, 2018, regardless of whether the person is no longer or will no longer be granted deferred action for childhood arrival status due to the termination, suspension, or modification of the deferred action for childhood arrival program; or

(vi) A person who is otherwise permanently residing in the United States under color of law, including deferred action status.

(5) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(6) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules adopted by the student achievement council and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the council may require.

(7) The term "active military duty" means the person is serving on active duty in:

(a) The armed forces of the United States government; or

(b) The Washington national guard; or

(c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

(8) The term "active duty service" means full-time duty, other than active duty for training, as a member of the uniformed services of the United States. Active duty service as a national guard member under Title 32 U.S.C. for the purpose of organizing, administering, recruiting, instructing, or training and active service under 32 U.S.C. Sec. 502(f) for the purpose of responding to a national emergency is recognized as active duty service.

(9) The term "uniformed services" is defined by Title 10 U.S.C.; subsequently structured and organized by Titles 14, 33, and 42 U.S.C.; consisting of the United States army, United States marine corps, United States navy, United States air force, United States coast guard, United States public health service commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps.

**Sec.**  RCW 82.04.299 and 2020 c 2 s 4 are each amended to read as follows:

(1)(a) Beginning with business activities occurring on or after April 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on select advanced computing businesses. The surcharge is equal to the gross income of the business subject to the tax under RCW 82.04.290(2), multiplied by the rate of 1.22 percent.

(b) ((~~Except as provided in (e) of this subsection (1), in no case will the combined surcharge imposed under this subsection (1) paid by all members of an affiliated group be more than nine million dollars annually.~~

~~(c)~~)) For persons subject to the surcharge imposed under this subsection (1) that report under one or more tax classifications, the surcharge applies only to business activities taxed under RCW 82.04.290(2).

((~~(d)~~)) (c) The surcharge imposed under this subsection (1) must be reported and paid on a quarterly basis in a manner as required by the department. Returns and amounts payable under this subsection (1) are due by the last day of the month immediately following the end of the reporting period covered by the return. All other taxes must be reported and paid as required under RCW 82.32.045.

((~~(e)~~)) (d)(i) To aid in the effective administration of the surcharge in this subsection (1), the department may require persons believed to be engaging in advanced computing or affiliated with a person believed to be engaging in advanced computing to disclose whether they are a member of an affiliated group and, if so, to identify all other members of the affiliated group subject to the surcharge.

(ii) If the department establishes, by clear, cogent, and convincing evidence, that one or more members of an affiliated group, with intent to evade the surcharge under this subsection (1), failed to fully comply with this subsection (1)((~~(e)~~)) (d), the department must assess against that person, or those persons collectively, a penalty equal to fifty percent of the amount of the total surcharge payable by all members of that affiliated group for the calendar year during which the person or persons failed to fully comply with this subsection (1)((~~(e)~~)) (d). The penalty under this subsection (1)((~~(e)~~)) (d) is in lieu of and not in addition to the evasion penalty under RCW 82.32.090(7).

((~~(f)~~)) (e) For the purposes of this subsection (1) the following definitions apply:

(i) "Advanced computing" means designing or developing computer software or computer hardware, whether directly or contracting with another person, including modifications to computer software or computer hardware, cloud computing services, or operating an online marketplace, an online search engine, or online social networking platform;

(ii) "Affiliate" and "affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(iii) "Affiliated group" means a group of two or more persons that are affiliated with each other;

(iv) "Cloud computing services" means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet;

(v) "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(vi) "Select advanced computing business" means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group has worldwide gross revenue of more than twenty-five billion dollars during the immediately preceding calendar year. A person who is primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered a select advanced computing business. A person who is primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks shall not be considered a select advanced computing business. A person that is primarily engaged in business as a "financial institution" as defined in RCW 82.04.29004, as that section existed on January 1, 2020, shall not be considered a select advanced computing business. For purposes of this subsection (1)((~~(f)~~)) (e)(vi), "primarily" is determined based on gross income of the business.

(2) The workforce education investment surcharge under this section does not apply to any hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

(3) Revenues from the surcharge under this section must be deposited directly into the workforce education investment account established in RCW 43.79.195.

(4) The department has the authority to determine through an audit or other investigation whether a person is subject to the surcharge imposed in this section.

NEW SECTION. **Sec.**  Except for section 12 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  Section 12 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2021.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act constitute a new chapter in Title 28B RCW.

NEW SECTION. **Sec.**  This act may be known and cited as the our colleges our future act of 2021.

**--- END ---**