
SENATE BILL 5740

State of Washington

66th Legislature

2019 Regular Session

By Senators Mullet and Hobbs

1 AN ACT Relating to creating the secure choice retirement savings
2 program; amending RCW 43.330.732, 43.330.735, and 30B.04.040;
3 reenacting and amending RCW 43.79A.040; adding new sections to
4 chapter 43.330 RCW; creating a new section; decodifying RCW
5 43.330.730; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** This act may be known and cited as the
8 secure choice retirement savings program act.

9 NEW SECTION. **Sec. 2.** The legislature finds: That large numbers
10 of households in this state have no or inadequate retirement savings
11 and many of those households do not have access to any savings plan
12 at work; that this lack of retirement savings and coverage is more
13 prevalent among low-income households; and that it is well-
14 established that most workers will save for retirement if they are
15 offered a workplace savings program using an opt-out approach.
16 Washington state is deeply concerned about the retirement prospects
17 of its citizens and the strain that large numbers of ill-prepared
18 retirees may impose on taxpayer-financed elderly assistance programs
19 for housing, food, medical care, and other necessities. Accordingly,
20 this act will facilitate voluntary retirement savings by workers in

1 this state by establishing an IRA savings program with automatic
2 enrollment ("auto-IRA") and requiring employers in this state that do
3 not offer a retirement plan to make the program available to their
4 employees.

5 NEW SECTION. **Sec. 3.** The definitions in this section apply
6 throughout sections 2 through 10 of this act unless the context
7 clearly requires otherwise.

8 (1) "Administrative fund" means the secure choice retirement
9 savings administrative fund established under section 7 of this act.

10 (2) "Compensation" means compensation within the meaning of
11 section 219(f)(1) of the internal revenue code that is received by a
12 covered employee from a covered employer.

13 (3) "Contribution rate" means the percentage of a covered
14 employee's compensation that is withheld from his or her compensation
15 and paid to the IRA established for the covered employee under the
16 program.

17 (4) "Covered employee" means any individual who is twenty-one
18 years of age or older, who is employed by a covered employer, and who
19 has compensation that is allocable to the state. For purposes of the
20 investment, withdrawal, transfer, rollover, or other distribution of
21 an IRA, the term covered employee also includes the beneficiary of a
22 deceased covered employee and an "alternate payee" under state
23 domestic relations law.

24 (5) "Covered employer" means an employer that either:

25 (a) Satisfies both of the following requirements:

26 (i) Has been in business for at least two years; and

27 (ii) Has not sponsored, maintained, or contributed to a
28 retirement plan under sections 401(a), 401(k), 403(a), 403(b),
29 408(k), or 408(p) of the internal revenue code at any time during the
30 preceding two calendar years and does not currently sponsor,
31 maintain, or contribute to a retirement plan; or

32 (b) Elects to be a covered employer if and as permitted in
33 accordance with rules and procedures established by the director.

34 (6) "Director" means the director of the department of commerce.

35 (7) "Employer" means a person or entity engaged in a business,
36 profession, trade, or other enterprise in the state, whether for
37 profit or not for profit, that employs one or more individuals in the
38 state; provided that a federal or state entity, agency, or

1 instrumentality, or any political subdivision thereof, is not an
2 employer.

3 (8) "Internal revenue code" means the federal internal revenue
4 code of 1986, as amended.

5 (9) "Investment advisor" means:

6 (a) An investment advisor registered under the federal investment
7 advisers act of 1940; or

8 (b) A bank or other institution exempt from registration under
9 the federal investment advisers act of 1940.

10 (10) "Investment fund" means each investment portfolio
11 established by the director within the trust for investment purposes.

12 (11) "IRA" means either an individual retirement account or
13 individual retirement annuity established under section 408 or 408A
14 of the internal revenue code.

15 (12) "Program" means the secure choice retirement savings program
16 established under sections 2 through 10 of this act.

17 (13) "Trust" means the IRA retirement trust or annuity contract
18 established under section 8 of this act.

19 (14) "Trustee" means the trustee of the trust, including an
20 insurance company issuing an annuity contract, selected by the
21 director under section 8 of this act.

22 NEW SECTION. **Sec. 4.** (1) The director has the following powers
23 and duties:

24 (a) To design, establish, and operate the program in accordance
25 with the requirements set forth in sections 2 through 10 of this act.

26 (b) To collect fees to defray the costs of administering the
27 program.

28 (c) To enter into contracts necessary or desirable for the
29 establishment and administration of the program.

30 (d) To hire, retain, and terminate other state or nonstate
31 entities as the director deems necessary or desirable for all or part
32 of the services necessary for the management of the program,
33 including, but not limited to, consultants, investment advisors,
34 trustees, custodians, insurance companies, recordkeepers,
35 administrators, actuaries, counsel, auditors, and other
36 professionals; provided that each service provider must be authorized
37 to do business in this state.

38 (e) To determine the type or types of IRAs to be offered, the
39 default contribution rate and automatic escalation rate.

1 (f) To employ a program director and such other individuals as
2 the director determines to be necessary or desirable to administer
3 the program and the administrative fund.

4 (g) To develop and implement an outreach plan to gain input and
5 disseminate information regarding the program and retirement and
6 financial education in general, to employees, employers, and other
7 constituents in the state.

8 (h) To determine the number of days by which an eligible employer
9 must make the program available to a covered employee upon first
10 becoming an eligible employer or covered employee.

11 (i) To adopt rules and procedures for the establishment and
12 operation of the program and to take such other actions necessary or
13 desirable to establish and operate the program in accordance with
14 sections 2 through 10 of this act.

15 (2) The director shall use the following principles in the design
16 and operation of the program:

17 (a) Operate with low costs but sufficient to ensure that the
18 program is sustainable;

19 (b) Structure the program so that covered employees are
20 automatically enrolled and covered employer participation is
21 required;

22 (c) Ensure that the program does not conflict with or be
23 preempted by federal law, including the employee retirement income
24 security act of 1974;

25 (d) Provide customer service processes to any and all pertinent
26 persons and disseminate program information to covered employers and
27 covered employees;

28 (e) Monitor the investment advisor's financial management
29 policies, processes, and performance.

30 (3) Other state agencies must provide appropriate and reasonable
31 assistance to the director as needed, including gathering data and
32 information, in order for the director to carry out the purpose of
33 sections 2 through 10 of this act.

34 (4) The director shall not impose any obligations on the state,
35 nor may it pledge the credit of the state.

36 (5) The director, in consultation with the state investment board
37 and the department of financial institutions, has discretion to
38 establish and maintain the program by: Contracting with another state
39 to use that state's auto-IRA program, partnering with one or more
40 states to create a joint auto-IRA program that includes the program,

1 or forming a consortium with one or more other states in which
2 certain aspects of each state's program are combined for
3 administrative convenience and efficiency, provided that in any such
4 case, the auto-IRA program used, the joint program, or the consortium
5 otherwise satisfies the requirements of this chapter.

6 NEW SECTION. **Sec. 5.** (1) The director, the trustee, and each
7 investment adviser or other person which has control of the assets of
8 the trust shall be a fiduciary with respect to the trust and IRAs
9 established and maintained under the program.

10 (2) Each covered employer is required to provide covered
11 employees with such information as the director directs. No employer
12 acting as such is a fiduciary with respect to the trust or an IRA or
13 has fiduciary responsibilities under sections 2 through 10 of this
14 act.

15 (3) Each fiduciary shall discharge its duties with respect to the
16 program solely in the interests of covered employees and with the
17 care, skill, prudence, and diligence under the circumstances then
18 prevailing that a prudent person acting in a like capacity and
19 familiar with those matters would use in the conduct of an enterprise
20 of like character and aims.

21 NEW SECTION. **Sec. 6.** The secure choice retirement savings
22 program must be designed, established, and operated in accordance
23 with the following:

24 (1) Each covered employer is required to offer to each covered
25 employee an opportunity to contribute to an IRA established under the
26 program for the benefit of the covered employee through withholding
27 from his or her compensation. No employer is permitted to contribute
28 to the program or to endorse or otherwise promote the program.

29 (2) Unless the covered employee chooses otherwise, he or she
30 shall be automatically enrolled in the program and contributions
31 shall be withheld from such covered employee's compensation at a rate
32 set by the director unless the covered employee elects not to
33 contribute or to contribute at a different rate.

34 (3) The contribution rate of each covered employee shall be
35 increased at such rate and at such intervals as from time to time
36 established by the director, unless the covered employee elects not
37 to have such automatic increases apply.

1 (4) The IRAs are intended to qualify for favorable federal income
2 tax treatment under section 408 or 408A of the internal revenue code.

3 (5) The director may establish intervals after which a covered
4 employee must reaffirm elections, including opt-out elections, with
5 regard to participation or escalation.

6 (6) Each covered employer shall deposit covered employees'
7 withheld contributions under the program with the trustee in such
8 manner as is determined by the director, provided that the employer
9 shall deliver the amounts withheld to the trustee in good order
10 within ten business days after the date such amounts otherwise would
11 have been paid to the covered employee.

12 (7) The director shall determine the rules and procedures for
13 withdrawals, distributions, transfers, and rollovers of IRAs and for
14 the designation of IRA beneficiaries.

15 (8) The director shall report annually to the governor and the
16 legislature outlining the director's activities and the program's
17 operations.

18 (9) The director shall cause to be furnished to each covered
19 employer:

20 (a) Information regarding the program;

21 (b) Required disclosures to be furnished to covered employees.

22 Such disclosures must include:

23 (i) A description of the benefits and risks associated with
24 making contributions under the program;

25 (ii) Instructions about how to obtain additional information
26 about the program;

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

31 (iv) A statement that covered employees seeking financial advice
32 should contact their own financial advisors and that covered
33 employers are not in a position to provide financial advice and that
34 covered employers are not liable for decisions covered employees make
35 under sections 2 through 10 of this act;

36 (v) A statement that the program is not an employer-sponsored
37 retirement plan;

38 (vi) A statement that neither the program nor the covered
39 employee's IRA established under the program is guaranteed by the
40 state;

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

12 (c) Information, forms, and instructions to be furnished to
13 covered employees at such times as the director determines that
14 provide the covered employee with the procedures for:

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

20 (ii) Making an investment election with respect to the covered
21 employee's IRA established under the program, including a description
22 of the default investment fund;

23 (iii) Making transfers, rollovers, withdrawals, and other
24 distributions from the covered employee's IRA.

25 (10) Each covered employer shall deliver or facilitate the
26 delivery of the items set forth in subsection (9)(b) and (c) of this
27 section to each covered employee at such time and in such manner as
28 determined by the director.

29 (11) The program must be designed and operated in a manner that
30 will cause it not to be an employee benefit plan within the meaning
31 of section 3(3) of the employee retirement income security act of
32 1974.

33 NEW SECTION. **Sec. 7.** (1) The secure choice retirement savings
34 administrative fund is hereby established in the custody of the state
35 treasurer as a nonappropriated account separate and apart from the
36 trust. The director shall use moneys in the administrative fund to
37 pay for administrative expenses it incurs in the performance of its
38 duties under sections 2 through 10 of this act. The administrative
39 fund may receive any grants or other moneys designated for the

1 administrative fund from the state, or any unit of federal or local
2 government, or any other person. Any interest earnings that are
3 attributable to moneys in the administrative fund must be deposited
4 into the administrative fund. Only the director may authorize
5 expenditures from the account. The account is subject to allotment
6 procedures under chapter 43.88 RCW, but an appropriation is not
7 required for expenditures.

8 (2) The account is authorized to maintain a cash deficit in the
9 account for a period no more than five fiscal years to defray its
10 initial program administration costs. By January 1, 2020, the
11 governing body shall establish a program administration spending plan
12 and a fee schedule to discharge any projected cash deficit to the
13 account. The legislature may make appropriations into the account for
14 the purpose of reducing program administration costs.

15 NEW SECTION. **Sec. 8.** There is hereby created as an
16 instrumentality of the state a trust to be known as the secure choice
17 retirement savings trust.

18 (1) The director shall appoint an institution qualified to act as
19 trustee of IRA trusts or insurance company issuing annuity contracts
20 under section 408 of the internal revenue code and licensed to do
21 business in the state to act as trustee.

22 (2) The assets of IRAs established for covered employees must be
23 allocated to the trust and combined for investment purposes. Trust
24 assets must be managed and administered for the exclusive purposes of
25 providing benefits to covered employees and defraying reasonable
26 expenses of administering and maintaining, and managing investments,
27 of the IRAs and the trust, including the expenses of the director
28 under section 4 of this act.

29 (3) The director shall establish within the trust one or more
30 investment funds, each pursuing an investment strategy and policy
31 established by the director. The underlying investments of each
32 investment fund shall be diversified, to the extent the director
33 determines to be appropriate, so as to minimize the risk of large
34 losses under the circumstances. The director may, at any time and
35 from time to time, add, replace, or remove any investment fund.

36 (4) The director may allow covered employees to allocate assets
37 of their IRAs among such investment funds and in such case, the
38 director also may designate an investment fund as a default

1 investment for the IRAs of covered employees who do not make an
2 investment choice.

3 (5) Subject to subsection (6) of this section, the director, in
4 consultation with such third-party professional investment advisers,
5 managers, or consultants as it may retain, shall select the
6 underlying investments of each investment fund. Such underlying
7 investments may include, without limitation, shares of mutual funds
8 and exchange-traded funds, publicly traded equity, and fixed-income
9 securities, and other investments available for investment by the
10 trust. No investment fund may invest in any bond, debt instrument, or
11 other security issued by this state.

12 (6) The director may, in its discretion, retain an investment
13 adviser to select and manage the investments of an investment fund on
14 a discretionary basis, subject to the director's ongoing review and
15 oversight.

16 (7) The trustee is subject to directions of the director under
17 subsection (5) of this section or an investment adviser under
18 subsection (6) of this section and otherwise has no responsibility
19 for the selection, retention, or disposition of trust investments or
20 assets.

21 (8) The assets of the trust must at all times be preserved,
22 invested, and expended solely for the purposes of the trust and no
23 property rights therein shall exist in favor of the state or any
24 covered employer. Trust assets may not be transferred or used by the
25 state for any purposes other than the purposes of the trust or
26 funding the expenses of operating the program, including the expenses
27 of the director. Amounts deposited with the trustee are not property
28 of the state and may not be commingled with state funds and the state
29 has no claim to or against, or interest in, the trust assets.

30 (9) The assets of the trust shall at all times be held separate
31 and apart from the assets of the state. None of the state, the
32 program, the director, nor any employer may guaranty any investment,
33 rate of return, or interest on amounts held in the trust, an
34 investment fund, or any IRA. None of the state, the program, the
35 director, or any employer is liable for any losses incurred by trust
36 investments or otherwise by any covered employee or other person as a
37 result of participating in the program.

38 (10) The provisions of chapter 21.20 RCW do not apply to the
39 trust, any investment fund, or any interest held by an IRA in the
40 trust or such investment fund.

1 (11) The trust is authorized to engage in trust business under
2 Title 30B RCW and is exempt from the requirement to obtain a
3 certificate of authority from the department of financial
4 institutions under Title 30B RCW.

5 (12) If the director determines to exercise his or her discretion
6 under section 4(5) of this act to establish the program by using
7 another state's auto-IRA program, establishing a joint program, or a
8 consortium with one or more other states, then the trust may be
9 established by adopting the trust established under such other
10 state's program or as a master trust or similar arrangement with such
11 other states, provided that such trust, master trust, or similar
12 arrangement otherwise satisfies the requirements of this section.

13 NEW SECTION. **Sec. 9.** (1) The department of revenue has the
14 power and duty to ensure employer compliance with section 6 of this
15 act, as part of its existing investigation and audit functions.

16 (2) Beginning June 30, 2021, each covered employer that, without
17 good cause, fails to allow its covered employees to participate in
18 the secure choice retirement savings program pursuant to section 6 of
19 this act, on or before one-hundred eighty days after service of
20 notice by the department of revenue, shall pay a penalty of two
21 hundred fifty dollars if noncompliance extends one-hundred eighty
22 days or more after the notice, and if found to be in noncompliance
23 one hundred eighty days or more after the notice, an additional
24 penalty of five hundred dollars.

25 NEW SECTION. **Sec. 10.** The director may establish a pilot
26 program for covered employers to auto enroll employees into an IRA by
27 January 1, 2020. The director may also provide for a staggered
28 rollout of the program so that covered employers are initially
29 required to offer the program to covered employees in stages based on
30 employee headcount or such other criteria as may be established by
31 the director.

32 NEW SECTION. **Sec. 11.** RCW 43.330.730 (Finding—2015 c 296) is
33 decodified.

34 **Sec. 12.** RCW 43.330.732 and 2015 c 296 s 2 are each amended to
35 read as follows:

1 The definitions in this section apply throughout this subchapter
2 unless the context clearly requires otherwise.

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

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

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

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

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

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

26 (~~(7))~~ (6) "Private sector financial services firms" or
27 "financial services firms" mean persons or entities licensed or
28 holding a certificate of authority and in good standing by either the
29 department of financial institutions or the office of the insurance
30 commissioner and meeting all federal laws and regulations to offer
31 retirement plans.

32 (~~(8))~~ (7) "Qualified employee" means those workers who are
33 defined by the federal internal revenue service to be eligible to
34 participate in a specific qualified plan.

35 (~~(9))~~ (8) "Target date or other similar fund" means a hybrid
36 mutual fund that automatically resets the asset mix of stocks, bonds,
37 and cash equivalents in its portfolio according to a selected time
38 frame that is appropriate for a particular investor. A target date is
39 structured to address a projected retirement date.

1 (~~(10)~~) (9) "Washington small business retirement marketplace"
2 or "marketplace" means the retirement savings program created to
3 connect eligible employers and their employees with approved plans to
4 increase retirement savings.

5 **Sec. 13.** RCW 43.330.735 and 2017 c 69 s 1 are each amended to
6 read as follows:

7 (1) The Washington small business retirement marketplace is
8 created.

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

12 (3) The director shall consult with the Washington state
13 department of retirement systems, the Washington state investment
14 board, and the department of financial institutions in designing and
15 managing the marketplace.

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

19 (5) A range of investment options must be provided to meet the
20 needs of investors with various levels of risk tolerance and various
21 ages. The director must approve a diverse array of private retirement
22 plan options that are available to employers on a voluntary basis,
23 including but not limited to life insurance plans that are designed
24 for retirement purposes, and plans for eligible employer
25 participation such as: (a) A SIMPLE IRA-type plan that provides for
26 employer contributions to participating enrollee accounts; and (b) a
27 payroll deduction individual retirement account type plan or
28 workplace-based individual retirement accounts open to all workers in
29 which the employer does not contribute to the employees' account.

30 (6) (a) Prior to approving a plan to be offered on the
31 marketplace, the department must receive verification from the
32 department of financial institutions or the office of the insurance
33 commissioner:

34 (i) That the private sector financial services firm offering the
35 plan meets the requirements of RCW 43.330.732(~~(7)~~) (6); and

36 (ii) That the plan meets the requirements of this section
37 excluding subsection (9) of this section which is subject to federal
38 laws and regulations.

1 (b) If the plan includes either life insurance or annuity
2 products, or both, the office of the insurance commissioner may
3 request that the department of financial institutions conduct the
4 plan review as provided in (a)(ii) of this subsection prior to
5 submitting its verification to the department.

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

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

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

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

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

25 (11) Financial services firms selected by the department to offer
26 approved plans on the marketplace may not charge the participating
27 employer an administrative fee and may not charge enrollees more than
28 one hundred basis points in total annual fees and must provide
29 information about their product's historical investment performance.
30 Financial services firms may charge enrollees a de minimis fee for
31 new and/or low balance accounts in amounts negotiated and agreed upon
32 by the department and financial services firms. The director shall
33 limit plans to those with total fees the director considers
34 reasonable based on all the facts and circumstances.

35 (12) Participation in the Washington small business retirement
36 marketplace is voluntary for both eligible employers and qualified
37 employees.

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

1 **Sec. 14.** RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and
2 2018 c 127 s 6 are each reenacted and amended to read as follows:

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

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

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

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

22 (b) The following accounts and funds must receive their
23 proportionate share of earnings based upon each account's or fund's
24 average daily balance for the period: The 24/7 sobriety account, the
25 Washington promise scholarship account, the Gina Grant Bull memorial
26 legislative page scholarship account, the Washington advanced college
27 tuition payment program account, the Washington college savings
28 program account, the accessible communities account, the Washington
29 achieving a better life experience program account, the community and
30 technical college innovation account, the agricultural local fund,
31 the American Indian scholarship endowment fund, the foster care
32 scholarship endowment fund, the foster care endowed scholarship trust
33 fund, the contract harvesting revolving account, the Washington state
34 combined fund drive account, the commemorative works account, the
35 county enhanced 911 excise tax account, the toll collection account,
36 the developmental disabilities endowment trust fund, the energy
37 account, the fair fund, the family and medical leave insurance
38 account, the fish and wildlife federal lands revolving account, the
39 natural resources federal lands revolving account, the food animal
40 veterinarian conditional scholarship account, the forest health

1 revolving account, the fruit and vegetable inspection account, the
2 future teachers conditional scholarship account, the game farm
3 alternative account, the GET ready for math and science scholarship
4 account, the Washington global health technologies and product
5 development account, the grain inspection revolving fund, the
6 Washington history day account, the industrial insurance rainy day
7 fund, the juvenile accountability incentive account, the law
8 enforcement officers' and firefighters' plan 2 expense fund, the
9 local tourism promotion account, the low-income home rehabilitation
10 revolving loan program account, the multiagency permitting team
11 account, the northeast Washington wolf-livestock management account,
12 the pilotage account, the produce railcar pool account, the regional
13 transportation investment district account, the rural rehabilitation
14 account, the Washington sexual assault kit account, the stadium and
15 exhibition center account, the youth athletic facility account, the
16 self-insurance revolving fund, the children's trust fund, the
17 Washington horse racing commission Washington bred owners' bonus fund
18 and breeder awards account, the Washington horse racing commission
19 class C purse fund account, the individual development account
20 program account, the Washington horse racing commission operating
21 account, the life sciences discovery fund, the Washington state
22 heritage center account, the reduced cigarette ignition propensity
23 account, the center for childhood deafness and hearing loss account,
24 the school for the blind account, the Millersylvania park trust fund,
25 the public employees' and retirees' insurance reserve fund, the
26 school employees' benefits board insurance reserve fund, (~~(the)~~)
27 the public employees' and retirees' insurance account, (~~(the)~~) the
28 school employees' insurance account, the secure choice retirement
29 savings administrative fund, and the radiation perpetual maintenance
30 fund.

31 (c) The following accounts and funds must receive eighty percent
32 of their proportionate share of earnings based upon each account's or
33 fund's average daily balance for the period: The advanced right-of-
34 way 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. 15.** RCW 30B.04.040 and 2014 c 37 s 306 are each amended to
9 read as follows:

10 Notwithstanding any other provision of this title, a person is
11 exempt from the requirement of a certificate of authority or approval
12 under this title, or from regulation by the director pursuant to this
13 title, if the person is:

14 (1) An individual, sole proprietor, or general partnership or
15 joint venture composed of individuals;

16 (2) Engaging in business in this state (a) as a national banking
17 association or (b) as a federal mutual savings bank, federal stock
18 savings bank, or federal savings and loan association under authority
19 of the office of the comptroller of the currency;

20 (3) Acting in a manner otherwise authorized by law and within the
21 scope of authority as an agent of a trust institution with respect to
22 an activity which is not an unauthorized trust activity;

23 (4) Acting as a fiduciary solely by reason of being appointed by
24 a court to perform the duties of a trustee, guardian, conservator, or
25 receiver;

26 (5) While holding oneself out to the public as an attorney-at-
27 law, law firm, or limited license legal technician, performing a
28 service customarily performed as an attorney-at-law, law firm, or
29 limited license legal technician in a manner approved and authorized
30 by the supreme court of the state of Washington;

31 (6) Acting as an escrow agent pursuant to the escrow agent
32 registration act, chapter 18.44 RCW, or in one's capacity as an
33 authorized title agent under Title 48 RCW;

34 (7) Acting as trustee under a deed of trust delivered only as
35 security for the payment of money or for the performance of another
36 act;

37 (8) Receiving and distributing rents and proceeds of sale as a
38 licensed real estate broker on behalf of a principal in a manner
39 authorized by the Washington department of licensing;

1 (9) Engaging in a securities transaction or providing an
2 investment advisory service in the capacity of a licensed and
3 registered broker-dealer, investment advisor, or registered
4 representative thereof, provided the activity is regulated by the
5 department or the United States securities and exchange commission;

6 (10) Engaging in the sale and administration of an insurance
7 product by an insurance company or agent licensed by the office of
8 the insurance commissioner to the extent that the activity is
9 regulated by the office of the insurance commissioner;

10 (11) Acting as trustee under a voting trust as provided by
11 Washington state law;

12 (12) Acting as trustee by a public, private, or independent
13 institution of higher education or a university system authorized
14 under Washington state law, including its affiliated foundations or
15 corporations, with respect to endowment funds or other funds owned,
16 controlled, provided to, or otherwise made available to such
17 institution with respect to its educational or research purposes;

18 (13) Acting as a private trust or private trust company to the
19 extent exempt from regulation of the department as set forth in
20 chapter 30B.64 RCW; ((~~or~~))

21 (14) The trust created in section 8 of this act, or a trustee of
22 such trust; or

23 (15) Engaging in other activities expressly excluded from the
24 application of this title by rule of the director.

25 NEW SECTION. **Sec. 16.** Sections 2 through 10 of this act are
26 each added to chapter 43.330 RCW.

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