
SENATE BILL 6069

State of Washington

68th Legislature

2024 Regular Session

By Senators Mullet, Valdez, Hunt, Lias, Nguyen, Saldaña, and Van De Wege; by request of State Treasurer

Read first time 01/09/24. Referred to Committee on Ways & Means.

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

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

10 **PART I**

11 **WASHINGTON SAVES**

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

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

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

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

4 (2) "Complainant" means anyone who files a complaint alleging an
5 employer administrative violation of section 3 of this act who
6 learned of the alleged violation by way of their employment with a
7 covered employer.

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

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

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

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

16 (b) Maintains a physical presence;

17 (c) Does not offer a qualified retirement plan to their covered
18 employees; and

19 (d) Employs, and at any point during the immediately preceding
20 calendar year employed, five or more individuals.

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

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

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

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

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

33 (11) "Individual account" means an IRA established by or for an
34 individual participant and owned by the individual participant
35 pursuant to this chapter.

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

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

1 (14) "IRA" means a traditional or Roth individual retirement
2 account or individual retirement annuity described in section 408(a),
3 408(b), or 408A of the internal revenue code.

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

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

9 (17) "Program" means the Washington saves program established
10 under this chapter.

11 (18) "Qualified retirement plan" means a retirement plan in
12 compliance with applicable federal law for employees including those
13 described in section 401(a), 401(k), 403(a), 403(b), 408(k), or
14 408(p) of the internal revenue code.

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

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

19 (a) Allows covered employees to contribute to an IRA through
20 automatic payroll deductions;

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

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

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

28 (e) Has a default escalation rate, set by the governing board by
29 rule. The default escalation rate may not exceed one percent per
30 year. The maximum contribution rate based on the default escalation
31 rate may not exceed 10 percent of wages.

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

1 (b) Contributions must be invested in the default investment
2 option unless the individual participant affirmatively elects to
3 invest some or all balances in one or more approved investment
4 options offered by the program. An individual participant must have
5 the opportunity to change investments for either future contributions
6 or existing balances, or both, subject to requirements defined by
7 rule by the governing board.

8 (c) Individual accounts are portable. A former individual
9 participant who is either unemployed, or is employed by a noncovered
10 employer, must be permitted to contribute to their individual
11 account.

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

16 (e) An individual participant's or former individual
17 participant's ability to receive distributions of contributions and
18 earnings is subject to applicable law.

19 (3)(a) Each covered employer must facilitate the opportunity for
20 covered employees to participate in the program by fulfilling the
21 following administrative duties, as defined by rule by the governing
22 board:

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

25 (ii) Assist the program by offering all covered employees the
26 choice to either participate by voluntarily contributing to an IRA or
27 opt out;

28 (iii) Timely remit participant contributions; and

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

30 (A) Information regarding the program;

31 (B) The following disclosures:

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

34 (II) Instructions about how to obtain additional information
35 about the program;

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

1 (IV) A statement that covered employees seeking financial advice
2 should contact their own financial advisers, that covered employers
3 are not in a position to provide financial advice, and that covered
4 employers are not liable for decisions covered employees make under
5 this chapter;

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

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

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

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

24 (I) Making contributions to the covered employee's IRA
25 established under the program, including a description of the
26 automatic enrollment rate, the automatic escalation rate and
27 frequency, and the right to elect to make no contribution or to
28 change the contribution rate under the program;

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

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

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

37 (c) Employers are not fiduciaries with respect to, or are liable
38 for, the program, related information, educational materials, or
39 forms or disclosures approved by the governing board, or the
40 selection or performance of vendors selected by the governing board.

1 An employer is not responsible for or obligated to monitor a covered
2 employee's or individual participant's decision to participate in or
3 opt out of the program, for contribution decisions, investment
4 decisions, or failure to comply with the statutory eligibility
5 conditions or limits on IRA contributions. An employer does not
6 guarantee any investment, rate of return, or interest on assets in
7 any individual participant account or the administrative account or
8 is liable for any market losses, failure to realize gains, or any
9 other adverse consequences, including the loss of favorable tax
10 treatment or public assistance benefits, incurred by any person as a
11 result of participating in the program. Nothing in this section
12 relieves an employer from liability for criminal, fraudulent,
13 tortious, or otherwise actionable conduct including liability related
14 to the failure to remit employee contributions.

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

17 (b) An individual participant's contributions and earnings may be
18 combined for investment and custodial purposes only. Separate records
19 and accounting are required for individual accounts. Reports on the
20 status of individual accounts must be provided to each individual
21 participant at least annually. Individual participants must have
22 online access to their accounts.

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

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

30 (2) The governing board is comprised of seven members as follows:

31 (a) The state treasurer;

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

33 and

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

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

37 (ii) One member representing the financial industry; and

38 (iii) One member representing a retirement advocacy organization.

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

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

6 (5) The governing board may appoint work groups to support the
7 design and administration of the program. Work groups do not serve a
8 voting function on the governing board and may include individuals
9 who are not members of the governing board. Any work group
10 established by the governing board is a class one group under RCW
11 43.03.220. Work group members receive compensation accordingly.

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

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

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

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

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

33 (9) Regarding investments, the governing board:

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

37 (b) Must adopt an investment policy statement and ensure that the
38 investment options offered, including default investment options, are
39 consistent with the objectives of the program. The menu of investment

1 options may encompass a range of risk and return opportunities and
2 must take the following into account:

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

4 (ii) The diverse needs of individual participants;

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

7 (iv) The extensive investment choices available to participants
8 outside of the program.

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

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

14 (b) Design and operate the program to:

15 (i) Minimize costs to individual participants, covered employers,
16 and the state;

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

19 (iii) Facilitate and encourage employee participation in the
20 program and participant saving;

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

23 (v) Maximize portability of individual accounts; and

24 (vi) Maximize financial security in retirement;

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

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

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

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

38 (a) Employee registration and enrollment process;

39 (b) Employee alternative election procedure including, but not
40 limited to, the method in which a participating individual may opt

1 out of participation, change their contribution rate, opt out of
2 auto-escalation, make nonpayroll contributions, and make withdrawals;

3 (c) Contribution limits, the initial automatic default
4 contribution rate, and the automatic default escalation rate;

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

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

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

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

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

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

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

39 (a) Participation;

40 (b) Account performance;

1 (c) Board decisions; and

2 (d) Any recommendations to the legislature regarding the program.

3 (17) The governing board may consult with the state investment
4 board and the department of financial institutions regarding program
5 design and implementation.

6 NEW SECTION. **Sec. 5.** OFFICE OF THE STATE TREASURER—

7 RESPONSIBILITIES. (1) Subject to the availability of amounts
8 appropriated for this specific purpose, the office must provide staff
9 and administrative support for the governing board. The office must
10 consult with the governing board regarding staffing and
11 administrative support needs before selecting any staff pursuant to
12 this section.

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

16 NEW SECTION. **Sec. 6.** INVESTMENT MANAGER—RESPONSIBILITIES.

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

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

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

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

1 (b) In accordance with the investment policy established by the
2 governing board.

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

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

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

12 (a) Educate participating employers of their administrative
13 duties under this chapter;

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

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

22 (d) Facilitate a process in which employers may appeal
23 complaints.

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

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

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

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

37 (b) If the complaint is filed after the first two years of when
38 the program applies to the covered employer, educate the employer on

1 how to come into compliance and, if necessary and as provided in this
2 section, enforce penalties for willful violations.

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

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

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

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

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

37 (6) The department shall deposit all civil penalties paid under
38 this section in the supplemental pension fund established under RCW
39 51.44.033.

1 NEW SECTION. **Sec. 9.** LABOR AND INDUSTRIES—ADMINISTRATIVE

2 CITATION APPEALS. (1) A person, firm, or corporation aggrieved by a
3 citation and notice of assessment by the department under this
4 chapter may appeal the citation and notice of assessment to the
5 director of the department by filing a notice of appeal with the
6 director within 30 days of the department's issuance of the citation
7 and notice of assessment. A citation and notice of assessment not
8 appealed within 30 days is final and binding, and not subject to
9 further appeal.

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

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

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

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

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

36 NEW SECTION. **Sec. 10.** LABOR AND INDUSTRIES—ENFORCEMENT OF

37 AMOUNTS DUE. (1) Employers may not impermissibly withhold any amounts
38 due to the employee related to the employer's obligations under
39 section 3 of this act. If any employee files a complaint with the

1 department alleging that the employer impermissibly withheld any
2 amounts due to the employee related to the employer's obligations
3 under section 3 of this act, the department shall investigate and
4 otherwise enforce the complaint as an alleged violation of a wage
5 payment requirement, as defined in RCW 49.48.082.

6 (2) During an investigation, if the department discovers
7 information suggesting additional violations of impermissibly
8 withheld amounts due to the employees related to the employer's
9 obligations under section 3 of this act, the department may
10 investigate and take appropriate enforcement action without any
11 additional complaint. The department may also initiate an
12 investigation on behalf of one or more employees for any such
13 violation when the director otherwise has reason to believe that a
14 violation has occurred or will occur.

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

21 (4) The department may, for the purposes of enforcing this
22 section, issue subpoenas to compel the attendance of witnesses or
23 parties and the production of documents, administer oaths and examine
24 witnesses under oath, take depositions, and seek affidavits or other
25 verifications. The department may require the employer perform a
26 self-audit of any records. The results or conclusions of the self-
27 audit must be provided to the department within a reasonable time.
28 The department must specify the timelines in the self-audit request.
29 The records examined by the employer in order to perform the self-
30 audit must be made available to the department upon request.

31 (5) Any citation or determination of compliance issued under this
32 section is subject to RCW 49.48.083, 49.48.084, 49.48.085, and
33 49.48.086.

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

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

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

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

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

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

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

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

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

35 (i) Specifically identifying the information that is to be
36 disclosed;

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

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

4 (iv) Indicating all parties who will receive the information
5 disclosed.

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

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

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

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

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

37 (c) The misuse or unauthorized release of records or information
38 deemed private and confidential under this chapter by any private
39 person, governmental agency, or organization will subject the person,
40 governmental agency, or organization to a civil penalty up to \$20,000

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

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

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

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

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

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

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

30 (5) Any interest incurred by the account will be retained within
31 the account.

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

35 (2)(a) Moneys in the account consist of moneys received from
36 individual participants and participating employers pursuant to
37 automatic payroll deductions and contributions to savings made under
38 this chapter. The governing board shall determine how the account

1 operates, provided that the account is operated so that the
2 individual accounts established under the program meet the
3 requirements for IRAs under the internal revenue code.

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

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

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

13 **PART II**

14 **RETIREMENT MARKETPLACE**

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

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

19 The definitions in this section apply throughout this subchapter
20 unless the context clearly requires otherwise.

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

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

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

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

34 ~~((("myRA" means the myRA retirement program administered by
35 the United States department of the treasury that is available to all
36 employers and employees with no fees or no minimum contribution~~

1 ~~requirements. A myRA is a Roth IRA option and investments in these~~
2 ~~accounts are backed by the United States department of the treasury.~~

3 ~~(6))~~ (6) "Participating employer" means any eligible employer with
4 employees enrolled in an approved plan offered through the Washington
5 small business retirement marketplace who chooses to participate in
6 the marketplace and offers approved plans to employees for voluntary
7 enrollment.

8 ~~((7))~~ (6) "Private sector financial services firms" or
9 "financial services firms" mean persons or entities licensed or
10 holding a certificate of authority and in good standing by either the
11 department of financial institutions or the office of the insurance
12 commissioner and meeting all federal laws and regulations to offer
13 retirement plans.

14 ~~((8))~~ (7) "Qualified employee" means those workers who are
15 defined by the federal internal revenue service to be eligible to
16 participate in a specific qualified plan.

17 ~~((9))~~ (8) "Target date or other similar fund" means a hybrid
18 mutual fund that automatically resets the asset mix of stocks, bonds,
19 and cash equivalents in its portfolio according to a selected time
20 frame that is appropriate for a particular investor. A target date is
21 structured to address a projected retirement date.

22 ~~((10))~~ (9) "Washington small business retirement marketplace"
23 or "marketplace" means the retirement savings program created to
24 connect eligible employers and their employees with approved plans to
25 increase retirement savings.

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

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

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

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

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

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

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

16 (i) That the private sector financial services firm offering the
17 plan meets the ~~((requirements of))~~ definition in RCW
18 43.330.732 ~~((7))~~; and

19 (ii) That the plan meets the requirements of this section
20 excluding subsection (9) of this section which is subject to federal
21 laws and regulations.

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

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

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

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

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

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

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

16 (12) Participation in the Washington small business retirement
17 marketplace is voluntary for both eligible employers and qualified
18 employees.

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

21 **PART III**

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

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

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

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

34 (3) The investment income account may be utilized for the payment
35 of purchased banking services on behalf of treasurer's trust funds
36 including, but not limited to, depository, safekeeping, and
37 disbursement functions for the state treasurer or affected state
38 agencies. The investment income account is subject in all respects to

1 chapter 43.88 RCW, but no appropriation is required for payments to
2 financial institutions. Payments must occur prior to distribution of
3 earnings set forth in subsection (4) of this section.

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

7 (b) The following accounts and funds must receive their
8 proportionate share of earnings based upon each account's or fund's
9 average daily balance for the period: The 24/7 sobriety account, the
10 Washington promise scholarship account, the Gina Grant Bull memorial
11 legislative page scholarship account, the Rosa Franklin legislative
12 internship program scholarship account, the Washington advanced
13 college tuition payment program account, the Washington college
14 savings program account, the accessible communities account, the
15 Washington achieving a better life experience program account, the
16 Washington career and college pathways innovation challenge program
17 account, the community and technical college innovation account, the
18 agricultural local fund, the American Indian scholarship endowment
19 fund, the behavioral health loan repayment program account, the Billy
20 Frank Jr. national statuary hall collection fund, the foster care
21 scholarship endowment fund, the foster care endowed scholarship trust
22 fund, the contract harvesting revolving account, the Washington state
23 combined fund drive account, the commemorative works account, the
24 county 911 excise tax account, the county road administration board
25 emergency loan account, the toll collection account, the
26 developmental disabilities endowment trust fund, the energy account,
27 the energy facility site evaluation council account, the fair fund,
28 the family and medical leave insurance account, the fish and wildlife
29 federal lands revolving account, the natural resources federal lands
30 revolving account, the food animal veterinarian conditional
31 scholarship account, the forest health revolving account, the fruit
32 and vegetable inspection account, the educator conditional
33 scholarship account, the game farm alternative account, the GET ready
34 for math and science scholarship account, the Washington global
35 health technologies and product development account, the grain
36 inspection revolving fund, the Washington history day account, the
37 industrial insurance rainy day fund, the juvenile accountability
38 incentive account, the law enforcement officers' and firefighters'
39 plan 2 expense fund, the local tourism promotion account, the low-
40 income home rehabilitation account, the medication for people living

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

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

38 (d) Any state agency that has independent authority over accounts
39 or funds not statutorily required to be held in the custody of the
40 state treasurer that deposits funds into a fund or account in the

1 custody of the state treasurer pursuant to an agreement with the
2 office of the state treasurer shall receive its proportionate share
3 of earnings based upon each account's or fund's average daily balance
4 for the period.

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

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

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

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

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

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

30 (b) The following accounts and funds must receive their
31 proportionate share of earnings based upon each account's or fund's
32 average daily balance for the period: The 24/7 sobriety account, the
33 Washington promise scholarship account, the Gina Grant Bull memorial
34 legislative page scholarship account, the Rosa Franklin legislative
35 internship program scholarship account, the Washington advanced
36 college tuition payment program account, the Washington college
37 savings program account, the accessible communities account, the
38 Washington achieving a better life experience program account, the
39 Washington career and college pathways innovation challenge program

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

1 Millersylvania park trust fund, the public employees' and retirees'
2 insurance reserve fund, the school employees' benefits board
3 insurance reserve fund, the public employees' and retirees' insurance
4 account, the school employees' insurance account, the long-term
5 services and supports trust account, the radiation perpetual
6 maintenance fund, the Indian health improvement reinvestment account,
7 the department of licensing tuition recovery trust fund, the student
8 achievement council tuition recovery trust fund, the tuition recovery
9 trust fund, the industrial insurance premium refund account, the
10 mobile home park relocation fund, the natural resources deposit fund,
11 the Washington state health insurance pool account, the federal
12 forest revolving account, the Washington saves administrative
13 treasury trust account, and the library operations account.

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

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

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

31 **PART IV**
32 **MISCELLANEOUS**

33 NEW SECTION. **Sec. 19.** Section 17 of this act expires July 1,
34 2030.

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

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

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

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

--- END ---