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**SUBSTITUTE SENATE BILL 5125**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Human Services (originally sponsored by Senators Trudeau, Rivers, Cleveland, Dhingra, Frame, Hasegawa, Hunt, Kuderer, Liias, Lovelett, Lovick, Nguyen, Nobles, Pedersen, Randall, Robinson, Saldaña, Stanford, Valdez, Van De Wege, Wellman, and C. Wilson; by request of State Treasurer)

AN ACT Relating to the creation of the Washington future fund program; amending RCW 43.88C.010 and 70.58A.520; reenacting and amending RCW 43.79A.040; adding a new section to chapter 74.09 RCW; adding a new chapter to Title 43 RCW; and providing an expiration date.

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

NEW SECTION. **Sec.**  FINDINGS—INTENT. The legislature finds that reducing barriers to wealth building activities is a vital strategy in combating persistent poverty and promoting economic resilience for Washingtonians. In 2020, nearly half of Washington newborns were born into households qualifying for medicaid, a key poverty indicator. For those born into poverty there are lifelong impacts including lower rates of homeownership, educational attainment, and entrepreneurship which interfere with their ability to obtain financial stability.

The legislature further finds that Washington has established that investing in pathways out of poverty, including housing, higher education, and economic development, is an essential function of government to cultivate thriving and economically independent individuals and communities. Yet barriers, specifically capital barriers, continue to make these foundations for wealth building unattainable for those born without sufficient financial means.

The legislature further finds the office of the state treasurer convened the Washington future fund committee to study wealth inequities in Washington, analyze the Washington future fund and other "baby bonds" investment models, and provide recommendations on program implementation to the legislature. Based on the committee's findings, the legislature concludes that the Washington future fund program begins to address the aforementioned opportunity deficit by providing Washingtonians who were born into and experience persistent poverty the seed capital to invest in themselves and their communities by purchasing a home, pursuing education, or starting a small business.

It is the intent of the legislature to establish the Washington future fund program to reduce the capital barriers inhibiting the potential for those born into poverty to alter their financial future.

NEW SECTION. **Sec.**  DEFINITIONS. (1) "Application" means a request made by a claimant, or the claimant's legal guardian, for a disbursement amount to be used for an eligible expenditure. An application is made in the manner defined by rule by the office.

(2) "Calendar year" means a one-year period beginning on January 1st and ending on December 31st.

(3) "Claimant" means a person who:

(a) Is a member of a funded cohort;

(b) Successfully completed the financial education requirement; and

(c) At the time of application to the office:

(i) Is a resident of the state of Washington;

(ii) Is at least 18 years old and less than 36 years old; and

(iii) Demonstrates financial need.

(4) "Cohort" means all people born in Washington in a calendar year who were enrolled in a medical assistance program under chapter 74.09 RCW and Title XIX of the federal social security act or in the children's health insurance program under chapter 74.09 RCW and Title XXI of the federal social security act, before their first birthday. The first "cohort" includes people born in the calendar year 2024.

(5) "Cohort principal" means the amount appropriated by the legislature as the principal for a funded cohort and any additional funds designated by the office to be added to the principal for a funded cohort, including but not limited to gifts, grants, and donations.

(6) "Demonstrate financial need" means satisfying financial requirements adopted by the legislature, as provided in section 4 of this act.

(7) "Designated institution" means an entity that may receive a distribution amount from the state, on behalf of an approved claimant, after an application to the office is approved. Claimants identify their selected designated institution during the application process. Allowable designated institutions are based on a claimant's chosen eligible expenditure and are as follows:

(a) For education, training, and professional development of the claimant:

(i) The educational, training, or professional development institution providing services to the claimant;

(ii) The financial institution that issued, or is in the process of issuing, student loans to the claimant; and

(iii) Additional institutions defined by rule by the office;

(b) For purchase of a residence in Washington state:

(i) The financial institution that issued, or is in the process of issuing, the claimant a mortgage or other real estate loan; and

(ii) Additional institutions defined by rule by the office; and

(c) For the creation or purchase of a business in Washington state:

(i) The financial institution that issued, or is in the process of issuing, the claimant a business loan; and

(ii) Additional institutions defined by rule by the office.

(8) "Disbursement amount" means:

(a) Cohort principal and associated investment earnings for a funded cohort divided by the population of the cohort 18 years after the cohort's birth year; and

(b) Any additional investment earnings associated with the amount provided in (a) of this subsection, calculated at the time of application approval.

(9) "Eligible expenditure" means an expenditure associated with any of the following:

(a) Education, training, and professional development of a claimant at an institution of higher education, as defined in RCW 28B.92.030;

(b) Purchase of a residence in Washington state by a claimant; or

(c) The creation or purchase of a business in Washington state by a claimant.

(10) "Financial education" means financial coaching, specifically related to one or more eligible expenditures, as defined by rule by the office.

(11) "Funded cohort" means a cohort that has had an amount appropriated by the legislature as principal for the cohort. Except as specified in section 6 of this act, each cohort is funded independently of other cohorts.

(12) "Legal guardian" means the guardian, as defined in chapter 11.130 RCW, of a claimant.

(13) "Office" means the office of the state treasurer.

(14) "Washington future fund account" or "account" means the account established in the custody of the state treasurer in section 5 of this act.

NEW SECTION. **Sec.**  CREATION OF WASHINGTON FUTURE FUND PROGRAM. (1) The Washington future fund program established under this chapter shall be implemented and administered by the office.

(2) A claimant who is a member of a funded cohort is entitled to have the office issue a disbursement amount on their behalf, subject to the defined application process and permitted uses. No person is entitled to receive any benefit under this chapter if they are not a member of a funded cohort.

(3) The office is authorized to establish rules necessary to implement the program. Program elements defined by rule shall include, but are not limited to:

(a) The application and application process;

(b) Fund distribution to designated institutions;

(c) Promotional campaigns to increase public awareness of the program; and

(d) Definition of terms as they relate to claimant requirements, including but not limited to "financial education requirement" and "residency."

(4)(a) The legislature shall appropriate funds for the Washington future fund program, as provided in section 6 of this act.

(b) Costs related to program administration incurred by the office are funded through the state treasurer's service fund created in RCW 43.08.190.

(5)(a) The office shall issue a disbursement amount to a designated institution after approving an application from the claimant. The office shall make only one disbursement of up to the full amount authorized under this chapter on behalf of each claimant during the claimant's lifetime.

(b) The health care authority established in chapter 41.05 RCW, and any successor agency responsible for implementing the medical assistance programs under chapter 74.09 RCW and Title XIX of the federal social security act and the children's health insurance program under chapter 74.09 RCW and Title XXI of the federal social security act, shall assist the office to verify a claimant is a member of a funded cohort.

(c) The application must include information necessary to verify the eligibility of the claimant, a plan for the eligible expenditure, and any other information required by the office.

(6) The right of a claimant to have a disbursement amount issued on the claimant's behalf under this chapter vests upon:

(a) Meeting the qualification requirements under this chapter and rules established by the office; and

(b) Receiving the claimant's approval of application from the office.

(7)(a) If the office denies an application for any reason, including an incomplete application, an ineligible claimant, or a plan for the eligible expenditure that does not satisfy the criteria established by rule, the office shall issue a written notice identifying the reason for the denial and the process for appeal.

(b) The appeal shall be resolved through the adjudicative proceedings process provided by chapter 34.05 RCW. The office may establish a good cause exception for failing to file a timely appeal by rule.

(8) Any disbursement under this chapter shall not be considered assets or income for purposes of state public assistance or financial aid eligibility and calculation of benefit amount.

(9) The legal guardian of a claimant may act on behalf of the claimant for the purposes of this program.

NEW SECTION. **Sec.**  WASHINGTON FUTURE FUND COMMITTEE. (1)(a) A committee on the Washington future fund program is established, with members as provided in this subsection:

(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;

(iii) The state treasurer, or the state treasurer's designee;

(iv) The state treasurer shall appoint:

(A) Three members from communities with lived experience of poverty;

(B) Three members representing economic empowerment organizations;

(C) At least one member representing individuals with developmental disabilities;

(D) At least one member representing tribal communities with tribal lands located west of the crest of the Cascade mountains;

(E) At least one member representing tribal communities with tribal lands located east of the crest of the Cascade mountains;

(F) At least one member representing higher educational institutions;

(G) At least one member representing trades and apprenticeship training;

(H) One member representing a financial institution;

(I) One member representing either a chamber of commerce or an associated development organization; and

(J) At least one member who:

(I) Was enrolled in a medical assistance program under chapter 74.09 RCW and Title XIX of the federal social security act or the children's health insurance program under chapter 74.09 RCW and Title XXI of the federal social security act, before the member's first birthday and experienced poverty as a young adult; or

(II) Is a claimant; and

(v) The following representatives from state agencies:

(A) The director of the health care authority, or the director's designee;

(B) The executive director of the Washington housing finance commission, or the executive director's designee; and

(C) The director of the department of commerce, or the director's designee.

(b) Committee membership shall reflect regional, racial, cultural, and socioeconomic diversity to adequately represent the needs of all families in the state.

(c) All appointed members serve three-year terms that begin January 1st, unless appointed to fill a midyear vacancy. The terms of the membership appointments shall be staggered, as determined by the office.

(d) The committee is chaired by the state treasurer. The state treasurer must convene the initial meeting of the committee by September 1, 2024. Subsequent meetings shall be held on at least:

(i) An annual basis through 2034;

(ii) A twice annual basis between 2035 through 2040; and

(iii) A quarterly basis between 2041 through 2042.

(2) The committee shall review the following topics and make recommendations on:

(a) The efficient distribution of funds;

(b) The adequacy of the eligibility criteria to fulfill the intent of the program set forth in this chapter, periodically evaluating the potential of incorporating wealth-based qualification requirements;

(c) The eligible expenditures, periodically reviewing additional wealth building activities to consider adding to the definition of eligible expenditures;

(d) The status of the fund and performance relative to the programmatic objectives and goals;

(e) Whether the initial investment amount is enough to achieve the intent of the program in this chapter and, if it is not, an initial investment level that is anticipated to achieve the intent of the program for future cohorts;

(f) Opportunities to establish public-private partnerships; and

(g) Other policy considerations that may arise and be pertinent to the programmatic elements of the program.

(3)(a) Before June 30, 2036, the committee shall recommend to the legislature criteria that a claimant must meet at the time of application to demonstrate financial need. While developing the recommendation, the committee must consider the following:

(i) Maximizing program participation among funded cohort members;

(ii) Current economic conditions, including the cost of eligible expenditures, as defined in section 2 of this act;

(iii) General requirements to qualify for a real estate, student, or business loan;

(iv) Minimizing impact to a claimant's ability to qualify for local, state, and federal public assistance programs; and

(v) Feasibility of a wealth-based qualification requirement.

(b) It is the intent of the legislature to consider the recommended criteria prior to the conclusion of the 2038 legislative session.

(4) Staff support for the committee shall be provided by the office.

(5) The committee shall participate in wealth inequity studies and related data collection efforts necessary to perform the work required in this section.

(6) The committee shall submit the following reports to the appropriate committees of the legislature, in accordance with RCW 43.01.036:

(a) An annual status update, including any legislative recommendations, starting December 1, 2024, through December 1, 2041; and

(b) A final report of its findings and recommendations by December 1, 2042.

(7) The committee is a class one group, as defined in RCW 43.03.220, and the nonlegislative members shall receive compensation accordingly. Legislative members of the committee are reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) This section expires December 31, 2044.

NEW SECTION. **Sec.**  WASHINGTON FUTURE FUND ACCOUNT. (1) The Washington future fund account is created in the custody of the state treasurer.

(2) Except as provided in sections 6 and 7 of this act, the account may be used only for the purpose of issuing disbursement amounts to designated institutions.

(3) Except as provided in this section, cohort principals and associated investment earnings for the Washington future fund program must be deposited into, and retained within, the account.

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

(5) Beginning in 2025, the office must report the status of the account, including the balance and activity on behalf of each funded cohort, in the annual report of the office of the state treasurer.

(6) The state treasurer and the office shall not be considered an insurer of the account or assets in the account, pursuant to RCW 39.58.140.

NEW SECTION. **Sec.**  WASHINGTON FUTURE FUND APPROPRIATION. (1) Beginning in 2024, the legislature shall appropriate funds, from the state general fund into the Washington future fund, in an amount equal to:

(a) During the 2024 legislative session, the 2024 cohort population estimate provided in RCW 43.88C.010, multiplied by $4,000; and

(b) Beginning in 2025 and during each regular legislative session in an odd-numbered year thereafter:

(i) The population estimate provided in RCW 43.88C.010 for the current and next calendar year, multiplied by $4,000; and

(ii) If necessary, appropriations necessary to fund past cohorts, pursuant to the adjusted population estimates provided in RCW 43.88C.010.

(2) Moneys that are not awarded because a claimant is deceased or has not submitted a valid application within the time frame designated within this chapter shall be retained within the account and used to fund the principal for a future cohort.

NEW SECTION. **Sec.**  STATE INVESTMENT BOARD. (1) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the account created in section 5 of this act. All investment and operating costs associated with the investment of money shall be paid under RCW 43.33A.160 and 43.84.160. With the exception of these expenses, all of the earnings from the investment of the money shall be retained by the account.

(2) All investments made by the state investment board shall be made with the exercise of judgment and care required by RCW 43.33A.140 and consistent with the investment policy established by the state investment board.

(3) As deemed appropriate by the state investment board, money in the account may be commingled for investment with other funds subject to investment by the board.

(4) Members of the state investment board may not be considered an insurer of the account or assets and are not liable for any action or inaction.

(5) Members of the state investment board are not liable to the state, to the account, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The state investment board in its discretion may purchase liability insurance for members.

(6) The authority to establish all policies relating to the account resides with the state treasurer, other than the investment policies as set forth in subsections (1) through (3) of this section.

(7) The state investment board shall routinely consult and communicate with the office on the investment policy, earnings of the account, and related needs of the program.

**Sec.**  RCW 43.88C.010 and 2022 c 219 s 2 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030;

(c) The number of students who are eligible for the Washington college grant program under RCW 28B.92.200 and 28B.92.205 and are expected to attend an institution of higher education as defined in RCW 28B.92.030; ((~~and~~))

(d) The number of children who are eligible, as defined in RCW 43.216.505, to participate in, and the number of children actually served by, the early childhood education and assistance program; and

(e) The cohorts of the Washington future fund under section 2 of this act.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) By January 1, 2023, the caseload forecast council shall present the number of individuals who are assessed as eligible for and have requested a service through the individual and family services waiver and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(10) Beginning with the official forecast submitted in November 2022 and subject to the availability of amounts appropriated for this specific purpose, the caseload forecast council shall forecast the number of individuals who are assessed as eligible for and have requested supported living services, a service through the core waiver, an individual and family services waiver, and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(11) As a courtesy, beginning with the official forecast submitted in November 2022, the caseload forecast council shall forecast the number of individuals who are expected to reside in state-operated living alternatives administered by the developmental disabilities administration.

(12) The caseload forecast council shall forecast youth participating in the extended foster care program pursuant to RCW 74.13.031 separately from other children who are residing in foster care and who are under eighteen years of age.

(13) The caseload forecast council shall forecast the number of youth expected to receive behavioral rehabilitation services while involved in the foster care system and the number of screened in reports of child abuse or neglect.

(14) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

(15) During the 2021-2023 fiscal biennium, and beginning with the November 2021 forecast, the caseload forecast council shall produce an unofficial forecast of the long-term caseload for juvenile rehabilitation as a courtesy.

**Sec.**  RCW 43.79A.040 and 2022 c 244 s 3, 2022 c 206 s 8, 2022 c 183 s 16, and 2022 c 162 s 6, are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

**Sec.**  RCW 70.58A.520 and 2019 c 148 s 20 are each amended to read as follows:

(1) The department may disclose vital records information for persons named in any birth, death, or fetal death record only as provided under this chapter.

(2) Proposals for research and public health purposes must be reviewed and approved as to scientific merit and adequacy of confidentiality safeguards in accordance with this section.

(3) The department may release birth and fetal death record data that includes direct identifiers for research with approval of the state institutional review board and receipt of a signed confidentiality agreement with the department.

(4) The department may release birth and fetal death record data that includes direct identifiers for nonresearch public health purposes to a government agency upon receipt of a signed written data-sharing agreement with the department.

(5) The department may release birth and fetal death record data that contains only indirect identifiers to anyone upon receipt of a signed written data-sharing agreement with the department.

(6) The department may release death record data to anyone upon approval of the department and receipt of a signed written data-sharing agreement with the department.

(7) The department may release birth and death record data that includes direct identifiers to the health care authority established in chapter 41.05 RCW, and any successor agency responsible for implementing the medical assistance programs under chapter 74.09 RCW and Title XIX of the federal social security act and the children's health insurance program under chapter 74.09 RCW and Title XXI of the federal social security act, to carry out the purposes of chapter 43.--- RCW (the new chapter created in section 12 of this act).

(8) A written data-sharing agreement required under subsections (4) through (6) and ((~~(14)~~)) (15) through ((~~(17)~~)) (18) of this section must, at a minimum:

(a) Include a description of the type of data needed and the purpose for how the data will be used;

(b) Include the methods to be used to protect the confidentiality and security of the data;

(c) State that ownership of the data provided under this section remains with the department, and is not transferred to those authorized to receive and use the data under the agreement; and

(d) Include the applicable fees for use of the data.

((~~(8)~~)) (9) In addition to the conditions required by subsection ((~~(7)~~)) (8) of this section, the written data-sharing agreement for birth and fetal death record data for public health purposes under subsection (4) of this section must:

(a) Prohibit redisclosure of any direct or indirect identifiers without explicit permission from the department; and

(b) Prohibit the recipient of the data from contacting or attempting to contact the person whose information is included in the data set or that person's family members without explicit permission from the department.

((~~(9)~~)) (10) In addition to the conditions required by subsection ((~~(7)~~)) (8) of this section, the written data-sharing agreement for birth or fetal death record data with indirect identifiers under subsection (5) of this section must prohibit the recipient of the data from attempting to determine the identity of persons whose information is included in the data set or use the data in any manner that identifies individuals or their family members.

((~~(10)~~)) (11) The department and the state institutional review board shall apply the most restrictive law governing data release to proposals for research and public health purposes requesting data sets with direct identifiers for linkage to other data sets.

((~~(11)~~)) (12) The department may provide the fewest birth and fetal death record data elements necessary for the purpose described in the proposal for research or public health purposes.

((~~(12)~~)) (13) The department may deny a request for data for cause including, but not limited to, when:

(a) Indirect identifiers are sufficient for the purpose described in the proposal for research or public health purposes;

(b) The research or public health proposal lacks scientific merit;

(c) The department lacks resources or the request would result in an unreasonable use of resources related to data preparation and analysis;

(d) The requestor cannot meet the requirements in a data-sharing agreement for protecting the confidentiality of the data; or

(e) The requestor is out of compliance with an existing data-sharing agreement.

((~~(13)~~)) (14) The department must provide notice of the denial to the requestor and include a statement of the reasons for the denial. If the state registrar denies a request for data under the provisions of this section, a person may appeal the decision under RCW 70.58A.550.

((~~(14)~~)) (15) The department may release vital records to government agencies in the conduct of official duties upon approval of the state registrar and receipt of a signed written data-sharing agreement with the department that prohibits redisclosure of any direct or indirect identifiers without explicit permission from the department. Vital records information released by the department under this subsection may be limited to only the information necessary to perform the official duties of the agencies to which the information is released. The department may deny requests according to subsection ((~~(12)~~)) (13) of this section. Government agencies may access records electronically and use of records must be limited to the information needed for official business. The agreement may include cost sharing for support of the electronic system.

((~~(15)~~)) (16) The department shall make available to the department of social and health services, division of child support, the social security numbers of parents listed on birth records as required for establishing child support upon receipt of a signed written data-sharing agreement with the department.

((~~(16)~~)) (17) The department may release vital records to the national center for health statistics to be used solely for national statistics upon approval of the state registrar and receipt of a signed written data-sharing agreement with the department.

((~~(17)~~)) (18) The department may release copies of vital records through an interjurisdictional exchange agreement to offices of vital statistics in states or territories of the United States, the District of Columbia, New York City, or neighboring countries. The records must relate to a resident of, a person born in, or a person who died in the requesting state, territory, the District of Columbia, New York City, or neighboring country.

((~~(18)~~)) (19) The department may release indices of death, marriage, and divorce records annually to the state archives.

((~~(19)~~)) (20) Nothing in this chapter may be construed as giving authority to the state or local registrar, department, government agencies, or data recipients to sell or provide access to lists of individuals when requested for commercial purposes.

((~~(20)~~)) (21) For the purposes of this section:

(a) "Data" means a data file containing multiple records.

(b) "Direct identifier" means a single data element that identifies an individual person.

(c) "Indirect identifier" means a single data element that on its own does not identify an individual person, but when combined with other indirect identifiers can be used to identify an individual person.

(d) "Public health purpose" means a purpose that seeks to support or evaluate public health activities which include, but are not limited to, health surveillance; identifying population health trends; health assessments; implementing educational programs; program evaluation; developing and implementing policies; determining needs for access to services and administering services; creating emergency response plans; promoting healthy lifestyles; and preventing, detecting, and responding to infectious diseases, injury, and chronic and inheritable conditions. Public health purpose does not include research as defined in this section.

(e) "Research" means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

HEALTH CARE AUTHORITY—INFORMATION SHARING.

Subject to federal and state laws governing the disclosure of confidential information, the office of the state treasurer, the department of health, and the authority shall enter into a memorandum of understanding to establish information sharing practices necessary to carry out the purposes of chapter 43.--- RCW (the new chapter created in section 12 of this act) by September 30, 2036.

NEW SECTION. **Sec.**  CODIFICATION. Sections 1 through 7 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec.**  SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**