

REVITALIZING AMERICA

A LEGISLATIVE GUIDE TO RECOVERING FROM CORONAVIRUS



July 22, 2020

Dear Friends,

America is facing a crisis unlike any other—one that tests our healthcare, education, and economic infrastructure like never before. But as extraordinary as these challenges may be, there is no reason Americans cannot surmount them, if they remain true to the principles of liberty that have seen us through so many crises in the past.

Revitalizing our nation following the COVID-19 pandemic requires bold and innovative policy solutions that ensure Americans have the freedom they need to recover. That's why the Goldwater Institute has put together this legislative toolkit—our roadmap for recovery—which sets out practical policy recommendations in the following three areas to shape and hasten the nation's recovery from the coronavirus crisis:

- Economy
- Education
- Healthcare

While the coronavirus outbreak poses many trials for Americans, we have the tools necessary to overcome them. For years, the Goldwater Institute has developed and enacted policies to expand individual liberty and ensure that people can live freer, happier lives. Our Right to Try Act—today the law of the land—helps bring the right treatment to the right patient at the right time. Our Breaking Down Barriers to Work Act enables licensed workers to get to work more quickly when they move across state lines. And in the pages ahead, you'll read more about many other innovative policy solutions that can empower Americans to revive our economy, create new jobs, protect our health, educate our children, and revitalize our nation in the wake of this crisis.

I hope you find this toolkit useful as you create your state's recovery plan, and I urge you to reach out with questions you may have. Please contact Heather Curry, Goldwater's Director of Strategic Engagement, at hcurry@goldwaterinstitute.org if you have any questions. As always, we stand ready to assist you in transforming these recommendations into realities.

Sincerely,

Victor Riches
President and CEO
The Goldwater Institute



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ECONOMY



BREAK DOWN BARRIERS TO WORK

ISSUE OVERVIEW

Today, about a third of Americans—more than ever before—are required to get a government permission slip before they may work in the field of their choice. This isn't just a significant burden on their right to earn a living, but it also prevents them from earning a paycheck when they move from one state to another, because they are typically forced to go through the government permitting process all over again—a costly, time-consuming, and irrational barrier to work.

At the onset of the coronavirus pandemic, many states moved swiftly to waive licensing requirements for out-of-state healthcare workers and other occupations, recognizing that regulatory obstacles could truly mean the difference between life and death. The removal of these requirements ensured that out-of-state nurses and physicians were able to cross state lines quickly and provide quality care at a critical time. These waivers showed that many licensing restrictions hurt more than they help.

As we recover from the coronavirus crisis, eliminating duplicative licensing requirements will be crucial in providing needed healthcare services and empowering people to get to work.

POLICY RECOMMENDATION

Adopt the Breaking Down Barriers to Work Act, which reduces red tape and helps experienced, licensed professionals get to work faster. This Act universally recognizes out-of-state occupational licenses based on the training or testing requirements that a person has already completed. This allows professionals who already hold a license in good standing in one state to be approved to work quickly in their new home state. At a time when many Americans are out of work, states should reduce burdens on licensed workers and empower them to contribute their experience and expertise to their new communities. This policy can also help ensure there are adequate licensed medical professionals in a state in case of another crisis.

STORIES OF SUCCESS

In 2019, Arizona became the first state to adopt the Breaking Down Barriers to Work Act. It has proven wildly successful: More than 1,100 people were approved for licenses in the first six months that the law was in effect, in professions ranging from cosmetology to mechanical engineering. In the months following the passage of Arizona's law, more than 20 states introduced—and nearly a dozen state legislatures passed—variations of universal recognition. More states will revisit this reform when legislatures reconvene.

FISCAL CONSIDERATIONS

Because the Breaking Down Barriers to Work Act streamlines licensing processes, it is unsurprising that state fiscal notes reflect a zero net cost to the state. In fact, depending on the requirements of a particular profession, the savings to an individual could be thousands of dollars. As state economies look to recover from the coronavirus pandemic, the economic growth from removing redundant regulations and getting Americans to work faster should also result in higher tax revenue.

[VIEW MODEL LEGISLATION](#)

PROTECT HOME-BASED BUSINESSES

ISSUE OVERVIEW

Over the past few decades, technological advances have afforded entrepreneurs unprecedented opportunities to start businesses from their homes, allowing them to save money, maintain a flexible schedule, and realize their dreams of self-employment.

The vast majority of small businesses have always started out of someone's home, and many continue to operate that way for years. But the coronavirus crisis has made the ability to work from home even more important. Unfortunately, scores of outmoded zoning, licensing, and permitting requirements are impeding people's freedom to run a business from their home. Some cities even make operating a home-based business a crime, punishable by stiff financial penalties and even jail time, regardless of whether that business has any impact at all on the neighboring community. While local governments should protect neighborhoods against nuisances, they should not impose blanket prohibitions on home-based businesses. Such restrictions violate private property rights, hinder economic growth, and do little to address neighborhood problems.

POLICY RECOMMENDATION

Eliminate unnecessary local regulations that needlessly intrude on people's ability to work from home. The Home-Based Business Fairness Act allows local officials to target nuisances, ensure that buildings are safe, and prevent noise and traffic problems—but protects homeowners against lengthy, uncertain, and expensive licensing and permitting processes that prevent people from working from home instead of in a traditional office.

If a mother can teach her daughter to play the violin in her living room, it makes no sense for the government to penalize her for teaching someone else's daughter in the same living room for money. If it's legal to do your income taxes at your kitchen table, there's no reason an accountant should be barred from doing someone else's taxes in her home office (assuming she follows the rules of the profession). As long as they're not disrupting traffic or causing loud noises, there's no reason entrepreneurs shouldn't be free to sell things on the internet or repair furniture in the garage to help pay the bills.

EXAMPLES OF ABUSE

Cities from San Francisco to Phoenix routinely prohibit people from earning money by providing much-needed services from home, such as cutting hair, giving violin lessons, tutoring schoolchildren, teaching yoga, or doing people's taxes. Some cities even require artists to get permission from the government to work in at-home studios. A Springfield, Virginia, woman who ran an internet clothing sales business from her home was forced to shut down because local zoning doesn't permit "retail sales establishments" in homes—even if those sales only occur online. Many cities even prohibit home-based businesses from employing off-site nonresidents. Kim O'Neil, a resident of Chandler, Arizona, ran afoul of a similar restriction when she tried to run an unobtrusive home-based medical billing business that helped doctors and patients, and provided flexible jobs to a few women—only to be shut down by city officials because she employed people who didn't even work out of her house.

FISCAL CONSIDERATIONS

Eliminating or simplifying the permitting process should minimize costs associated with that bureaucracy. Economic growth resulting from a more sensible and streamlined process could also result in higher tax revenue from successful home-based businesses.

[VIEW MODEL LEGISLATION](#)

A background image showing a person's arm in a brown sweater and a hand typing on a laptop keyboard, suggesting a home office environment.

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THE VAST MAJORITY OF SMALL BUSINESSES HAVE ALWAYS STARTED OUT OF SOMEONE'S HOME. BUT THE CORONAVIRUS CRISIS HAS MADE THE ABILITY TO WORK FROM HOME EVEN MORE IMPORTANT.

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PROMOTE A FAIR PERMITTING PROCESS

ISSUE OVERVIEW

Economic recovery in the wake of the coronavirus crisis will require new and innovative business methods and the swift transition of capital to new models of industry. Perhaps the most obvious barriers to that transition are the many different types of licensing and permitting requirements state and local governments impose. To prevent unjust and crippling bureaucratic delays, we must ensure that licensing laws are written in objective language, include a specific deadline, and provide a meaningful opportunity for judicial review in cases where permits are wrongfully denied.

POLICY RECOMMENDATION

Require that when government imposes a requirement for a permit or a license, the criteria for the permit be clear and unambiguous, the timeline for the permit be specific, and that the applicant have a meaningful right to appeal a wrongful denial.

EXAMPLES OF ABUSE

Vague licensing requirements and delays in permitting are major barriers to job creation and to the opening of new businesses. Criteria for getting licenses or permits are also vaguely phrased much of the time. For example, in the city of Mesa, Arizona, residential building rules require that houses have “adequate design features to create visual variety and interest” and “create a distinctive and appealing community.” As desirable as “visual variety” might be, such subjective, aesthetic terms don’t give the kind of clear guidelines that the law should provide. Similarly vague rules often apply to occupational licenses. Louisiana, for instance, requires florists to be licensed, and to get a license, applicants must take a test where they are graded on their understanding of such artistic notions as the “harmony” and “effect” of flower arrangements. Baltimore prohibits food trucks from operating within 300 feet of a brick-and-mortar restaurant if they sell the “primarily same type of food product.” In some states, laws that require “good moral character”—without explaining what that means—can prevent people from getting their lives back on track for merely being *accused* of a misdemeanor, even if they’re never convicted.

The coronavirus pandemic makes it all the more important that licensing requirements be written in objective terms and provide specific deadlines. An April 2020 survey by the National Multifamily Housing Council found that over half of the respondents are experiencing construction delays due to the pandemic, and three-quarters of which were caused by delays in permitting. Countless communities across the country have posted warnings like the one in Prince George’s County, Maryland, which tells would-be business owners that they “may experience a delay in receiving the application” for a permit.

FISCAL CONSIDERATIONS

Requiring speedier approval of permit applications could conceivably cost more in the short run, but requiring objective criteria should also prevent burdensome and redundant bureaucratic processes in the long run, streamlining the process and costs for applicant and government alike. Economic growth resulting from a fairer and speedier process should also result in higher tax revenue from successful businesses.

[VIEW MODEL LEGISLATION](#)

ALLOW COMMUNITIES TO SUPPORT LOCAL BUSINESSES THROUGH CROWDFUNDING

ISSUE OVERVIEW

With all of the economic damage that coronavirus has caused, many Americans would like to do their part to help local businesses survive and thrive. But some of those businesses need new ways to raise capital besides small business loans. What if there were a way for local residents to invest small amounts of money in local businesses, outside of traditional channels?

There is: intrastate crowdfunding, which allows businesses to raise small sums from a large number of people, usually via an online platform. Until recently, businesses were required to comply with burdensome—and enormously expensive—federal securities regulations to engage in local funding, even at small dollar amounts. This meant that many small- and medium-sized businesses were denied a mechanism for raising capital that has long been available to larger businesses, which can afford the associated costs.

Enter crowdfunding, wherein intrastate residents can give small- to medium-sized amounts of money to a local business to help it grow. A company using an intrastate crowdfunding exemption can raise an aggregate amount between \$100,000 and \$4 million within one year. Depending on the jurisdiction, individual investors can contribute up to \$100,000 to a business through this method.

POLICY RECOMMENDATION

Open this simple funding mechanism to the business community.

According to the North American Securities Administration Association, state and federal securities laws require companies to register their securities unless they are exempt from regulation. This makes it complicated, expensive, and ultimately infeasible for many small- and medium-sized businesses to raise capital. Crowdfunding can bridge the gap. While businesses conducting crowdfunding are usually exempt from federal regulations, states must specifically exempt them from state requirements, too.

STORIES OF SUCCESS

By 2014, 13 states had adopted rules that allow for intrastate crowdfunding. By 2018, 35 states had done so. Consider the success of FK Frozen Custard, in California's Bay Area. For years, the company was food truck-only. Then in 2016, its owners decided to open a brick-and-mortar location. They set an initial crowdfunding goal of \$30,000 and ultimately wound up raising nearly \$37,000 to successfully open their new store.

FISCAL CONSIDERATIONS

None

[VIEW MODEL LEGISLATION](#)

ENSURE CONSUMERS GET ACCESS TO THE FOOD THEY NEED

ISSUE OVERVIEW

The coronavirus crisis, coupled with the regulatory burdens on food producers, has created the real possibility of food shortages throughout the United States. This risk is largely the result of a bottleneck created by food inspection requirements that can only be satisfied at a small number of facilities—too small to meet the shift in demand brought about by closures of restaurants or shifts to take-out service. Expanding the options for consumers will help ease that bottleneck, give consumers greater choices, and meet safety requirements both in times of crisis and in times of plenty. Allowing home-based food makers to sell directly to consumers, and freeing consumers to buy shares in livestock to be delivered directly upon slaughter (while still meeting safety requirements), will help keep food on Americans' tables and foster new businesses.

POLICY RECOMMENDATION

Adopt the Food Freedom Act, which facilitates farmers' markets, permits the sale of homemade foodstuffs, and allows consumers to buy direct from farms. Specifically, the Act lets people sell homemade foods at farmers' markets and specially designated sections in stores, allows the sale of "shares" in livestock—thereby enabling direct-to-consumer sales of meat—and permits the direct sale of poultry, eggs, rabbit, lamb, and farm-raised fish, so long as the sales are consistent with state law and the food is not involved in interstate commerce.

STORIES OF SUCCESS AND EXAMPLES OF ABUSE

Versions of this reform have been adopted in Maine and Wyoming, and scaled-back versions (called "cottage food laws") have been passed in California, Texas, and elsewhere. There have been no reported cases of foodborne illness from foods sold under these laws. The number of farmers' markets in Wyoming alone has increased by some 70% since the reform's adoption.

People sell or exchange homemade food all the time—whether it be tortillas in Texas or brownies in Wisconsin—but the practice is actually illegal in many states. Laws against safe, homemade food lead to arbitrary and sometimes crushing punishments against people who have done nothing unsafe. By contrast, when home-based food businesses are allowed to flourish, they offer a real opportunity for economic success and provide buyers with better food choices. Hannah Shaw of Black River Falls, Wisconsin, was threatened with jail time and \$10,000 in fines for selling cakes she made in her kitchen. When a trial judge found the punishment unconstitutional, she was free to advertise online and her business flourished. When California legalized (on a much smaller basis) certain homemade food sales, more than a thousand new businesses were started, including that of Mark Stambler, a baker whose business had been shut down after he placed an ad in the newspaper following a first-place win in the Los Angeles County Fair. When Texas passed its cottage food law, it gave birth to some 1,400 new businesses.

FISCAL CONSIDERATIONS

Economic growth resulting from increased sales should result in higher tax revenue. There will be no increased outlays by the state.

[VIEW MODEL LEGISLATION](#)

INCREASE DEDUCTIBLE CHARITABLE GIVING

ISSUE OVERVIEW

Charitable nongovernmental organizations (NGOs) and philanthropic nonprofits are key to disaster recovery and relief. In the context of today's coronavirus recovery efforts, grassroots and local-level responses rely heavily on charitable donations. Unfortunately, these donations have been declining for the past several years, especially in low- and middle-income circles. Declining donations make humanitarian organizations' responses more difficult, and in turn, increase reliance on government, meaning an inefficient return on taxpayer investment.

POLICY RECOMMENDATION

Establish or increase allowable state income tax deductions for charitable giving, and allow these deductions regardless of whether a taxpayer files the standard deduction. This decreases the tax burden on filers, who are better equipped than government to handle disaster and pandemic relief efforts, while empowering people to make philanthropic donations to the grassroots organizations they prefer and trust.

Increasing the maximum deduction especially benefits the state's middle- and lower-income filers. If a middle-income filer with an annual salary of \$50,000 can have a \$100 tax reduction, for example, then as a percent of income, this filer benefits more than a high-income earner. An increase in the maximum charitable deduction is a progressive tax reform that benefits the middle class the most.

STORIES OF SUCCESS

Charitable giving is estimated to decrease nearly \$21 billion per year due to the 2017 Tax Cuts and Jobs Act. Between late May 2018 and late May 2019, nationwide charitable deductions fell from over \$32 million to just over \$11 million, with corresponding dollar amounts falling from nearly \$150 billion to under \$92 billion. Allowing charitable deductions to be tacked on to the standard deduction could stop or reverse this trend.

Arizona passed a law in 2019 which allows up to 25% of a filer's charitable donations to be added to the standard deduction. This empowers taxpayers to give to charities—including those funding pandemic relief—regardless of whether or not they choose to itemize.

FISCAL CONSIDERATIONS

While tax credits and deductions can reduce total state revenues, and if crafted narrowly can cause distortions in the market, broad-based charitable tax credits like the one proposed here can actually produce a net financial benefit to state government and local organizations. As MIT economics professor Jonathan Gruber has [written](#), "a large number of studies" have shown that "for each 1% reduction in the relative price of charitable giving, the amount of giving rises by 1%." By contrast, \$1 of government spending on charitable causes "raises overall spending by [only] 30 to 90 cents. ... Thus, it appears that ... subsidizing private giving is a more efficient way of providing resources ... than direct spending."

[VIEW MODEL LEGISLATION](#)

MINIMIZE CRISIS-RELATED CRONYISM

ISSUE OVERVIEW

Passed in response to the coronavirus crisis, the federal Coronavirus Aid, Relief, and Economic Security ([CARES](#)) Act and related measures have authorized unprecedented levels of federal spending to be disbursed to public and private entities in all 50 states. Although government is required to disclose how it gives away this money to a *degree*, significant sums are at risk of being allocated in a more [opaque](#)—and arbitrary—fashion. To cite one example, the *Wall Street Journal* [reported](#) in April 2020 that the “Small Business Administration rejected multiple requests ... for detailed information about borrowers in the new Paycheck Protection Program, saying it needed to prioritize its effort to assist businesses.” With \$150 billion distributed to state and local governments under the Coronavirus Relief Fund alone—and few restrictions on how those funds should be disbursed—it is essential that government entities responsible for allocating public funds do so transparently and with reasonable controls to promote fairness, avoid fraud and waste, and ensure the expenditure of public funds achieves public purposes.

POLICY RECOMMENDATION

Require (within 60 days) the disclosure of any CARES Act funds distributed by a state or local government entity, including the amount—by recipient—and the criteria by which funding allocations were made. The expenditure of public funds should be for public purposes and accompanied by measures that avoid fraud and ensure a public purpose is accomplished.

STORIES OF SUCCESS

Many state and federal laws and grant provisions already require the disclosure of expenditure information. Even the [application](#) for the Governor’s Emergency Education Relief Fund (GEER) under the CARES Act requires states to “submit to the [U.S. Department of Education], within 45 days of receiving GEER funds, an initial report detailing the State’s process for awarding those funds to LEAs [school districts], IHEs [institutions of higher education], or other education-related entities ... and a description of the process and deliberations involved in formulating those criteria.”

Moreover, organizations like the Goldwater Institute have [demonstrated](#) that “gift clause” provisions in state constitutions can help ensure that taxpayer funds are not inappropriately spent in ways that fail to advance a public purpose.

FISCAL CONSIDERATIONS

The disclosure of funding should not materially increase state or local government costs.

[VIEW MODEL LEGISLATION](#)

ELIMINATE RESTRICTIONS ON RETROFITTING BUSINESSES FOR SAFETY

ISSUE OVERVIEW

Speeding economic recovery from coronavirus-related shutdowns will require eliminating barriers to economic growth. One way to accomplish this is to give businesses the needed flexibility to reconfigure their buildings and spaces to accommodate practices that have been changed because of the crisis. For instance, restaurants may find it necessary to reconfigure their kitchens to better protect workers, or they may need to reconfigure their dining rooms to provide better spacing between customers. Some may wish to add a walk-up window. Similarly, manufacturers may need to reconfigure assembly lines.

Whatever the case, individual businesses are in the best position to make these decisions. Virtually all of them have suffered economic setbacks due to the crisis. Now is the time to eliminate burdensome and restrictive approval processes for making needed changes. Not only will this speed up the process—thereby improving public safety—it will also reduce the cost of making changes. Government approvals should be as fast, streamlined, and inexpensive as possible.

POLICY RECOMMENDATION

State legislatures should pass legislation that requires cities and counties to dramatically streamline—or eliminate—approval processes for any building modifications that a business makes in order to (1) improve customer safety, (2) improve employee safety, or (3) modify operations to address changed circumstances in light of the pandemic (for instance, installing a walk-up ordering window).

STORIES OF SUCCESS

Tesla's modifications to its factories have been exemplary. For instance, after retrofitting its Gigafactory in Shanghai, China, the company reports that the factory "has seen smooth and healthy operations for the last three months." Tesla is now implementing similar modifications to its American factories, including adding partitions or barriers to separate work areas and minimizing employee interactions by positioning parts closer to where the task is completed on the line.

Likewise, the National Restaurant Association has released a [10-page guide](#) for its members to safely reopen. In addition to simple and obvious steps like sanitizing surfaces more frequently and requiring employees to wear face masks, the guide includes more expensive modifications such as spacing tables and booths by six feet, modifying waiting areas, expanding outdoor seating, and changing ingress and egress points. These steps can be costly, and government should get out of the way of any business seeking to implement them.

FISCAL CONSIDERATIONS

Streamlining or eliminating burdensome processes could result in local governments collecting fewer fees for permits, but fewer resources would be expended for processing applications. Moreover, economic growth generated from this policy could also result in higher tax revenue.

[VIEW MODEL LEGISLATION](#)

PROTECT THE RIGHT TO RENT HOMES TO OVERNIGHT GUESTS

ISSUE OVERVIEW

The right to own private property is a fundamental human right. It includes a homeowner's right to decide whether to let others stay in his or her home. Many property owners who open their homes to visitors use the rental income to pay for medical bills, mortgages, food, and other essentials. Particularly in times of crisis, home-sharing can provide a financial lifeline. Unfortunately, some cities and states willfully violate this right, placing unfair restrictions on how property can be used, often with a specific focus on short-term rentals. In some cases, these actions impose arbitrary searches on homeowners, discriminate against non-residents, and subject them to extreme punishment without fair warning or clear guidelines.

During the COVID-19 crisis, many states wisely chose not to prohibit short-term rentals, instead allowing responsible homeowners to provide clean, safe lodging options to first responders—as opposed to directing these caregivers to more densely populated hotels where social distancing might be more difficult to practice. Allowing homeowners to provide this safe alternative is an effective way to allow them to generate much-needed income while providing convenient lodging for medical personnel.

POLICY RECOMMENDATION

Adopt the Home-Sharing Act to protect the rights of responsible homeowners. This reform empowers communities to focus regulatory efforts on bad actors while ensuring that short-term rentals are not banned or unfairly targeted. In addition to the financial security that home-sharing can provide, the benefits extend outside of a home's property lines. The local spending that accompanies short-term rental visitors will be invaluable for economic recovery at the community level, particularly for restaurants and other businesses hard-hit by mandated closures. States should act to bolster private property rights while allowing communities and visitors to benefit from the positive effects of home-sharing.

STORIES OF SUCCESS

The Home-Sharing Act already protects essential private property rights in Arizona, Indiana, Nebraska, and Tennessee, and has been introduced in several other states. The Act prohibits local governments from banning home-sharing or subjecting property owners to needless and burdensome regulations. It protects the rights of homeowners to rent their property to overnight guests, while preserving city officials' authority to punish and prevent actual nuisances such as noise, traffic, and trash problems. Arizona's Home-Sharing Act meant the world to homeowner Glenn Odegard, who spent his own time and money restoring an abandoned home in the town of Jerome (and at the same time reducing neighborhood blight at no cost to taxpayers), only to have the city outlaw short-term rentals and threaten him with criminal penalties. The Home-Sharing Act restored his right to responsibly use his property and contribute to the local economy.

FISCAL CONSIDERATIONS

Home-sharing has long had a positive impact on local economies and state budgets. Online platforms have made home-sharing easier than ever, resulting in hundreds of millions of dollars in positive economic impact for state economies. By protecting the right of Americans to open their homes to visitors, the Act benefits local economies by generating spending by visitors, and improves state and local government revenues as a consequence. Further, cities can save time and money by focusing their enforcement actions on genuine nuisances instead of targeting law-abiding citizens.

[VIEW MODEL LEGISLATION](#)

A close-up photograph of a door handle. A metal ring is attached to the handle, and a keychain hangs from it. The keychain features a small, dark-colored house-shaped charm with a window cutout. The background is a blurred view of the door and the surrounding environment.

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**THE RIGHT TO OWN PRIVATE
PROPERTY IS A FUNDAMENTAL
HUMAN RIGHT.**

**IT INCLUDES THE RIGHT OF A
HOMEOWNER TO DECIDE WHETHER
TO LET OTHERS STAY IN
HIS OR HER HOME.**

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STOP POLICE FROM NEEDLESSLY SEIZING PROPERTY

ISSUE OVERVIEW

Due to the economic crisis caused by the coronavirus pandemic, states and cities are anticipating large budget shortfalls. If officials do not exercise fiscal restraint, they may be tempted to turn to civil asset forfeiture to make up budget shortfalls. Police and prosecutors around the country have a long history of using forfeited cars, cash, and other assets to fund their operations—despite the fact that many property owners who have their property forfeited are never convicted of, *or even tried for*, a crime. Fortunately, many states have reformed their civil forfeiture laws in recent years to better protect property owners and put the focus of forfeiture actions back on prosecuting actual crimes rather than “policing for profit.” The looming state and municipal budget crisis should not be used as an opportunity to reverse these reforms. On the contrary, now is the time to ensure that states that have not implemented these important protections adopt them.

POLICY RECOMMENDATION

Reform civil forfeiture laws and strengthen protections for private property owners.

EXAMPLES OF ABUSE

In 2016, a sheriff’s deputy in Muskogee, Oklahoma, pulled over a car for a broken taillight. During the stop, he discovered that the driver, Eh Wah, had approximately \$53,000 cash in the car. Eh explained that he was the manager of a Christian music group from Burma and had been touring the country playing in churches to raise money for their church back in Burma and for an orphanage in Thailand. Some of the money was even in envelopes marked “donation,” with the name of the orphanage on them. Despite this, the sheriff seized all the money and released Eh without charging him with any crime. The sheriff returned the money only after a front-page story about the case ran in the *Washington Times*.

In 2017, Phil Parhamovich was pulled over during a routine traffic stop in Wyoming. During the stop, deputies discovered he had \$91,800 cash in the car. Phil explained that it was his life savings. No drugs or any other indications of wrongdoing were found in the car. Under aggressive questioning, deputies convinced Phil to sign a roadside waiver “giving” the money to the Wyoming Division of Criminal Investigation. Phil was then issued a \$25 ticket for not wearing his seatbelt. He was never charged with any other crime. Only after Phil sued to get his money back, and after substantial media attention, did the deputies relent and return the cash.

FISCAL CONSIDERATIONS

There is no negative fiscal impact from maintaining current protections against civil forfeiture. Depending on current levels of abuse, reforms that seek to curb that abuse can carry fiscal implications. But nothing in these reforms stops law enforcement from using revenue collected from people who have been *convicted* of a crime.

[VIEW MODEL LEGISLATION](#)



EDUCATION



GIVE PARENTS MORE CHOICE IN EDUCATION

ISSUE OVERVIEW

Traditional public education is often poorly suited to meet the needs of individual students—whether they are gifted, have special needs, or simply do not fit into one-size-fits-all modes of instruction. As witnessed during the pandemic, many school systems have struggled to adapt to the learning needs and life circumstances of students, with some districts even suspending all instruction for all students because they could not guarantee equitable services for students with special needs or without internet access.

Given the failure of so many school systems to meet the needs of their students, it is perhaps no surprise that 40% of families surveyed in the midst of the coronavirus crisis stated they are now more likely to enroll their children in a homeschooling co-op or virtual school as a way to ensure their children receive an education that best fits their needs.

POLICY RECOMMENDATION

Implement, broaden, and/or accelerate access to education savings accounts (ESAs). ESAs take a portion of what a state would have spent on a student in a public school and instead deposit those funds into flexible spending accounts that parents can use to meet their children's individual educational needs, whether via tutoring, textbooks, private school tuition, special education therapies, online instruction, or at-home curricula. Especially during times in which school systems are being disrupted, ESAs can ensure that families have the resources, flexibility, and control necessary to continue supporting their children's learning.

In states that have already implemented ESAs, policymakers should require the expedited processing of new applications to ensure that families can more seamlessly transition to an ESA if the need arises. In states like Arizona, while statute requires new applications to be processed within 45 days, the vast majority of applications submitted in spring/summer are delayed well beyond this.

STORIES OF SUCCESS

Five states—Arizona, Tennessee, Mississippi, Florida, and North Carolina—have successfully implemented ESAs for special needs or other student groups most in need of educational flexibility, including students from D- and F-rated public schools, foster care, Native American reservations, and military families.

ESAs have found champions like one Arizona mother who [testified](#) in 2019 to legislators in support of her state's program: As a “former public school teacher, army veteran, special needs mom, and now an ESA parent ... having access to this incredible program has literally saved my special needs son and my family.”

FISCAL CONSIDERATIONS

ESAs generate fiscal savings for taxpayers. In Arizona, for example, the median (non-special needs) ESA award in FY 2019 cost roughly \$6,100, compared to over \$10,000 in per pupil spending in public schools. ESAs can also reduce budget pressures on school districts by serving high-need, high-cost special needs students, who—according to districts—[cost](#) more to educate than districts receive in funding.

[VIEW MODEL LEGISLATION](#)

PROTECT ONLINE CHARTER SCHOOLS

ISSUE OVERVIEW

As states across the country closed school campuses in response to the COVID-19 outbreak, several states also intentionally closed off students' remaining educational opportunities at online schools. The Oregon Department of Education, for example, [declared](#): "Virtual public charter schools may not enroll new students or withdraw existing students during the period of school closure." There was no health or safety rationale for doing so; this was done simply to protect enrollment levels at district schools. But it's wrong to deprive students of educational opportunities simply to serve the budgetary needs of education bureaucrats.

POLICY RECOMMENDATION

Prevent government entities from arbitrarily freezing online (charter) school operations or enrollment during the disruption or closure of physical school campuses when no reasonable health or safety rationale exists for doing so.

STORIES OF SUCCESS


In March 2020, Arizona Governor Doug Ducey issued an [executive order](#) prohibiting any county, city, or town from making "any order, rule, or regulation" that restricts any activity designated as an essential function, including "educational institutions" that operated online.

Looking elsewhere, the Success Academy charter school network has distinguished itself over the years by offering academic opportunities even to the most disadvantaged students in New York. While many districts struggled to develop learning plans amid campus closures, Success Academy's students achieved a 97% [attendance](#) rate in their first week after transitioning to remote learning, which featured "twice-daily phone debriefs with their teachers." In fact, so remarkable was the success of this high-quality charter's online instructional approach that it began [sharing](#) its remote learning plans with district superintendents and principals around the country during the coronavirus outbreak. Such innovation should be encouraged, not prevented.

FISCAL CONSIDERATIONS

Allowing the continued operation of online schools need not have a fiscal impact on state budgets. Depending on the structure of a particular state's school funding formula, students who transition to online charter schools can reduce overall taxpayer costs.

[VIEW MODEL LEGISLATION](#)



“
TRADITIONAL PUBLIC EDUCATION IS
OFTEN POORLY SUITED TO MEET THE
NEEDS OF INDIVIDUAL STUDENTS—
WHETHER THEY ARE GIFTED, HAVE
SPECIAL NEEDS, OR SIMPLY DO NOT
FIT INTO ONE-SIZE-FITS-ALL MODES
OF INSTRUCTION.
”

ENSURE SCHOOLS PROVIDE EDUCATIONAL SERVICES DURING SHUTDOWNS

ISSUE OVERVIEW

Early in the COVID-19 outbreak in the U.S., several school districts announced draconian policies to cease *all* student instruction. Rather than simply complying with mandated closures of school facilities, these districts also actively opposed that teachers instruct their students in any form out of fear of not being able to serve all students equally. As Philadelphia school district officials [directed](#) their teachers, for example, “To ensure equity, remote instruction should not be provided to students, including through the internet, technology at home, by phone, or otherwise.” At the same time, district staff and public school teachers around the country generally continued to receive paychecks funded in large part by state K-12 formula dollars.

POLICY RECOMMENDATION

Require that, to the extent possible, school districts and charter schools continue to provide educational services to students during the closure of physical school campuses in order to continue receiving state formula funding.

STORIES OF SUCCESS

Emergency K-12 [legislation](#) passed in Arizona lifted seat time/attendance requirements during the coronavirus-related school closures, but state legislators also insisted that public schools continue to offer educational services to students to continue receiving state funding. Unlike other school districts around the country—which sometimes took up to [six weeks](#) to begin offering educational services to students, if they did so at all—Arizona mandated that schools resume educating students within two weeks of the closure, ensuring the least possible disruption to student learning.

FISCAL CONSIDERATIONS

This will result in no additional fiscal cost to taxpayers.

[VIEW MODEL LEGISLATION](#)

ENSURE THAT NONPUBLIC EDUCATION REMAINS A VIABLE OPTION AMID ECONOMIC UNCERTAINTY

ISSUE OVERVIEW

While many states face enormous budgetary pressures in the wake of the economic disruption caused by coronavirus, public schools around the country continue to receive state formula assistance and were the primary beneficiaries of roughly [\\$15 billion](#) in federal K-12 aid via the CARES Act. Meanwhile, private schools remain almost wholly dependent on tuition payments from families to sustain their operations, and historical [evidence](#) suggests these institutions will soon face massive declines in enrollment. Such a dramatic exodus of students would not only devastate the private school sector, but would also lead to an enormous [strain](#) on state budgets as public schools absorb the influx of new students.

POLICY RECOMMENDATION

Implement or expand private school tax credit scholarship programs to (1) help ensure the affordability of nonpublic educational options for families, (2) prevent the collapse of all nongovernment-run education providers, and (3) ease the budgetary impacts of a surge in public school enrollment.

STORIES OF SUCCESS

Tax credit scholarship programs have been successfully enacted in 18 states, offering positive academic and financial benefits. For example, the progressive Urban Institute [found](#) in 2019 that the Florida Tax Credit scholarship program, the nation's largest school choice program, in which low-income students from low-income schools are the primary participants, "has a positive effect on college-going and graduation rates."

FISCAL CONSIDERATIONS

While tax credit scholarship programs can reduce total state revenues, they simultaneously lower state and local *costs* by an even greater amount, leading to a net economic benefit to the state. With an average scholarship [value](#) of \$6,195, for example, Florida's tax credit scholarship program has helped thousands of students at a cost that's \$3,000 less *per student* than Florida's public school per pupil [spending](#).

[VIEW MODEL LEGISLATION](#)

FOSTER FINANCIAL ACCOUNTABILITY, NOT BLANK CHECKS

ISSUE OVERVIEW

Public schools across the country joined together to [request](#) \$175 billion in federal support for public K-12 systems in response to the coronavirus pandemic, in addition to the approximately [\\$15 billion](#) already allotted to them under the federal CARES Act. While many school systems have no doubt incurred substantial new costs (procuring laptops and wireless hotspot devices for students, etc.), they have also accrued unprecedented savings (such as reduced fuel costs for idled buses and lowered utility costs at dormant campus buildings) that should be taken into account in budgeting.

Moreover, public schools receiving federal funds are required to provide “equitable services” to private schools within their boundaries (which entails paying for certain instructional goods or services for the private schools, but not actually transferring *funds* to them). However, districts’ compliance with this requirement can vary, potentially leaving private schools further disadvantaged and without even the modest aid intended for them.

POLICY RECOMMENDATION

Require school districts that receive emergency K-12 funding to report to the state’s legislature (1) the total costs *and savings* incurred as a result of COVID-19 pandemic, (2) the amount of emergency state and federal relief funds received, and (3) the total expended to provide “equitable services” to surrounding private schools.

STORIES OF SUCCESS

The federal Every Student Succeeds Act—passed with bipartisan support in 2015—requires public disclosure of *school-level* expenditure data beginning in 2020 and is poised to bring unprecedented levels of transparency to public school finances. Moreover, some states already disclose highly detailed school spending data in user-friendly formats to legislators, such as the Arizona Auditor General’s annual School District Spending [profiles](#). States could solicit similar transparency from districts, either as a statutory mandate or by directing their state audit agencies to review the financial impact of the COVID-19 outbreak on schools.

FISCAL CONSIDERATIONS

The fiscal impact of such a proposal could vary. While preparing reports may require additional staff time, an accurate accounting of school expenditures could save money in the long run by ensuring that school officials do not make arbitrary funding demands that lack connection to financial realities. Transparency can also improve efficiency by identifying where, and to what extent, additional aid is most warranted.

[VIEW MODEL LEGISLATION](#)

PROMOTE ACADEMIC TRANSPARENCY OVER POLITICIZED CURRICULA

ISSUE OVERVIEW

Politically radical content is being introduced into curricula and student learning materials in K-12 schools across the country. *The New York Times*'s 1619 Project, for example—which claims that the United States Constitution was written to protect slavery—reached more than [3,500 classrooms](#) within months of its introduction in 2019, despite widespread criticism from professional historians and such marked flaws that the *Times* itself was forced to publish a “clarification” backing away from some of the articles’ more extreme claims. Nevertheless, it and similar materials are rapidly gaining favor among educators in many of the nation’s largest school systems. Even as [polling](#) found that almost half of all voters are concerned by such politicized content in the classroom, parents typically have little information about the use of these materials and minimal ability to find out in advance whether their children will encounter them in school.

With essentially all students learning from home during the COVID-19 pandemic, however, parents have—for the first time—been given unprecedented access to information about the materials presented to their children. Lawmakers and educators should take this opportunity to sustain and build on that transparency going forward.

POLICY RECOMMENDATION

Empower parents to choose schools that teach academically rigorous material instead of politically motivated content. By requiring public schools to disclose on their websites all materials used as part of student instruction, policymakers can ensure that parents have access to the information they need to protect their children and are better able to vet their options and exercise meaningful choice.

STORIES OF SUCCESS

Arizona’s Senate Education Committee approved legislation in 2019 that would have required schools to post on their websites a listing of all instructional materials. While the COVID-19 outbreak interrupted Arizona’s legislative session and prevented enactment of the bill, the Goldwater Institute has released a [policy brief](#) with a variety of examples of schools (from K-12 to higher education) successfully posting syllabi and other detailed course information online so that parents and students can access it while making decisions about where to enroll.

Curriculum transparency is already common on the college level. For instance, at Arizona State University, which is consistently [rated](#) as “The #1 Most Innovative University” by *U.S. News and World Report*, prospective students can easily access course [syllabi](#) showing individual textbooks, articles, and other readings that students will encounter. K-12 schools should shine a light on the materials they use, too.

FISCAL CONSIDERATIONS

Especially in states like Arizona, where teachers are commonly expected to submit lesson plans to principals or curriculum staff in advance, most instructional materials should already be documented. Making this information public should thus require only modest additional time or expense.

[VIEW MODEL LEGISLATION](#)



HEALTHCARE



ENSURE DOCTORS HAVE THE INFORMATION THEY NEED TO HELP THEIR PATIENTS

ISSUE OVERVIEW

In the midst of the coronavirus crisis, and with no FDA-approved vaccines or treatments for COVID-19, many doctors and hospitals across the country reported using chloroquine or hydroxychloroquine, often in combination with Zithromax (commonly known as a Z-Pak), to treat COVID-19 patients. All three are FDA approved: chloroquine and hydroxychloroquine for malaria, lupus, and rheumatoid arthritis, and Zithromax as an antibiotic. But prescribing them to treat COVID-19 is an “off-label” use, meaning the use of a medicine to treat conditions other than what the FDA approved that medicine to treat. Off-label uses are legal and common. In fact, roughly 20 percent of all prescriptions are off-label.

Unfortunately, federal laws sometimes prevent drug manufacturers from sharing important information about off-label uses, and violating those rules can result in criminal prosecution and penalties. Of course, the ability to share truthful, scientific, and up-to-date information about off-label treatments is critical to ensuring doctors can provide the best treatments for their patients, especially when lives are at stake.

POLICY RECOMMENDATION

Adopt the Truth in Medicine Act, allowing manufacturers to share truthful scientific information about off-label treatments. This protects the right to freely exchange valuable data about legal treatments and provides doctors and payers with the tools they need to make informed healthcare decisions with their patients.

STORIES OF SUCCESS

Arizona and Tennessee both adopted this law with unanimous legislative support.

FISCAL CONSIDERATIONS

None

[VIEW MODEL LEGISLATION](#)

FACILITATE TELEMEDICINE

ISSUE OVERVIEW

The coronavirus crisis has demonstrated like never before the benefits of telemedicine—technology that enables people to obtain medical assistance and talk to physicians directly on their smartphones or tablet computers. During lockdowns, telemedicine has enabled doctors to conduct initial patient screenings, treat patients with minor ailments who might otherwise be forced to break home quarantine, and monitor the status of sick patients remotely.

Both the private and public healthcare sectors have rapidly adopted telemedicine. Some private insurers waived copays for any and all telemedicine visits during the height of the crisis. Others waived cost sharing for all video visits through services such as [CVS MinuteClinic app](#) and [Teledoc](#). Medicare, the primary healthcare program serving the nation's aged population, announced it would temporarily reimburse providers for telemedicine visits for a wide range of services.

Unfortunately, there have been efforts in some states to impose new regulatory restrictions on telemedicine that have no connection to patient safety. For example, some states require patients to get an in-person exam or physically visit a doctor before that doctor can provide a prescription. Rather than allow physicians to exercise their professional judgment whether to require a patient to visit a clinic in person, lawmakers have often imposed one-size-fits-all rules that prevent medical innovation and restrict the availability of medical services to patients in need.

POLICY RECOMMENDATION

Allow medical professionals to provide telemedicine services to both new and existing patients. Patients should be able to consent to care from an out-of-state provider. Where supervision of a provider is required by law, it should not have to be in real time or limited by geography.

STORIES OF SUCCESS

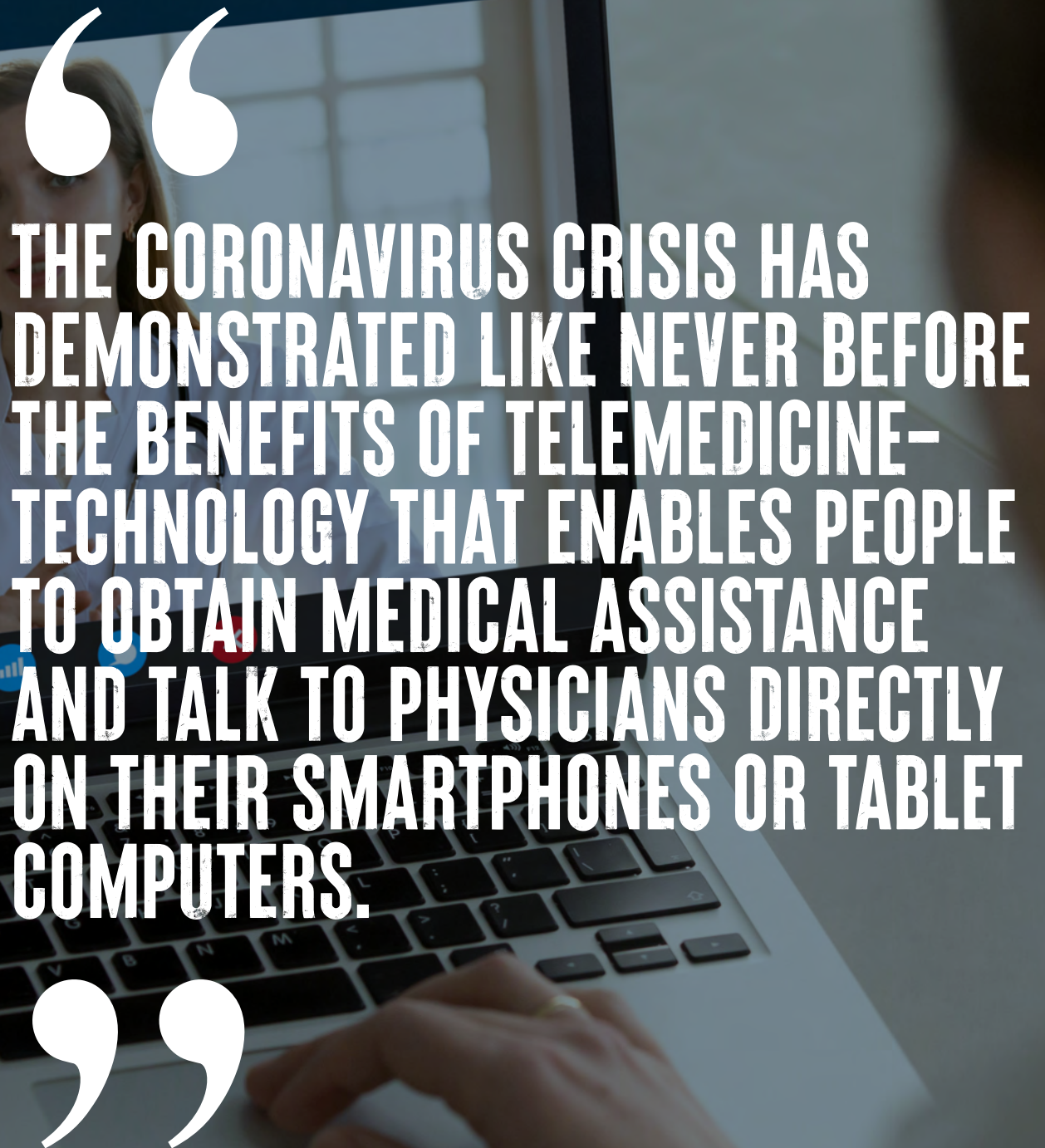
Dr. Beverly Jordan of Enterprise, Alabama, recently saw about 30 patients via telemedicine in one week. While telemedicine was already available in the state, the cost of using an online platform, as well as a lack of insurance coverage for telemedicine services, made the expense and effort out of reach for her medical practice. But as a direct result of the Centers for Medicare and Medicaid Services's new flexibility, online platforms began offering free trials of their services. Insurers in Alabama followed the federal government's lead and began covering these visits. Prior to this crisis, none of these 30 telemedicine visits would have been covered by insurance and thus unlikely to be available to these patients.

FISCAL CONSIDERATIONS

The Medicaid program has a long history of fraud and abuse, and telemedicine is susceptible to such abuse. The same measures that are now used to combat such abuses in Medicaid must apply to any expansion of medical services.

Some have expressed concern that if it is easier to obtain an appointment through telemedicine, Medicaid spending on appointments and services will increase. But it's long been recognized that when patients get "well visits" and health-maintenance visits in a convenient and timely manner, costs tend to decrease because patients can better manage their conditions and lower their reliance on emergency room visits—ultimately saving program dollars. Additional monitoring and evaluation is needed to determine the fiscal impact of telemedicine expansion. Lawmakers should avoid policies that provide for telemedicine payment parity.

[VIEW MODEL LEGISLATION](#)

A person is seen from behind, using a laptop. The laptop screen displays a telemedicine interface with a female doctor on a video call. The doctor is wearing a white lab coat and a stethoscope. The interface includes a video feed, a chat window, and a list of patients. The text is overlaid on the screen, enclosed in large quotation marks.

“THE CORONAVIRUS CRISIS HAS DEMONSTRATED LIKE NEVER BEFORE THE BENEFITS OF TELEMEDICINE-TECHNOLOGY THAT ENABLES PEOPLE TO OBTAIN MEDICAL ASSISTANCE AND TALK TO PHYSICIANS DIRECTLY ON THEIR SMARTPHONES OR TABLET COMPUTERS.”

ALLOW HEALTHCARE WORKERS TO PRACTICE AT THE TOP OF THEIR TRAINING

ISSUE OVERVIEW

State “scope of practice” laws dictate how doctors, nurses, pharmacists, and other healthcare practitioners may care for and treat patients. These laws vary widely from state to state, and they often needlessly prevent healthcare professionals from helping patients, even those who are trained and competent to do so.

Regulated medical professionals include but are not limited to:

- Physician Assistants
- Nurse Practitioners
- Certified Registered Nurse Anesthetists
- Respiratory Therapists
- Registered Nurses
- Nursing Assistants
- Dental Therapists
- Dental Hygienists
- Pharmacists
- Pharmacy Technicians
- Physical Therapists
- Optometrists
- Emergency Medical Technicians
- Paramedics

Too often, the laws governing these professionals limit what services they can provide, not to protect patient safety but to prevent legitimate economic competition between providers. The result is to increase the cost of care by forcing consumers to pay higher prices than they otherwise would.

Imagine if the law only allowed car dealers to provide oil changes. Customers who might have had their oil changed for \$30 at Jiffy Lube would be forced to spend \$80 at the dealership instead. Not only would this cost customers more money, and cost potential jobs, but it would deter car owners from getting oil changes they needed—resulting in long-term damage to their cars. In the same way, scope of practice laws for medicine often result in patients paying more than necessary, which reduces employment opportunities for nurses and other paramedical providers, and harms patients by discouraging them from seeking care when they need it.

Some states have reduced their scope of practice restrictions and allowed for more provider autonomy—and the results have been a reduction in the cost of healthcare services, an increase in the availability of providers, and no reduction in safety for patients. The Centers for Medicare and Medicaid Services allowed for the reimbursement of services performed outside of a provider’s government-approved scope of practice during the COVID-19 crisis under Medicare, Medicaid, and the Children’s Health Insurance Program (CHIP).

POLICY RECOMMENDATION

Allow medical professionals to practice at the top of their education and training by removing barriers that artificially limit the availability of qualified healthcare providers. In addition to scope of practice requirements, requirements for in-person, real-time supervision and collaborative agreements should also be modified or rescinded.

STORIES OF SUCCESS

Certified Registered Nurse Anesthetists (CRNAs) receive highly specialized education and training that goes beyond Registered Nurse (RN) certification. CRNAs may administer anesthesia, intubate, and ventilate patients, which is often necessary for the most severe COVID-19 patients. As a result of important reforms in Arizona, hospitals are now expanding their use of CRNAs across the state. For example, Santa Cruz Regional Hospital in Green Valley, Arizona, will now have CRNAs as part of their ICU teams to help meet the needs of their sickest patients.

Reforms like this are particularly important in rural areas where there is already a severe shortage of highly specialized providers who have the education and training to provide anesthesia and perform other necessary procedures related to COVID-19.

FISCAL CONSIDERATIONS

None

[VIEW MODEL LEGISLATION](#)

REMOVE RESTRICTIONS ON HEALTHCARE SETTINGS

ISSUE OVERVIEW

In addition to artificially limiting new hospital facilities, the numbers of hospital beds, and new technologies, states also restrict the types of care settings where medical professionals may see patients. This is often done under so-called certificate of need (CON) laws.

CON laws require government approval before physicians can open new facilities or expand their services. This approval requirement applies to everything from building a new hospital to acquiring an MRI machine. But the government approval process depends on approval from existing clinics and providers. In other words, these laws prohibit new or expanded medical facilities from operating if existing providers don't want to face economic competition from newcomers. CON laws therefore often serve the private interests of existing hospitals rather than the needs of patients.

In the late 1970s, the federal government and most states abandoned CON laws when it became clear that they drive up healthcare costs, lower quality, and limit the availability of needed services. Yet these laws still remain in many states, and in many different forms.

Some CON laws prevent healthcare providers from serving people in homes or other alternative care settings. These restrictions may limit the ability of nursing homes, for example, to quickly move exposed residents, as well as those still testing positive for COVID-19 after returning from the hospital, to an alternative setting to be cared for by their familiar caregivers.

POLICY RECOMMENDATION

Provide more flexibility in the supply of healthcare beds and technology, the allowable healthcare settings, and the types of professionals allowed to provide care in those settings.

STORIES OF SUCCESS

In order to allow facilities to expand patient capacity, Arizona Governor Doug Ducey used his executive order authority to direct healthcare facilities to optimize their staffing levels and expand bed capacity in healthcare facilities. In addition, facilities were allowed to "level up" their provision of care when needed; for example, a pediatric unit would be authorized to care for those up to age 21, and a Level III trauma unit would be authorized to provide Level II care if and when possible and appropriate. These orders also align with federal flexibilities for programs under Medicare, Medicaid, and CHIP.

FISCAL CONSIDERATIONS

None

[VIEW MODEL LEGISLATION](#)

INCREASE LIABILITY PROTECTIONS TO PROMOTE CARE

ISSUE OVERVIEW

Some states do not have adequate liability protections for in- and out-of-state medical professionals who are able and willing to assist in a medical emergency. Absent protections, healthcare professionals face lawsuits and financial ruin for a variety of reasons: infecting another patient, failing to prescribe a medication that might help, prescribing a medication that might make the patient worse, or a delayed response in responding to a patient's call because of the time required to don the mandatory personal protective equipment. As a result, doctors, nurses, and other medical professionals may be reticent to provide care when it is most needed, such as during a public health crisis.

The state's insurance commissioner should identify and recommend temporary or permanent waivers of limitations in current policies, in order to extend the necessary protections. In some cases, the state's insurance commissioner may have independent authority to waive, modify, or rescind some provisions or limitations of malpractice coverages that could further protect healthcare professionals working in the state.

POLICY RECOMMENDATION

Waive liability when possible, or extend protections to include both volunteers and paid personnel.

STORIES OF SUCCESS

The Illinois Emergency Management Agency Act, for example, extends civil liability protections to healthcare workers operating under the direction of the government during a declared disaster or emergency. The governor's executive order declaring such an emergency during the COVID-19 crisis directed the "rendering of assistance" to healthcare professionals, volunteers, and facilities. The healthcare workers, volunteers, and facilities responding to the order received civil liability protections for any patient injury or death while providing care in response to the COVID-19 outbreak, and patients were still protected against gross negligence or willful misconduct.

FISCAL CONSIDERATIONS

None

[VIEW MODEL LEGISLATION](#)

ALLOW FOR THE EASY TRANSFER OF PRESCRIPTIONS BETWEEN PHARMACIES

ISSUE OVERVIEW

State laws often make it difficult to transfer a prescription from one pharmacy to another. While states sometimes make limited exceptions for health and weather emergencies, patients are usually required to petition a pharmacy directly to transfer a prescription. This requires the patient to invest significant time and can even result in a patient missing needed medications.

Fortunately, new federal rules allow patients to have more control over and access to their personal healthcare information, including their prescription history. Beginning in 2022, patients will be able to access their medical information through their smartphones. States can complement these new federal rules by adopting pharmacy transfer reforms or by making their temporary exceptions to pharmacy transfer restrictions permanent. This would give customers greater control over the transfer of their prescriptions between pharmacies and more power to shop for the best prescription drug prices.

Imagine having access to your prescription history on a smartphone. A third-party e-prescribing network could take your prescription (via an app), shop around for the best price, and then send your prescription to that pharmacy. This would serve patients who are away from their home pharmacies or searching for lower prices. E-prescribing networks could regularly search for better deals or longer refills and report the results directly to the patient, who could request the transfer instantaneously. Making prescription transfers seamless—instead of relying on the pharmacy, which has no incentive to quickly transfer a prescription to a competitor—empowers consumers and increases price competition and transparency.

POLICY RECOMMENDATION

Allow a patient's current medication history (at the patient's written, electronic, or oral request) to be accessed from a real-time, electronic database to serve as an equivalent to an electronically transmitted prescription or refill order to be filled by the pharmacist.

EXAMPLES OF OVERREACH

Prescription drug prices should not only be transparent to the consumer, they should be shoppable. Consider the following: A 30-day supply of montelukast, the generic form of the asthma and allergy drug Singulair, costs about \$120. The cost on GoodRx.com, an online price comparison tool, is about \$60. The cost through an employer health insurance plan is about \$16, while getting the drug through a direct primary care (DPC) arrangement that charges at cost for their members can be as low as \$1.

Unlike most products, the prices of prescription drugs are difficult to understand and often vary from person to person, depending on their insurance coverage. As a result, patients are unaware of significant discounts through mail-order pharmacies. Even when they do learn about a lower price, they often face the time-consuming and burdensome process of transferring a prescription. Personal control over one's prescription information enhances a patient's ability to take advantage of competitor prescription prices.

FISCAL CONSIDERATIONS

None

[VIEW MODEL LEGISLATION](#)

APPENDIX: MODEL LEGISLATION





BREAKING DOWN BARRIERS TO WORK

SECTION 1. DEFINITIONS.

(a) “Board” means a government agency, board, department or other government entity that regulates a lawful occupation and issues an occupational license or government certification to an individual.

(b) “Government certification” means a voluntary, government-granted and nontransferable recognition to an individual who meets personal qualifications related to a lawful occupation. Upon the government’s initial and continuing approval, the individual may use “government certified” or “state certified” as a title. A non-certified individual also may perform the lawful occupation for compensation but may not use the title “government certified” or “state certified.” In this chapter, the term “government certification” is not synonymous with “occupational license.” It also is not intended to include credentials, such as those used for medical-board certification or held by a certified public accountant, that are prerequisites to working lawfully in an occupation.



(c) “Lawful occupation” means a course of conduct, pursuit or profession that includes the sale of goods or services that are not themselves illegal to sell irrespective of whether the individual selling them is subject to an occupational license.

(d) “Military” means the Armed Forces of the United States including the Air Force, Army, Coast Guard, Marine Corps, Navy, Space Force, National Guard, and all reserve components and auxiliaries. It also includes the military reserves and militia of any United States territory or state.

(e) “Occupational license” means a nontransferable authorization in law for an individual to perform exclusively a lawful occupation based on meeting personal qualifications. It includes a military occupational specialty. In an occupation for which a license is required, it is illegal for an individual who does not possess a valid occupational license to perform the occupation.

(f) “Other state” or “another state” means any territory, or state other than this state in the United States. It also means any branch or unit of the military.

(g) “Private certification” means a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation as determined by the private organization. The individual may use the designated title of “certified,” as permitted by the private organization.

(h) “Scope of practice” means the procedures, actions, processes and work that a person may perform under an occupational license or government certification issued in this state.

SECTION 2. RECOGNITION OF ANOTHER OCCUPATIONAL LICENSE OR GOVERNMENT CERTIFICATION.

(a) Notwithstanding any other law, the board shall issue an occupational license or government certification to a person upon application, if all the following apply:

(1) The person holds a current and valid occupational license or government certification in another state in a lawful occupation with a similar scope of practice, as determined by the board in this state;

(2) The person has held the occupational license or government certification in the other state for at least one year;

(3) The board in the other state required the person pass an examination, or to meet education, training or experience standards;

(4) The board in the other state holds the person in good standing;

(5) The person does not have a disqualifying criminal record as determined by the board in this state under state law;

(6) No board in another state revoked the person's occupational license or government certification because of negligence or intentional misconduct related to the person's work in the occupation;

(7) The person did not surrender an occupational license or government certification because of negligence or intentional misconduct related to the person's work in the occupation in another state;

(8) The person does not have a complaint, allegation or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If the person has a complaint, allegation or investigation pending, the board in this state shall not issue or deny an occupational license or government certification to the person until the complaint, allegation or investigation is resolved or the person otherwise meets the criteria for an occupational license or government certification in this state to the satisfaction of the board in this state; and

(9) The person pays all applicable fees in this state.

(b) If another state issued the person a government certification but this state requires an occupational license to work, the board in this state shall issue an occupational license to the person if the person otherwise satisfies subdivision (a).

SECTION 3. RECOGNITION OF WORK EXPERIENCE.

Notwithstanding any other law, the board shall issue an occupational license or government certification to a person upon application based on work experience in another state, if all the following apply:

(a) The person worked in a state that does not use an occupational license or government certification to regulate a lawful occupation, but this state uses an occupational license or government certification to regulate a lawful occupation with a similar scope of practice, as determined by the board;

(b) The person worked for at least three years in the lawful occupation; and

(c) The person satisfies Section 2, subdivision (a)(5)-(9).

SECTION 4. RECOGNITION OF PRIVATE CERTIFICATION.

Notwithstanding any other law, the board shall issue an occupational license or government certification to a person based on holding a private certification and work experience in another state, if all the following apply:

(a) The person holds a private certification and worked in a state that does not use an occupational license or government certification to regulate a lawful occupation, but this state uses an occupational license or government certification to regulate a lawful occupation with a similar scope of practice, as determined by the board;

(b) The person worked for at least two years in the lawful occupation;

- (c) The person holds a current and valid private certification in the lawful occupation;
- (d) The private certification organization holds the person in good standing; and
- (e) The person satisfies Section 2, subdivision (a)(5)-(9).

SECTION 5. STATE LAW EXAMINATION.

The board may require a person to pass a jurisprudential examination specific to relevant state laws that regulate the occupation if an occupational license or government certification in this state requires a person to pass a jurisprudential examination specific to relevant state statutes and administrative rules that regulate the occupation.

SECTION 6. DECISION.

The board will provide the person with a written decision regarding the application within 30 days after receiving a complete application.

SECTION 7. APPEAL.

- (a) The person may appeal the board's decision to a court of general jurisdiction.
- (b) The person may appeal the board's:
 - (1) denial of an occupational license or government certification;
 - (2) determination of the occupation;
 - (3) determination of the similarity of the scope of practice of the occupational license or government certification issued; or
 - (4) other determinations under this chapter.

SECTION 8. STATE LAWS AND JURISDICTION.

A person who obtains an occupational license or government certification pursuant to this chapter is subject to:

- (a) the laws regulating the occupation in this state; and

(b) the jurisdiction of the board in this state.

SECTION 9. EXCEPTION.

This chapter does not apply to an occupation regulated by the state supreme court.

SECTION 10. LIMITATIONS.

(a) Nothing in this chapter shall be construed to prohibit a person from applying for an occupational license or government certification under another statute or rule in state law.

(b) An occupational license or government certification issued pursuant to this chapter is valid only in this state. It does not make the person eligible to be work in another state under an interstate compact or reciprocity agreement unless otherwise provided in law.

(c) Nothing in this chapter shall be construed to prevent this state from entering into a licensing compact or reciprocity agreement with another state, foreign province or foreign country.

(d) Nothing in this chapter shall be construed to prevent this state from recognizing occupational credentials issued by a private certification organization, foreign province, foreign country, international organization or other entity.

(e) Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual.

SECTION 11. COST.

The board may charge a fee to the person to recoup its costs not to exceed \$100 for each application.

SECTION 12. PREEMPTION.

This chapter preempts laws by township, municipal, county and other governments in the state which regulate occupational licenses and government certification.



SECTION 13. EMERGENCY POWERS.

(a) During a declared emergency, the governor may order the recognition of an occupational license from another state or foreign country as if the license is issued in this state.

(b) The governor may expand any license's scope of practice and may authorize any licensee to provide services in this state in person, telephonically or by other means for the duration of the emergency.



HOME-BASED BUSINESS FAIRNESS ACT

SECTION 1. DEFINITIONS.

(a) “Goods” means any merchandise, equipment, products, supplies or materials.

(b) “Home-based business” means any business for the manufacture, provision or sale of goods or services that is owned and operated by the owner or tenant of the residential dwelling.

(c) “No-impact home-based business” means a home-based business for which all of the following apply:

(1) The total number of on-site employees and clients do not exceed the municipal occupancy limit for the residential property.

(2) The business activities are characterized by all of the following:

(A) Are limited to the sale of lawful goods and services;

(B) Do not generate on-street parking or a substantial increase in traffic through the residential area;

(C) Occur inside the residential dwelling or in the yard; and



(D) Are not visible from the street.

SECTION 2.

The use of a residential dwelling for a home-based business is a permitted use, except that this permission does not supersede any of the following:

- (a) Any deed restriction, covenant or agreement restricting the use of land; or
- (b) Any master deed, by-law or other document applicable to a common interest ownership community.

SECTION 3.

A municipality shall not prohibit a no-impact home-based business or otherwise require a person to apply, register or obtain any permit, license, variance or other type of prior approval from the municipality to operate a no-impact home-based business.

SECTION 4.

A municipality may establish reasonable regulations on a home-based business if the regulations are narrowly tailored for any of the following purposes:

- (a) The protection of the public health and safety, as defined in [STATE CODE] including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution and noise control.
- (b) Ensuring that the business activity is:
 - (1) Compatible with residential use of the property and surrounding residential use;
 - (2) Secondary to the use as a residential dwelling; and
 - (3) Complying with state and federal law and paying applicable taxes.

(c) Limiting or prohibiting the use of a home-based business for the purposes of selling illegal drugs, liquor, operating or maintaining a structured sober living home, pornography, obscenity, nude or topless dancing and other adult-oriented businesses.

SECTION 5.

A municipality shall not require a person as a condition of operating a home-based business to:

- (a) Rezone the property for commercial use; or
- (b) Install or equip fire sprinklers in a single family detached residential dwelling or any residential dwelling with not more than two dwelling units.

SECTION 6.

The question whether a regulation complies with this section shall be a judicial question, and the municipality that enacted the regulation shall establish by clear and convincing evidence that the regulation complies with this section.



PERMIT FREEDOM ACT

SECTION 1. PERMIT CONDITIONS.

(a) Notwithstanding any other law, in any case in which a license or permit is required prior to a person engaging in any constitutionally protected activity, the criteria for the granting or denial of that license or permit shall be specified in clear and unambiguous language, and the applicant shall be entitled to a review and determination of that permit or license application within 30 days or such other time as the legislature shall by law prescribe.

(b) If the municipality or agency does not take action within the applicable time period, the application is deemed approved, unless the application is incomplete and the applicant after being notified of the deficiency has failed to correct it.

(c) The determination of what constitutes clear and unambiguous language shall be a judicial question, without deference to the legislature, municipality or agency.

SECTION 2. MUNICIPAL AND ADMINISTRATIVE HEARINGS.

(a) Unless knowingly and voluntarily waived by the parties, all municipal or administrative hearings relating to a license or permit application must comply with the rules of procedure and rules of evidence required in judicial proceedings. Notice may be taken of



judicially cognizable facts, and of generally recognized technical or scientific facts within the municipality's or agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed, including any staff memoranda or data, and parties shall be afforded an opportunity to contest the material so noticed. The municipality's or agency's experience, technical competence, and specialized knowledge may be used in the evaluation of the evidence.

(b) The parties to a contested case or appealable municipal or administrative action have the right to be represented by counsel or to proceed without counsel, to submit evidence, and to cross-examine witnesses.

(c) A party may file a motion to disqualify a presiding officer from conducting a hearing for bias, prejudice, personal interest, or lack of technical expertise necessary for a hearing. The presiding officer may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and, on application to the superior court, enforced in the manner provided by law for the service and enforcement of subpoenas in civil matters. The presiding officer may administer oaths and affirmations to witnesses.

(d) All hearings shall be recorded. The presiding officer shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the municipality's or agency's expense.

(e) On application of a party or the municipality or agency and for use as evidence, the presiding officer may permit a deposition to be taken, in the manner and on the terms designated by the presiding officer, of a witness who cannot be subpoenaed or who is unable to attend the hearing. Subpoenas for the production of documents may be ordered by the presiding officer if

the party seeking the discovery demonstrates that the party has reasonable need of the materials being sought. All provisions of law compelling a person under subpoena to testify are applicable.

(f) Disposition may be made by stipulation, agreed settlement, consent order, or default. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(g) The burden of proof in municipal or administrative hearings relating to an application for, or the suspension, revocation, termination, or modification on its own initiative of the material conditions of, a license or a permit shall be preponderance of evidence, or such greater burden as the legislature shall specify, and the municipality or agency shall bear the burden.

SECTION 3. JUDICIAL REVIEW.

(a) In any action to review a final municipal or administrative decision involving the denial, modification, or revocation of a license or permit, the applicant or licensee shall be entitled to a speedy and public determination by a court of law. If requested by an applicant or licensee within 30 days after filing a notice of appeal or petition for review, the court shall hold an evidentiary hearing, including testimony and argument, to the extent necessary to make the determination. The court shall decide de novo all relevant questions of law unless the parties stipulate otherwise. On demand of any party, if the determination of facts may be made by a jury. Relevant and admissible exhibits and testimony that were not received during the hearing may be admitted so long as compliant with the rules of evidence, and objections that a party failed to make to evidence offered at the hearing before the municipality or agency shall be considered, unless either of the following is true:

(1) The exhibit, testimony, or objection was withheld for purposes of delay, harassment, or other improper purpose.

(2) Allowing admission of the exhibit or testimony or consideration of the objection would cause substantial prejudice to another party.



LEGALIZE CROWDFUNDING ACT

SECTION 1. DEFINITIONS.

(a) “Blind pool offering” means an offering in which either:

(1) The offering materials do not describe specific operational plans; or

(2) Eighty percent or more of the net offering proceeds are not specifically

allocated for the purchase, construction or development of identified property or products, for the payment of indebtedness or overhead expenses, or for other activities set forth in the issuer’s business plan.

(b) “Commission” means the [relevant state] commission.

(c) “Commodity” means any agricultural, grain or livestock product or by-product, any metal or mineral including a precious metal, any gem or gemstone whether characterized as precious, semiprecious or otherwise, any fuel whether liquid, gaseous or otherwise, any foreign currency and all other goods, articles, products or items of any kind. Commodity does not include a numismatic coin with a fair market value at least fifteen percent higher than the value of the metal it contains, real property or any timber, agricultural or livestock product grown or raised on real property and offered or sold by the owner or lessee of such real property, or any



work of art offered or sold by art dealers, at public auction or offered or sold through a private sale by the owner.

(d) “Commodity exchange act” means the act of Congress known as the U.S. Commodity Exchange Act (7 United States Code, chapter 1).

(e) “Commodity Futures Trading Commission” means the independent regulatory agency established by Congress to administer the commodity exchange act.

(f) “Commodity investment contract” means any account, agreement or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract or otherwise.

Any commodity investment contract offered or sold, in the absence of evidence to the contrary, is presumed to be offered or sold for speculation or investment purposes. A commodity investment contract does not include any contract or agreement that requires, and under which the purchaser receives, within twenty-eight calendar days after the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

(g) “Commodity option” means any account, agreement or contract giving a party to the account, agreement or contract the right but not the obligation to purchase or sell one or more commodities or one or more commodity investment contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty or otherwise.

(h) “CRD system” means the central registration depository system of the national association of securities dealers, incorporated.

(i) “Crowdfunding” means the practice of funding a project or venture by raising many small amounts of money from a large number of people.

(j) “Dealer”:

(1) Means a person who directly or indirectly engages full-time or part-time in this state as agent, broker or principal in the business of offering, buying, selling or otherwise dealing or trading in securities issued by another person, and who is not a salesman for a registered dealer or is not a bank or savings institution the business of which is supervised and regulated by an agency of this state or the United States.

(2) Means an issuer, other than an investment company, who, directly or through an officer, director, employee or agent who is not registered as a dealer under this chapter, engages in selling securities issued by such issuer.

(3) Does not include a person who sells or offers to sell securities exclusively to dealers registered under this chapter, and who has no place of business within this state.

(4) Does not include a person who buys or sells securities for his own account, either individually or in a fiduciary capacity, but not as part of a regular business.

(k) “Director” means the director of the securities division of the commission.

(l) “Division” means the securities division of the commission.

(m) “Federal covered security” means any security described as a covered security in section 18 of the U.S. Securities Act of 1933.

(n) “Issuer” means any person who issues or proposes to issue any security, except:

(1) With respect to certificates of deposit, voting-trust certificates, collateral-trust certificates, certificates of interest or shares in an unincorporated investment trust, whether or not of the fixed, restricted management or unit type, issuer means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued.

(2) With respect to equipment-trust certificates or like securities, issuer means the person by whom the equipment or property is or is to be used.

(3) With respect to fractional interests in any oil, gas or other mineral lease, permit, claim or right, issuer means the owner thereof or of any interest therein, whether whole or fractional, fractional interests in which are created for the purpose of a public offering.

(o) “Numismatic coin”:

(1) Means a coin that has all of the following characteristics:

(A) The coin is of interest primarily to coin collectors rather than to speculators or investors in precious metals;

(B) The fair market value of the coin is determined primarily by its design, subject matter, limited mintage, rarity and relative condition of preservation from wear rather than by its intrinsic precious metal or bullion content;

(C) The fair market value of the coin is directly related to an individual inspection and grading of its relative condition according to an established system of numismatic standards promulgated independently of the offerer of the coin; and

(D) With the exception of proof, mint and commemorative coins, the coin is minted or manufactured under authority of the issuing government for the purpose of being used as legal tender.

(2) Does not include a coin that has at least one of the following characteristics:

(A) The coin is minted, manufactured or advertised for sale primarily to persons who seek to invest or speculate in precious metals rather than to coin collectors or for use in commerce as legal tender;

(B) The coin is advertised or sold with the expectation that it will be purchased or traded for its intrinsic precious metal or bullion content;

(C) The price of the coin is directly related to the spot market price of its intrinsic precious metal or bullion content;

(D) The coin is generally not used as legal tender;

(E) The quantity of mintage or manufacture of the coin is based on market demand; or

(F) The coin is not sought for its design, subject matter, limited mintage, rarity or relative condition of preservation from wear, but instead is sought for the value of its intrinsic precious metal or bullion content.

(p) “Offer to sell” or “offer for sale” means an attempt or offer to dispose of, or solicitation of an order or offer to buy, a security or interest in a security for value or any sale or offer for sale of a warrant or right to subscribe to another security of the same issuer or of another issuer. Any sale or offer for sale of a security that gives the holder thereof a present or future right or privilege to convert such security into another security of the same issuer or of another issuer shall be deemed an offer to sell the security to be acquired pursuant to such right or privilege, but the existence thereof shall not be construed as affecting the registration or exemption under this chapter of the security to which it attaches.

(q) “Person” means an individual, corporation, partnership, association, joint stock company or trust, limited liability company, government or governmental subdivision or agency or any other unincorporated organization.

(r) “Precious metal” means the following in either coin, bullion or other form:

- (1) Silver;
- (2) Gold;
- (3) Platinum;
- (4) Palladium; or
- (5) Copper.

(s) “Real property investment contract” means a contract for the sale or purchase of a promissory note secured directly or collaterally by a mortgage, deed of trust or other lien on real property, including a contract as defined in [STATE LAW], or any agreement, arrangement or understanding in connection with such note, lien or contract in which a person agrees, implies to do or does any of the following, whether or not the investor is aware that any of the following actions are contemplated or taken:

- (1) Guarantee the note, lien or contract against loss at any time;
- (2) Promise to provide a market for the sale of the note, lien or contract, in connection with a sale or purchase;
- (3) Offer to accept or accept funds for investment in notes or contracts secured directly or indirectly by a lien on real property, where the real property is unspecified at the time of investment;
- (4) Pay any interest or premium for a period before actual purchase and delivery of the note or contract;

(5) Pay any money to an investor if the note or contract is in arrears;

(6) Guarantee that principal or interest will be paid in conformity with the terms of the note or contract;

(7) Accept, from time to time, partial payment toward the purchase of the note or contract; or

(8) Promise to repurchase the note or contract, in connection with sale or purchase.

(t) “Registered dealer” means a dealer registered under this chapter.

(u) “Registered salesman” means a salesman registered under this chapter.

(v) “Sale” or “sell” means a sale or any other disposition of a security or interest in a security for value and includes a contract to make such sale or disposition. A security given or delivered with, or as a bonus on account of, a purchase of securities or other thing shall be conclusively presumed to constitute a part of the subject of the purchase and to have been sold for value.

(w) “Salesman” means an individual, other than a dealer, employed, appointed or authorized by a dealer to sell securities in this state. The partners or executive officers of a registered dealer shall not be deemed salesmen within the meaning of this definition.

(x) “SEC” means the United States Securities and Exchange Commission.

(y) “U.S. Securities Act of 1933” means the act of Congress known as the U.S. Securities Act of 1933.

(z) “U.S. Securities Exchange Act of 1934” means the act of Congress known as the U.S. Securities Exchange Act of 1934.

(aa) “Security”:

(1) Means any note, stock, treasury stock, bond, commodity investment contract, commodity option, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, viatical or life settlement investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, real property investment contract or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

(2) Notwithstanding subdivision (1) of this paragraph, with respect to a virtual coin shall not be construed more broadly than the term security is construed in the U.S. Securities Act of 1933, the U.S. Securities Exchange Act of 1934 or any federal regulations relating to either act.

(bb) “SRO” means any national securities or commodities exchange, registered association or registered clearing agency.

(cc) “Underwriter” means a person who has acquired from an issuer with a view to, or sells for an issuer in connection with, the distribution of any securities or participates or has a direct or indirect participation in such undertaking, or participates or has a participation in the direct or indirect underwriting of such undertaking. Underwriter does not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributor's or seller's commission.

(dd) “Viatical or life settlement investment contract” means an agreement for consideration for the purchase, assignment, transfer, sale, devise or bequest of any portion of the

death benefit under or ownership of either an insurance policy or certificate of insurance. A viatical or life settlement investment contract does not include:

(1) Any agreement for the original issuance of an insurance policy or certificate of insurance;

(2) An assignment, transfer, sale, devise or bequest of a death benefit under or ownership of either an insurance policy or certificate of insurance by the original owner or a person who has an insurable interest in the insured to any of the following:

(A) The insured;

(B) A person who has an insurable interest in the insured;

(C) A dealer; or

(D) A person who is engaged in the business of purchasing the death benefit under or ownership of either insurance policies or certificates of insurance.

(3) An assignment of an insurance policy or certificate of insurance to any bank, savings bank, savings and loan association, credit union or other licensed lending institution as collateral for a loan; or

(4) The exercise of accelerated benefits pursuant to the life insurance policy.

(ee) “Virtual coin” means a digital representation of value that can be digitally traded and that functions as a medium of exchange, unit of account and store of value.

(ff) “Virtual coin offering”:

(1) Means an offer for sale of a virtual coin that either:

(A) Meets the definition of a security prescribed in this section; or

(B) The issuer elects to treat as a security by complying with [STATE

LAW].

(2) Does not include an offer for sale of a virtual coin that both:

(A) Has not been marketed by the issuer as an investment; and

(B) Grants to the purchaser, within ninety days after the purchaser's receipt of the virtual coin, the right to use, contribute to the development of or license the use of a platform using blockchain technology as defined in [STATE LAW], including a license to use a product or service on the platform or a discount against fees for use of the platform.

SECTION 2. EXEMPT TRANSACTIONS.

(a) Except as provided in subsections (b) and (c) of this section, [relevant state securities laws] do not apply to any of the following classes of transactions:

(1) Transactions by an issuer not involving any public offering;

(2) The sale of securities by an executor, administrator, guardian or conservator or by a bank the business of which is supervised and regulated by an agency of this state or of the United States, as trustee under a will or trust agreement, or by a receiver or trustee in insolvency or bankruptcy approved by a court of competent jurisdiction of this state or the United States;

(3) The sale in good faith and not for the purpose of avoiding the provisions of this chapter by a pledgee of securities pledged for a bona fide debt;

(4) The sale in good faith and not for the purpose of avoiding the provisions of this chapter of securities, including securities that when originally issued were exempt pursuant to subsection (a), paragraph (22) of this section, by the bona fide owner of such securities, other than an issuer or underwriter, in an isolated transaction, in which the securities are sold either directly or through a dealer as agent for the owner but where the sales are not made in the course of repeated or successive transactions of similar character by the owner and are not made directly or indirectly for the benefit of the issuer or an underwriter of the securities. For the purposes of

this paragraph, the sale is not considered to be made in the course of repeated or successive transactions of similar character by the owner if both of the following apply:

(A) The sale is of a security that when originally issued was exempt pursuant to subsection (a), paragraph (22) of this section; and

(B) At least six months have passed after the date of the last sale of the security by the issuer to a resident of this state.

(5) The distribution by a corporation of capital stock or other securities to its stockholders or other security holders as a stock dividend or other distribution out of retained earnings;

(6) Any transaction or series of transactions incident to a statutory or judicially approved reorganization, merger, triangular merger, consolidation, or sale of assets, incident to a vote by securities holders pursuant to the articles of incorporation, the applicable corporate statute or other controlling statute, a partnership agreement or the controlling agreement among securities holders;

(7) The exchange of securities by an issuer with its existing security holders exclusively, where no commission or remuneration is paid or given, directly or indirectly, for soliciting the exchange, if such exchange has been duly authorized and has been approved by the holders of not less than a majority of the outstanding securities of each class affected by the exchange;

(8) An offer or sale of securities to a bank, a savings institution, a trust company, an insurance company, an investment company as defined in the Investment Company Act of 1940, a pension or profit sharing trust or other financial institution or institutional buyer or a dealer whether the purchaser is acting for itself or in a fiduciary capacity;



(9) The issuance and delivery of securities in exchange for other securities of the same issuer pursuant to a right of conversion entitling the holder of the securities surrendered in exchange to make such conversion;

(10) The issuance and delivery of securities of a corporation, limited liability company or limited partnership to the original incorporators, organizers or general partners, not exceeding ten in number, where the securities are not acquired by the incorporators, organizers or general partners for the purpose of sale to others and are not directly or indirectly sold to a third party within twenty-four months unless an incorporator, organizer or general partner experiences a bona fide change of financial circumstances within such time period, providing original incorporators, organizers or general partners are notified of their right pursuant to [relevant state corporations and partnership statutes] to review the financial books and records of the corporation, limited liability company or limited partnership at reasonable times;

(11) A nonissuer transaction in an outstanding security, including the sale by a dealer, including an underwriter no longer acting as an underwriter in respect to the securities involved, of securities sold and distributed to the public, but not including securities constituting an unsold allotment to or subscription by the dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter, if the class of security has been outstanding in the hands of the public for not less than ninety days preceding the date of the transaction and a recognized manual of securities designated by the commission by rule or order at the time of sale contains the names of the issuer's officers and directors, a statement of financial condition of the issuer as of a date within eighteen months of the date of the sale and a statement of income or operations for each of the two fiscal years next before the date of the

statement of financial condition or for the period from the commencement of the issuer's existence to the date of the statement of financial condition if the period is less than two years;

(12) The sale by a dealer, including an underwriter no longer acting as an underwriter in respect to the securities involved, of securities of an issue sold and distributed to the public, but not including securities constituting an unsold allotment to or subscription by the dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter, if securities of such issue have been registered by description under [STATE LAW];

(13) The sale of commodity investment contracts traded on a commodities exchange recognized by the commission at the time of sale;

(14) The sale or issuance of any investment contract or other security in connection with an employee's pension, profit sharing, stock purchase, stock bonus, savings, thrift, stock option or other similar employee benefit plan that meets the requirements for qualification under the United States Internal Revenue Code;

(15) Transactions within the exclusive jurisdiction of the Commodity Futures Trading Commission as granted under the Commodity Exchange Act;

(16) Transactions involving the purchase of one or more precious metals that require, and under which the purchaser receives, within seven calendar days after the payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased by such payment. For the purposes of this paragraph, physical delivery is deemed to have occurred if, within such seven day period, the quantity of precious metals purchased by such payment is delivered, whether in specifically segregated or fungible bulk form, into the possession of a depository other than the seller which is a financial institution, a depository the warehouse receipts of which are recognized for delivery purposes for any

commodity on a contract market designated by the Commodity Futures Trading Commission or a storage facility licensed or regulated by the United States or any agency of the United States and such depository or other person that qualifies as a depository issues and the purchaser receives a certificate, document of title, confirmation or other instrument evidencing that such quantity of precious metals has been delivered to the depository and is being and will continue to be held by the depository on the purchaser's behalf, free and clear of all liens and encumbrances, other than liens of the purchaser, tax liens, liens agreed to by the purchaser, or liens of the depository for fees and expenses, that have previously been disclosed to the purchaser. For the purposes of this paragraph, "financial institution" means a bank, savings institution or trust company organized under, or supervised pursuant to, the laws of the United States or of this state;

(17) Transactions involving a commodity investment contract solely between persons engaged in producing, processing, using commercially or handling as merchants each commodity subject to the contract or any by-product.

(18) A nonissuer transaction in an outstanding security, including the sale by a dealer, including an underwriter no longer acting as an underwriter in respect to the securities involved, of securities sold and distributed to the public, but not including securities constituting an unsold allotment to or subscription by the dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter if both of the following apply:

(A) The class of security has been outstanding in the hands of the public for not less than ninety days preceding the date of the transaction; and

(B) The securities are listed on an automated quotation system of a national securities association registered under the U.S. Securities Exchange Act of 1934;



(19) Transactions involving the sale of securities to persons who are not residents of this state and are not present in this state if all of the following conditions are met:

(A) The securities being offered are not blind pool offerings;

(B) At least ten days before the offering date:

(i) The issuer certifies that the securities being offered will be offered and sold in compliance with the U.S. Securities Act of 1933 and the laws and regulations of those states in which the offers and sales will be made;

(ii) The issuer files as a notice filing one copy of any offering materials that may be required by the SEC or the laws and rules of those states in which the offers and sales will be made; and

(iii) The issuer submits a filing fee of two hundred dollars.

(C) Within ten working days of completion of the offering the issuer files a description of the actions taken as to compliance with the U.S. Securities Act of 1933 and the laws and rules of those states in which the offers and sales were made; and

(D) The transaction complies with any rule adopted by the commission further restricting the exemption created by this paragraph to prevent any fraudulent practices.

(20) Transactions involving offers or sales of one or more promissory notes directly secured by a first lien on a single parcel of real estate on which is located a dwelling or other residential or commercial structure and participation interest in those notes that are exempt under section 4(5) of the U.S. Securities Act of 1933;

(21) Offerings of securities of not more than one million dollars or the limit established under 17 Code of Federal Regulations section 230.504 as follows:

(A) An unlimited number of sophisticated purchasers may be involved.



(B) Written offering documents providing full and adequate disclosure of material facts must be provided to each purchaser.

(C) Advertising is not allowed without a waiver from the director.

(D) The sum of the following amounts may not exceed the greater of one million dollars or the limit established under 17 Code of Federal Regulations section 230.504:

(i) The dollar value for the amount of securities being offered.

(ii) The aggregate offering price of all securities of the issuer sold within the twelve months before the date of the offering; and

(iii) The aggregate offering price of all securities of the issuer sold during the course of the offering if the securities were sold in reliance on 15 United States Code section 77c(b) or in violation of 15 United States Code section 77e(a).

(E) Provisions on offerings to sophisticated purchasers are as follows:

(i) An offering to sophisticated purchasers under this section allows sales to either an accredited investor as defined in 17 Code of Federal Regulations section 230.501 or a person, acting alone or with a purchaser representative, who the dealer reasonably believes has the knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the proposed investment. The dealer must reasonably believe that the person has knowledge and experience before a person becomes a purchaser.

(ii) The issuer shall display the following notice on the cover page of the disclosure document in a conspicuous manner in at least twelve-point boldface type:

In making an investment decision, investors shall rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved. These securities have not been recommended by any federal or state securities commission or division or regulatory authority.



Furthermore, the foregoing authorities have not confirmed the accuracy or determined the adequacy of this document. Any representation to the contrary is a criminal offense. These securities are subject to restrictions on transferability and resale and may not be transferred or resold, except as allowed by 17 Code of Federal Regulations and applicable state securities laws, pursuant to registration or exemption from registration. Investors must be aware that they are required to bear the financial risks of this investment for an indefinite period of time.

(F) One copy of the notice on form D filed with the SEC is filed with the commission not later than fifteen calendar days after the first sale of securities in or from this state.

(G) An offering to purchasers under this section allows all of the following:

(i) Sales to be made only by a dealer who is not the issuer and who is registered in this state;

(ii) The dealer to conduct the sales if the dealer reasonably believes that adequate diligence and review have been applied in connection with the offering and the dealer adequately determines the suitability of the offering to a purchaser; and

(iii) Sales if the dealer reasonably believes that the security is suitable for the purchaser after reasonable inquiry concerning the purchaser's investment objectives, financial situation and needs and after consideration of any other information known by the dealer.

(H) The exemption may not be used if an issuer or person affiliated with the issuer or offering is subject to disqualification pursuant to any of the following:

(i) This chapter;



(ii) A rule or order of the commission;

(iii) The U.S. Securities Act of 1933 (15 United States Code section 77c(a)(11)); or

(iv) The U.S. Securities Act of 1933, 17 Code of Federal Regulations section 230.262.

(I) The commission may set aside disqualification if:

(i) On a showing of good cause and without prejudice to any other action by the commission, the commission determines that it is not necessary that an exemption be denied under the circumstances; and

(ii) The issuer establishes that it made a factual inquiry into whether any disqualification existed under subdivision (h) of this paragraph but did not know and could not have known with the exercise of reasonable care that a disqualification existed. The nature and scope of the requisite inquiry will vary based on the circumstances of the subject issuer and the other offering participants.

(22) Transactions involving an intrastate offering, including crowdfunding or virtual coin offerings, if all of the following conditions are met:

(A) The issuer is authorized to do business in this state;

(B) The transaction meets the requirements of the federal exemption for intrastate offerings under 15 United States Code section 77c(a)(11) or 17 Code of Federal Regulations section 230.147 or 230.147A, or any subsequently amended or expanded versions of those sections. For the purposes of this chapter, a corporation, partnership, trust or other form of business organization is not deemed to be organized for the specific purpose of acquiring

securities offered under 17 Code of Federal Regulations section 230.147 or 230.147A if the corporation, partnership, trust or other form of business organization either:

(i) Was created before January 1, [YEAR LEGISLATION IS ENACTED]; or

(ii) Invests ninety-five percent or less of its investable assets in offerings authorized by this chapter.

(C) The issuer obtains from each prospective purchaser evidence that the prospective purchaser is a resident of this state and, if applicable, is an accredited investor. A prospective purchaser's residence shall be determined in accordance with 17 Code of Federal Regulations section 230.147(d) or 230.147A(d). If the purchaser is an entity, an affirmative representation made by the entity that the entity is a resident of this state is sufficient evidence that the entity is a resident of this state if the entity also submits proof that the entity is incorporated or organized in this state, is qualified as a resident pursuant to any of the categories identified in 17 Code of Federal Regulations section 230.147(c)(1) or 230.147A(c)(1) or uses an internet protocol address originating from this state to purchase the offering. If the purchaser is an individual, an affirmative representation made by the individual that the individual is a resident of this state is sufficient evidence that the individual is a resident of this state if the individual also submits proof of any of the following:

(i) The individual has a valid driver license or nonoperating identification license issued pursuant to [STATE LAW];

(ii) The individual is registered to vote in this state;

(iii) General property tax records show the individual owns and occupies property in this state as the individual's principal residence; or



(iv) The individual uses an internet protocol address originating from this state to purchase the offering.

(D) The issuer informs all purchasers that the securities have not been registered and that the securities are subject to the limitation on resales contained in either:

(i) 17 Code of Federal Regulations section 230.147(e), in the manner described in 17 Code of Federal Regulations section 230.147(f); or

(ii) 17 Code of Federal Regulations section 230.147A(e), in the manner described in 17 Code of Federal Regulations section 230.147A(f).

(E) Before an offer is made in reliance on this exemption, the issuer pays a filing fee to be prescribed by the director and files a notice with the director, in writing or in electronic form, that contains all of the following:

(i) The name of the issuer, including the issuer's type of entity and the address and telephone number of the issuer's principal office;

(ii) The intended use of the offering proceeds, including any amounts to be paid, as compensation or otherwise, to any owner, executive officer, director, managing member or other person occupying a similar status or performing similar functions on behalf of the issuer;

(iii) The identity of all persons who will be involved in the offer or sale of securities on behalf of the issuer;

(iv) The identity of each person that owns more than ten percent of the ownership interests of any class of securities of the issuer;



(v) The identity of the executive officers, directors and managing members of the issuer and any other individuals who occupy similar status or perform similar functions in the name of and on behalf of the issuer;

(vi) Notice that the issuer is claiming this exemption for the transaction; and

(vii) The name and location, whether physical or virtual of the bank, institution or other repository in which investor monies or proceeds, or both, from the offering will be deposited.

(F) If the information contained on the notice required in subdivision (E) of this paragraph becomes inaccurate for any reason, the issuer files an amendment in writing with the director within thirty days;

(G) All dollar-denominated monies received from investors are deposited into a bank or depository institution authorized to do business in this state, and all such monies are used in accordance with representations made to investors;

(H) The sum of all cash and other consideration to be received as a result of an offering under this exemption does not exceed five million dollars in a twelve-month period;

(I) The issuer and any persons affiliated with the issuer or offering are not subject to disqualification pursuant to this chapter, a rule or order of the director, 15 United States Code section 77c(a)(11) or 17 Code of Federal Regulations section 230.262. The director may set aside disqualification if both of the following apply:

(i) On a showing of good cause and without prejudice to any other action by the director, the director determines that it is not necessary that an exemption be denied under the circumstances; and

(ii) The issuer establishes that the issuer made a factual inquiry into whether any disqualification existed and did not know and could not have known in the exercise of reasonable care that a disqualification existed. The nature and scope of the requisite inquiry will vary based on the circumstances of the subject issuer and the other offering participants; and

(J) The issuer does not accept more than ten thousand dollars from any single purchaser unless the purchaser is an accredited investor under 17 Code of Federal Regulations section 230.501.

(b) Subsection (a), paragraph (11) of this section does not apply to either of the following:

(1) Sales by a dealer or salesman who is not registered in this state; or

(2) Solicited sales to or purchases from a resident of this state by a dealer who does not have, before the initial solicitation, a written new account form signed by the resident or a customer agreement signed by the resident and a previous sale or purchase of a security with the resident.

(c) The commission may by order revoke or suspend the exemption under subsection (a), paragraph (11) or (18) of this section with respect to any securities or the use of the exemption under subsection (a), paragraph (11) of this section by any dealer if it finds that the further sale in this state of the securities or by the dealer would work, or tend to work, a fraud or deceit on the purchaser.

(d) A purchaser engaging in an offering that complies with subsection (a), paragraph 22 of this section shall not be considered an underwriter, unless the purchaser purchases more than fifty percent of the securities or virtual coins offered for sale in the offering.

(e) The issuer and all other parties involved in an offering that complies with subsection (a), paragraph (22) of this section may agree that any controversy or claim arising out of or relating to the offering shall be resolved by private arbitration between the parties and the agreement shall be enforceable by the laws of this state.

(f) Notwithstanding any other provision of this chapter, the director may enter into agreements with federal, state or foreign regulators to allow securities issued or sold in this state to be sold in another jurisdiction and securities issued or sold in another jurisdiction to be issued or sold in this state.

(g) Except as provided in subsection (h) of this section, a person who facilitates the exchange of a virtual coin shall not be deemed to be a dealer or a person who otherwise deals in securities under this chapter and is not subject to this chapter or chapter 13 due to the exchanged virtual coin if both of the following are met:

(1) The person has a reasonable and good faith belief that the virtual coin subject to exchange does not meet the definition of a virtual coin offering under Section 1; and

(2) The person takes reasonably prompt action to terminate the person's facilitation of the exchange of the virtual coin after obtaining knowledge that the virtual coin meets the definition of a virtual coin offering under Section 1.

(h) [RELEVANT STATE SECTIONS ADDRESSING SECURITIES FRAUD] apply to a person described in subsection (g) of this section.

(i) The director may adopt rules based on 17 Code of Federal Regulations section 230.504 and revise the rules as necessary to keep them current with the federal law.



FOOD FREEDOM ACT

SECTION 1. DEFINITIONS.

(a) “Delivery” means the transfer of a product resulting from a transaction between a producer and an informed end consumer. The delivery may occur at a farm, ranch, farmers market, home, office, retail store, restaurant, or any location agreed to between the producer and the informed end consumer, and may be done by the producer or the producer’s designated agent.

(b) “Farmers market” means a common facility or area where vendors gather on a regular, recurring basis to sell directly to consumers foods (including but not limited to fresh fruits and vegetables, meats, and value-added products) grown or produced by those vendors; provided that fewer than half of the vendors at a farmers market may sell non-food items.

(c) “Home consumption” means consumed within a private home, or food from a private home that is only consumed by family members, employees or nonpaying guests.

(d) “Homemade” means food that is prepared or processed in a private home kitchen or other kitchen on a producer’s owned or leased property that is not a commercially regulated kitchen and is not licensed, inspected, nor regulated.



(e) “Informed end consumer” means a person who is the last person to purchase any product, who does not resell the product and who has been informed that the product is not licensed, regulated or inspected.

(f) “Producer” means any person who grows, harvests, prepares or processes any food or drink products on property the person owns or leases.

(g) “Transaction” includes any one or more of buying, selling, sharing, exchanging, or donating.

(h) “Process” means operations a producer performs in the making or treatment of the producer’s food or drink products.

(i) “Non potentially hazardous food” means food that does not require time or temperature control for safety, including limiting pathogenic microorganism growth or toxin formation. “Non potentially hazardous food” includes, but is not limited to, jams, uncut fruits and vegetables, pickled vegetables, hard candies, fudge, nut mixes, granola, dry soup mixes (not including meat-based soup mixes), coffee beans, dry teas and tea blends, popcorn, acidified (high-acid) canned goods, and baked goods that do not contain dairy, meat, or other potentially hazardous food ingredients such as frosting or filling such as meat or dairy.

(j) “Potentially hazardous food” means food that requires time or temperature control for safety, including limiting pathogenic microorganism growth or toxin formation. “Potentially hazardous food” includes, but is not limited to, foods requiring refrigeration, dairy products, quiches, pizzas, frozen doughs, meat, cooked vegetables and beans, and low-acid canned goods.

SECTION 2.

(a) The purpose of the Food Freedom Act is to allow for a producer’s production and sale of homemade food and drink products to an informed end consumer and to encourage the

expansion of agricultural sales at farmers markets, ranches, farms, producers' homes, retail stores, and restaurants, by:

(1) Facilitating the purchase and consumption of fresh and local agricultural products;

(2) Enhancing the agricultural economy; and

(3) Providing citizens with unimpeded access to healthy food from known sources.

(b) Unless otherwise provided in this section, homemade food products produced, sold, and consumed in compliance with the Food Freedom Act shall be exempt from state licensure, permitting, inspection, packaging, and labeling requirements.

(c) Transactions under this act shall:

(1) Be directly between the seller and the informed end consumer. The seller of a homemade food product consisting of non potentially hazardous food may be the producer of the item, an agent of the producer, or a third-party vendor—including a retail store or restaurant—provided the sale is made in compliance with this act. The seller of a homemade food item consisting of potentially hazardous food shall be the producer of the item;

(2) Occur only within this state;

(3) Not involve interstate commerce;

(4) Not involve the sale of meat products, with the following exceptions:

(A) The sale of poultry and poultry products, provided:

(i) The producer slaughters not more than one thousand (1,000) poultry of his own raising during any one (1) calendar year;

(ii) The producer does not engage in buying or selling poultry products other than those produced from poultry of his own raising; and

(iii) The poultry product is not adulterated nor misbranded.

(B) The sale of live animals;

(C) The sale of portions of live animals before slaughter for future delivery;

(D) The sale of domestic rabbit meat or lamb; or

(E) The sale of farm-raised fish, provided the fish is raised in accordance with existing laws;

(5) Only occur at farmers markets, farms, ranches, producers' homes or offices, the retail store or restaurant of the third party seller of non potentially hazardous foods, or any location the producer and the informed end consumer agree to.

(d) Potentially hazardous foods shall not be sold to, sold by, nor used in any commercial food establishment unless the food has been labeled, licensed, packaged, regulated, or inspected as required by law. Nothing in this section shall prohibit the sale of homemade food from a retail space located at the ranch, farm or home where the food is produced or at the retail location of a third party seller for non potentially hazardous food. A retail space selling homemade food produced under this act shall inform the end consumer that the food has not been inspected by displaying a sign indicating the homemade food has not been inspected. If a retail space selling potentially hazardous food is in any way associated with a commercial food establishment or offers for sale any inspected food product, the retail space selling potentially hazardous homemade food shall comply with rules adopted by the department of agriculture which shall require:

(1) That the retail space be physically separated from the commercial food establishment with a separate door and separate cash register or point of sale;

(2) That each separate space shall include signs or other markings clearly indicating which spaces are offering inspected items for sale and which spaces are uninspected;

(3) Separation of coolers, freezers and warehouse or other storage areas to prohibit the intermingling of inspected and uninspected products; and

(4) Any other requirements specified by the department of agriculture to ensure the sale of homemade foods is made to an informed end consumer.

(e) The producer shall inform the end consumer that any food product or food sold at a farmers market or through ranch, farm or home based sales pursuant to this act is not certified, labeled, licensed, regulated, nor inspected. A third party seller offering non potentially hazardous food for sale pursuant to this act shall inform the end consumer that the homemade food is not certified, labeled, licensed, regulated or inspected.

(f) Nothing in this act shall be construed to impede a state or county agency in any investigation of foodborne illness.

(g) Nothing in this act shall be construed to change the requirements for brand inspection or animal health inspections.

(h) Nothing in this act shall preclude an agency from providing assistance, consultation, nor inspection should a producer request such assistance, consultation, or inspection;

(i) In addition to the requirements of this section, for sales of non potentially hazardous food at a retail store, the food shall not be displayed or offered for sale on the same shelf or display as food produced in a licensed establishment, and shall be clearly and prominently

labeled with this language: “This food was made in a home kitchen that is not licensed, regulated, nor inspected. This food may contain unlabeled allergens.”



CHARITABLE DEDUCTIONS ACT

For taxable years beginning from and after [DATE], the standard deduction allowed under [STATE LAW] shall be increased by the amount equal to twenty-five percent of the total amount of a taxpayer's charitable deductions that would have been allowed if the taxpayer elected to claim itemized deductions under [STATE LAW] rather than elect the standard deduction.





MINIMIZE CRISIS CRONYISM ACT

SECTION 1. DEFINITIONS

“Public body” means this state, any county, city, town, school district, political subdivision or tax-supported district in this state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from this state or any political subdivision of this state, or expending monies provided by this state or any political subdivision of this state.

SECTION 2.

Within sixty days of distributing any funds received under the U.S. Coronavirus Aid, Relief, and Economic Security Act to a non-governmental entity, each public body shall report the following for each recipient:

- (a) The name of the recipient.;
- (b) The amount of funds distributed; and
- (c) The criteria by which the selection of recipients and funding amounts were determined.



SECTION 3.

The public body shall submit the information required by Section 2 to the secretary of state and if the public body maintains a website, it shall also disclose the reported information on its website.

SECTION 4.

Distributions to individual residents of this state shall be reported in aggregate.



SAFE AND FAST RETROFIT ACT

SECTION 1. DEFINITIONS.

(a) “Crisis-related retrofit” means any reconfiguration; moving of non-load bearing walls; installation of barriers, filters, or safety equipment; subdivision of spaces; reconfiguration of entrances and exits; movement of equipment or machinery; or any other measures that a business reasonably takes in order to ensure or improve the safety of its employees and/or customers, as related to the novel coronavirus pandemic.

(b) “Relevant application” means any application that is required by law to be approved before a business may begin construction of a crisis-related retrofit.

(c) “Licensed architect” means an architect that is licensed by, and in good standing with, the relevant licensing authority of this state.

SECTION 2. CRISIS-RELATED RETROFITS SHALL BE APPROVED QUICKLY, OR ELSE DEEMED APPROVED BY OPERATION OF LAW.

(a) If a business is required to obtain approval from a state or local governmental authority in order to complete a crisis-related retrofit, the relevant authority shall approve or deny the relevant application within 30-days, otherwise the application shall be deemed



approved by operation of law, provided that the application has been approved by a licensed architect.

(b) Applications for crisis-related retrofits shall only be denied if they are deemed unsafe. Applications shall not be denied for aesthetic reasons, or any other reason unrelated to protecting the public health and safety.

(c) Once an application for a crisis-related retrofit is approved, or deemed approved by operation of law, the applicant can immediately commence construction of the changes contained in the application.

SECTION 3. PREEMPTION.

For a period of eighteen (18) months from the effective date of this statute, the Safe and Fast Retrofit Act shall preempt all other state and local zoning or construction requirements.

SECTION 4. APPLICABILITY.

Due to the ongoing public health emergency, the provisions of this Act are applicable and effective immediately.



HOME-SHARING ACT

SECTION 1. DEFINITIONS.

(a) “Short-term rental” means any individually or collectively owned residential house or dwelling unit or group of units that is rented wholly or partially for any period of time and for residential use.

(b) “Law” means a county or local law, ordinance, or regulation.

SECTION 2. SHORT-TERM RENTALS MAY NOT BE RESTRICTED BASED SOLELY ON CLASS.

(a) A law,:

(1) May not prohibit short-term rentals.

(2) May not restrict the use of or regulate short-term rentals based on their classification, use, or occupancy.

(b) A law may regulate short-term rentals if the regulation is narrowly tailored to protect the public health and safety.



SECTION 3. BURDEN OF PROOF.

(a) The question whether a law complies with Section 2 shall be a judicial question, and determined without regard to any legislative assertion that the law complies with Section 2.

(b) The state or political subdivision of this state that enacted the law shall establish by clear and convincing evidence that the land use law:

(1) Does not prohibit, restrict the use of, or regulate short-term rentals based on their classification; and

(2) Is narrowly tailored to protect the public health and safety.



CIVIL ASSET FORFEITURE REFORM ACT

SECTION 1. PURPOSE OF ACT.

(a) The purposes of the Forfeiture Act are to:

- (1) Make uniform the standards and procedures for the seizure and forfeiture of property subject to forfeiture; and
- (2) Protect the constitutional rights of persons whose property is subject to forfeiture and of innocent owners holding interests in property subject to forfeiture;
- (3) Deter criminal activity by reducing its economic incentives;
- (4) Increase the pecuniary loss from criminal activity;
- (5) Protect against the wrongful forfeiture of property; and
- (6) Ensure that only criminal forfeiture is allowed in this state.

(b) This section:

- (1) Applies to all seizures, forfeitures and dispositions of property subject to forfeiture pursuant to laws that specifically apply the Forfeiture Act in this state; and
- (2) Does not apply to:

(A) Contraband, which is subject to seizure pursuant to applicable state



laws, but is not subject to forfeiture pursuant to the Forfeiture Act;

(B) Animals that are subject to seizure, impoundment, alteration, permanent removal from custody or destruction for animal welfare, public health and safety or compliance and enforcement purposes pursuant to applicable state and local laws;

(C) Real property or personal property that is located on that real property that is subject to destruction pursuant to state and local laws to protect public health and safety; or

(D) Forfeiture that results from a lien for charges or assessments that are provided for or fixed by state or local laws.

SECTION 2. DEFINITIONS.

(a) “Contraband” means goods that may not be lawfully imported, exported or possessed, including drugs that are listed in Schedule I, II, III, IV or V of the U.S. Controlled Substances Act and that are possessed without a valid prescription.

(b) “Conveyance” means a device used for transportation and:

(1) Includes a motor vehicle, trailer, snowmobile, airplane, vessel and any equipment attached to the conveyance; but

(2) Does not include property that is stolen or taken in violation of a law.

(c) “Conviction” or “convicted” means that a person has been found guilty of a crime in a trial court whether by a plea of guilty or nolo contendere or otherwise and whether the sentence is deferred or suspended.

(d) “Crime” means a violation of a criminal statute for which property of the offender is subject to seizure and forfeiture.

(e) “Disclaimed property” means property, the ownership of which has been disclaimed

by the person in possession of the property at the time the property is seized.

(f) “Instrumentality” means all property that is otherwise lawful to possess that is used in the furtherance or commission of an offense to which forfeiture applies and includes land, a building, a container, a conveyance, equipment, materials, a product, a computer, computer software, a telecommunications device, a firearm, ammunition, a tool, money, a security and a negotiable instrument and other devices used for exchange of property.

(g) “Knowledge” means actual or constructive awareness that can be proved either through direct or circumstantial evidence of information, a fact or a condition.

(h) “Law enforcement agency” means the employer of a law enforcement officer who is authorized to seize or has seized property and includes the district attorney, the attorney general and another entity authorized by law to file a forfeiture action.

(i) “Law enforcement officer”:

(1) Means a state or municipal police officer, county sheriff, deputy sheriff, conservation officer, motor transportation enforcement officer or other state employee authorized by state law to enforce criminal statutes; but

(2) Does not mean a correctional officer.

(j) “Owner” means a person who has a legal or equitable ownership interest in property.

(k) “Property” means tangible or intangible personal property or real property.

(l) “Property subject to forfeiture” means property or an instrumentality declared to be subject to forfeiture by this section or a state law outside of the Forfeiture Act or a local ordinance.

(m) “Secured party” means a person with a security or other protected interest in property, whether the interest arose by mortgage, security agreement, lien, lease or otherwise; the

purpose of which interest is to secure the payment of a debt or protect a potential debt owed to the secured party.

**SECTION 3. FORFEITURE –CONVICTION REQUIRED –SEIZURE OF
PROPERTY –WITH PROCESS –WITHOUT PROCESS.**

(a) A person's property is subject to forfeiture pursuant to state law if:

- (1) The person was arrested for an offense to which forfeiture applies;
- (2) The person is convicted by a criminal court of the offense; and
- (3) The state law enforcement agency establishes by clear and convincing

evidence that the property is subject to forfeiture as provided in Subsection (c) of this section.

(b) A person's property is subject to forfeiture pursuant to local ordinance if:

- (1) The person was arrested for a felony to which forfeiture applies;
- (2) The person is convicted by a criminal court of the felony offense; and
- (3) The local law enforcement agency establishes by clear and convincing

evidence that the property is subject to forfeiture as provided in Subsection (c) of this section.

(c) Following a person's conviction for an offense to which forfeiture applies, a court may order the person to forfeit:

- (1) Property the person acquired through commission of the offense;
- (2) property directly traceable to property acquired through the commission of the offense; and
- (3) Any instrumentality the person used in the commission of the offense.

(d) Nothing in this section shall prevent property from being forfeited by the terms of a plea agreement to a felony that is approved by a court or by other agreement of the parties to a criminal proceeding.

(e) Subject to the provisions of Section 5, at any time, at the request of the law enforcement agency, a court may issue an ex parte preliminary order to seize property that is subject to forfeiture and for which forfeiture is sought and to provide for the custody of the property. The execution on the order to seize the property and the return of the property, if applicable, are subject to the Forfeiture Act and other applicable state laws or local ordinances. Before issuing an order pursuant to this subsection, the court shall make a determination that:

(1) There is a substantial probability that:

(A) The property is subject to forfeiture;

(B) The law enforcement agency will prevail on the issue of forfeiture;

and

(C) Failure to enter the order will result in the property being destroyed, removed from the state or otherwise made unavailable for forfeiture; and

(2) The need to preserve the availability of the property through the entry of the requested order outweighs the hardship to the owner and other parties known to be claiming interests in the property.

(f) Property subject to forfeiture may be seized at any time, without a prior court order, if:

(1) The seizure is incident to a lawful arrest for a crime or a search lawfully conducted pursuant to a search warrant and the law enforcement officer making the arrest or executing the search has probable cause to believe the property is subject to forfeiture and that the subject of the arrest or search warrant is an owner of the property;

(2) The property subject to seizure is the subject of a previous judgment in favor of the law enforcement agency; or

(3) The law enforcement officer making the seizure has probable cause to believe

the property is subject to forfeiture and that the delay occasioned by the need to obtain a court order would result in the removal or destruction of the property or otherwise frustrate the seizure.

SECTION 4. RECEIPT FOR SEIZED PROPERTY—REPLEVIN HEARING.

(a) When a law enforcement officer seizes property that is subject to forfeiture, the officer shall provide an itemized receipt to the person possessing the property or, in the absence of a person to whom the receipt could be given, shall leave the receipt in the place where the property was found, if possible.

(b) Within five business days of the seizure, the law enforcement officer shall provide notice by personal service or first class mail to all owners of record of the seized property.

(c) Following the seizure of property, the defendant in the related criminal matter or another person who claims an interest in the seized property may, at any time before the one-hundred-twentieth day following the filing of the forfeiture action in court, claim an interest in the seized property by a motion requesting the court to issue a writ of replevin. A motion filed pursuant to this section shall include facts to support the person's alleged interest in the seized property.

(d) A person who makes a timely motion pursuant to this section shall have a right to a hearing on the motion before the resolution of any related criminal matter or forfeiture proceeding and within sixty days of the date on which the motion is filed.

(e) At least 10 days before a hearing on a motion filed pursuant to this section, the law enforcement agency shall file an answer or responsive motion that shows probable cause for the seizure.

(f) A court shall grant a claimant's motion if the court finds that:

(1) It is likely that the final judgment will require the law enforcement agency to

return the property that was seized without a court order to the claimant;

(2) The property is not reasonably required to be held for investigatory reasons; or

(3) The property is the only reasonable means for a defendant to pay for legal representation in a related criminal or forfeiture proceeding and the law enforcement agency did not make a prima facie showing that the property was stolen or proceeds from or is an instrumentality of a crime.

(g) In its discretion, the court may order the return of funds or property sufficient for a defendant to obtain legal counsel but less than the total amount seized. If the court makes such an order, it shall require an accounting. An accounting report of reasonable legal fees held before the resolution of the relevant criminal and forfeiture proceedings shall be held in camera. If the court finds in favor of the law enforcement agency in both the criminal and forfeiture proceedings, the court shall:

(1) Hear arguments by the parties as to what portion of the funds or property should be paid to the defendant's counsel and what portion should be forfeited; and

(2) Issue an order on how the funds or property shall be distributed.

(h) In lieu of ordering the issuance of a writ of replevin, a court may order:

(1) The law enforcement agency to give security or written assurance for satisfaction of any judgment, including damages, that may be rendered in a related forfeiture action; or

(2) Any other relief the court deems to be just; provided that the relief does not prejudice an innocent owner, including a secured lienholder.

SECTION 5. NOTICE OF INTENT TO FORFEIT—SERVICE OF PROCESS.

(a) Within 30 days of making a seizure of property or simultaneously upon filing a

related criminal indictment, the law enforcement agency shall file a notice of intent to forfeit or return the property to the person from whom it was seized. The notice shall include:

- (1) A description of the property seized;
 - (2) The date and place of seizure of the property;
 - (3) The name and address of the law enforcement agency making the seizure;
 - (4) The specific statutory and factual grounds for the seizure;
 - (5) Whether the property was seized pursuant to an order of seizure, and if the property was seized without an order of seizure, an affidavit from a law enforcement officer stating the legal and factual grounds why an order of seizure was not required; and
 - (6) In the notice, the names of persons known to the law enforcement agency who have an interest in the property and the basis for each person's interest.
- (b) The notice shall be served upon the person from whom the property was seized, the person's attorney of record and all persons known or reasonably believed by the law enforcement agency to claim an interest in the property. A copy of the notice shall also be published on the sunshine portal until the forfeiture proceeding is resolved.

SECTION 6. FORFEITURE PROCEEDINGS –DETERMINATION – SUBSTITUTION OF PROPERTY—CONSTITUTIONALITY—APPEAL.

(a) A person who claims an interest in seized property shall file a response within thirty days of the date of service of the notice of intent to forfeit. The response shall include facts to support the claimant's alleged interest in the property.

(b) The district courts have jurisdiction over forfeiture proceedings, and venue for a forfeiture proceeding is in the same court in which venue lies for the criminal matter related to the seized property.

(c) The forfeiture proceeding shall begin after the conclusion of the trial for the related criminal matter in an ancillary proceeding that relates to a defendant's property before the same judge and jury, if applicable, and the court, and the jury, if applicable, may consider the forfeiture of property seized from other persons at the same time or in a later proceeding. If the criminal defendant in the related criminal matter is represented by the public defender department, the chief public defender or the district public defender may authorize department representation of the defendant in the forfeiture proceeding.

(d) Discovery conducted in an ancillary forfeiture proceeding is subject to the rules of criminal procedure.

(e) An ancillary forfeiture proceeding that relates to the forfeiture of property valued at less than twenty thousand dollars (\$20,000) shall be held before a judge only.

(f) If the law enforcement agency fails to prove, by clear and convincing evidence, that a person whose property is alleged to be subject to forfeiture is an owner of the property:

(1) The forfeiture proceeding shall be dismissed and the property shall be delivered to the owner, unless the owner's possession of the property is illegal; and

(2) The owner shall not be subject to any charges by the law enforcement agency for storage of the property or expenses incurred in the preservation of the property.

(g) The court shall enter a judgment of forfeiture and the seized property shall be forfeited to the law enforcement agency if the law enforcement agency proves by clear and convincing evidence that:

(1) The seized property is subject to forfeiture;

(2) The criminal prosecution of the owner of the seized property resulted in a conviction; and

(3) The value of the property to be forfeited does not unreasonably exceed:

- (A) The pecuniary gain derived or sought to be derived by the crime;
- (B) The pecuniary loss caused or sought to be caused by the crime; or
- (C) The value of the convicted owner's interest in the property.

(h) A court shall not accept a plea agreement or other arrangement by which a defendant contributes or donates property to a person, charity or other organization in full or partial fulfillment of responsibility established in the court's proceeding.

(i) Following a person's conviction, the law enforcement agency may make a motion for forfeiture of substitute property owned by the person that is equal to but does not exceed the value of the property that is subject to forfeiture but that the law enforcement agency is unable to seize. The court shall order the forfeiture of substitute property only if the law enforcement agency proves by a preponderance of the evidence that the person intentionally transferred, sold or deposited property with a third party to avoid the court's jurisdiction and the forfeiture of the property.

(j) A person is not jointly and severally liable for orders for forfeiture of another person's property. When ownership of property is unclear, a court may order each person to forfeit the person's property on a pro rata basis or by another means the court deems equitable.

(k) Within the time period for filing an appeal following the conclusion of a forfeiture proceeding, the person whose property was forfeited may petition the court to determine whether the forfeiture was unconstitutionally excessive pursuant to the state or federal constitution.

(l) At a non-jury hearing on the petition, the petitioner has the burden of establishing by a preponderance of the evidence that the forfeiture was grossly disproportional to the seriousness of the criminal offense for which the person was convicted.

(m) In determining whether the forfeiture is unconstitutionally excessive, the court may consider all relevant factors, including:

(1) The seriousness of the criminal offense and its impact on the community, the duration of the criminal activity and the harm caused by the defendant;

(2) The extent to which the defendant participated in the offense;

(3) The extent to which the property was used in committing the offense;

(4) The sentence imposed for the commission of the crime that relates to the property that is subject to forfeiture; and

(5) Whether the criminal offense was completed or attempted.

(n) In determining the value of the property subject to forfeiture, the court may consider relevant factors, including the fair market value of the property and the hardship from the loss of a primary residence, motor vehicle or other property to the defendant's family members or others if the property is forfeited, in addition to any non-monetary intrinsic value of property that would cause the defendant to suffer if the forfeiture is realized.

(o) The court shall not consider the value of the property to the law enforcement agency when it determines whether the forfeiture of the property is constitutionally excessive.

(p) A party to a forfeiture proceeding may appeal a district court's decision regarding the seizure, forfeiture and distribution of property.

SECTION 7. TITLE TO SEIZED PROPERTY –DISPOSITION OF FORFEITED PROPERTY AND DISCLAIMED PROPERTY—PROCEEDS.

(a) The law enforcement agency acquires provisional title to seized property at the time the property was used or acquired in connection with an offense that subjects the property to forfeiture. Provisional title authorizes the law enforcement agency to hold and protect the

property. Title to the property shall vest with the law enforcement agency when a trier of fact renders a final forfeiture verdict and the title relates back to the time when the law enforcement agency acquired provisional title; provided that the title is not subject to claims by third parties that are adjudicated pursuant to the Forfeiture Act.

(b) Unless possession of the property is illegal or a different disposition is specifically provided for by law and except as provided in this section, forfeited property that is not currency shall be delivered to the state treasurer or the state treasurer's designee for disposition at a public auction. Forfeited currency and all proceeds of the sale of forfeited property shall be distributed by the state treasurer as follows:

(1) First, to reimburse the reasonable expenses related to the storage, protection and transfer of the property incurred by a law enforcement agency or the state treasurer;

(2) Second, to pay any reasonable expenses incurred to dispose of the property by a law enforcement agency or the state treasurer; and

(3) Third, any remaining balance shall be deposited in the general fund.

(c) A law enforcement agency or public body that receives reimbursement pursuant to Subsection (b) of this section shall inform the state auditor of that fact at the time of the agency's or body's annual audit.

(d) A forfeited property interest is subject to the interest of a secured party unless, in the forfeiture proceeding, the law enforcement agency proves by clear and convincing evidence that the secured party had knowledge of the crime that relates to the seizure of the property.

(e) Disclaimed property is subject to the provisions of [the state unclaimed property law] and shall be disposed of in the same manner as provided in Subsection (b) of this section.

(f) Property subject to forfeiture that is in a law enforcement agency's possession

becomes disclaimed property and may be disposed of as such without a conviction if:

(1) There is no innocent owner; and

(2) The criminal prosecution of the owner of the seized property cannot proceed

because for a period in excess of one year and one day:

(A) A bench warrant has been pending as a result of the defendant failing to appear; or

(B) The owner fugitates.

SECTION 8. INNOCENT OWNERS.

(a) The property of an innocent owner, as provided in this section, shall not be forfeited.

(b) A person who claims to be an innocent owner has the burden of production to show that the person:

(1) Holds a legal right, title or interest in the property seized; and

(2) Held an ownership interest in the seized property at the time the illegal conduct that gave rise to the seizure of the property occurred or was a bona fide purchaser for fair value.

(c) The law enforcement agency shall immediately return property to an established innocent owner who has an interest in homesteaded property, a motor vehicle valued at less than ten thousand dollars (\$10,000) or a conveyance that is encumbered by a security interest that was perfected pursuant to state law or that is subject to a lease or rental agreement, unless the secured party or lessor had actual knowledge of the criminal act upon which the forfeiture was based.

(d) If a person establishes that the person is an innocent owner pursuant to Subsection (b) of this section and the law enforcement agency pursues a forfeiture proceeding with respect to that person's property, other than property described in Section 7 to successfully forfeit the

property, the law enforcement agency shall prove by clear and convincing evidence that the innocent owner had knowledge of the underlying crime giving rise to the forfeiture.

(e) A person who acquired an ownership interest in property subject to forfeiture after the commission of a crime that gave rise to the forfeiture and who claims to be an innocent owner has the burden of production to show that the person has legal right, title or interest in the property seized under this section.

(f) If a person establishes that the person is an innocent owner as provided in Subsection (b) of this section and the law enforcement agency pursues a forfeiture proceeding against the person's property, to successfully forfeit the property, the law enforcement agency shall prove by clear and convincing evidence that at the time the person acquired the property or an interest in the property, the person:

(1) Had actual knowledge that the property was subject to forfeiture; or

(2) Was not a bona fide purchaser who was without notice of any defect in title and who gave valuable consideration.

(g) If the law enforcement agency fails to meet its burdens as provided in Subsections (c) and (d) of this section, the court shall find that the person is an innocent owner and shall order the law enforcement agency to relinquish all claims of title to the innocent owner's property without delay.

(h) Seized property that is firearms, ammunition or explosives subject to forfeiture under the protections of this section and that is not returned to an innocent owner may be destroyed upon a motion by the law enforcement agency and an order of the court.

SECTION 9. SAFEKEEPING OF SEIZED PROPERTY PENDING

DISPOSITION.

With regard to seized property in the state courts:

(a) Seized currency alleged to be subject to forfeiture shall be deposited with the clerk of the district court in an interest-bearing account;

(b) Seized property other than currency or real property, not required by federal or state law to be destroyed, shall be placed under seal at a place designated by the district court;

(c) Seized property shall be kept by the custodian in a manner to protect it from theft or damage and, if ordered by the district court, insured against those risks; and

(d) Unless it is returned to an owner, a law enforcement agency shall dispose of forfeited as provided in Section 7.

SECTION 10. REPORTING.

(a) Within sixty (60) days following the conclusion of each fiscal year, every law enforcement agency shall prepare on a form approved by the department of public safety an annual report of the agency's seizures and forfeitures conducted pursuant to applicable state law and local ordinances, and seizures and forfeitures conducted pursuant to federal forfeiture law, and the report shall include:

(1) The total number of seizures of currency and the total amount of currency seized in each seizure;

(2) The total number of seizures of property and the number and types of items seized in each seizure;

(3) The market value of each item of property seized;

(4) The total number of occurrences of each class of crime that resulted in the

agency's seizure of property;

(5) The costs incurred by the agency for storage, maintenance and transportation of seized property;

(6) Any proceeds received through equitable sharing, along with the federal case number and the final disposition of the case; and

(7) Any costs incurred by the agency to prepare its report in accordance with this subsection.

(b) A law enforcement agency shall submit its annual reports to the department of public safety and to the district attorney's office in the agency's district. An agency that did not engage in seizure or forfeiture pursuant to local, state or federal forfeiture law shall report that fact in its annual report.

(c) The department of public safety shall compile the reports submitted by each law enforcement agency and issue an aggregate report of all forfeitures in the state.

(d) By November 1 of each year, the department of public safety shall publish on its website the department's aggregate report and individual law enforcement agency reports submitted for the previous fiscal year.

SECTION 11. APPLICABILITY.

The provisions of this act apply to seized and disclaimed property in the possession of a law enforcement agency or the state treasurer on and after the effective date of this act.



EMPOWERMENT SCHOLARSHIP ACCOUNTS

SECTION 1. DEFINITIONS.

In this chapter, unless the context otherwise requires:

- (a) “Annual education plan” means an initial individualized evaluation and subsequent annual reviews that are developed for a qualified student who meets the criteria specified in paragraph (g), subdivision (1), item (A), (B) or (C) of this section to determine ongoing annual eligibility through the school year in which the qualified student reaches 22 years of age.
- (b) “Curriculum” means a course of study for content areas or grade levels, including any supplemental materials required or recommended by the curriculum.
- (c) “Department” means the [STATE] department of education.
- (d) “Eligible postsecondary institution” means a public community college or university or an accredited private postsecondary institution.
- (e) “Parent” means a resident of this state who is the parent, stepparent or legal guardian of a qualified student.



(f) “Qualified school” means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that does not discriminate on the basis of race, color or national origin.

(g) “Qualified student” means a resident of this state who:

(1) Is any of the following:

(A) Identified as having a disability under section 504 of the U.S. Rehabilitation Act of 1973 (29 United States Code section 794);

(B) Identified by a school district or by an independent third party pursuant to Section 3, subsection (i) as a child with a disability;

(C) [If applicable] A child with a disability who is eligible to receive services from a school district under [any other state program for students with disabilities];

(D) Attending a school or school district that has been assigned a letter grade of D or F or who is currently eligible to attend kindergarten and who resides within the attendance boundary of a school or school district that has been assigned a letter grade of D or F;

(E) Attending a school in a district whose poverty rate for children aged five to seventeen is at least 120% of the state average as reported by the most recent United States census data, or who is currently eligible to attend kindergarten and who resides within the attendance boundary of a school district whose poverty rate for children aged five to seventeen is at least 120% of the state average as reported by the most recent united states census data;

(F) A child of a parent who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this item is not subject to subdivision (b) of this paragraph;

(G) A child who is a ward of the juvenile court and who is residing with a prospective permanent placement and the case plan is adoption or permanent guardianship;

(H) A child who was a ward of the juvenile court and who achieved permanency through adoption or permanent guardianship;

(I) A child who is the sibling of a current or previous empowerment scholarship account recipient or of an eligible qualified student who accepts the terms of and enrolls in an empowerment scholarship program;

(J) A child who resides within the boundaries of an Indian reservation in this state as determined by the department of education or a tribal government; or

(K) A child of a parent who is legally blind or deaf or hard of hearing

(2) And, except as provided in subdivision (1), item (F) of this paragraph, who meets any of the following requirements:

(A) Attended a governmental primary or secondary school as a full-time student for at least sixty days of the prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an empowerment scholarship account. First, second and third grade students who are enrolled in public online instruction must receive four hundred hours of logged instruction to be eligible pursuant to this item. Fourth, fifth and sixth grade students who are enrolled in public online instruction must receive five hundred hours of logged instruction to be eligible pursuant to this item. Seventh and eighth grade students who are enrolled in public online instruction must receive five hundred fifty hours of logged instruction to be eligible pursuant to this item. High school students who are enrolled in public online instruction must receive five hundred hours of logged instruction to be eligible pursuant to this item;

(B) Previously participated in an empowerment scholarship account;

(C) [If applicable] Received a scholarship from a [scholarship granting organization / school tuition organization] and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student for at least sixty days of the prior fiscal year or one full semester before attending a qualified school;

(D) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state or attended a program for preschool children with disabilities; or

(E) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a program for preschool children with disabilities in this state.

(h) “Treasurer” means the office of the state treasurer.

SECTION 2. EMPOWERMENT SCHOLARSHIP ACCOUNTS; FUNDS.

(a) Empowerment scholarship accounts are established to provide options for the education of students in this state.

(b) To enroll a qualified student for an empowerment scholarship account, the parent of the qualified student must sign an agreement to do all of the following:

(1) Use a portion of the empowerment scholarship account monies allocated annually to provide an education for the qualified student in at least the subjects of reading, grammar, mathematics, social studies and science, unless the empowerment scholarship account is allocated monies according to a transfer schedule other than quarterly transfers pursuant to Section 3, subsection (f).

(2) Not enroll the qualified student in a school district or charter school and release the school district from all obligations to educate the qualified student. This paragraph does not relieve the school district or charter school that the qualified student previously attended from the obligation to conduct an individualized evaluation.

(3) [If applicable] Not accept a scholarship from a [school tuition organization/scholarship granting organization] concurrently with an empowerment scholarship account for the qualified student while participating in the empowerment scholarship account program.

(4) Use monies deposited in the qualified student's empowerment scholarship account only for the following expenses of the qualified student:

(A) Tuition or fees at a qualified school;

(B) Textbooks required by a qualified school;

(C) If the qualified student meets any of the criteria specified in Section 1, paragraph (g), subdivision (1), item (A), (B) or (C) as determined by a school district or by an independent third party pursuant to [Section 3], subsection (i), the qualified student may use the following additional services:

(i) Educational therapies from a licensed or accredited practitioner or provider;

(ii) A licensed or accredited paraprofessional or educational aide;

(iii) Tuition for vocational and life skills education; or

(iv) Associated goods and services that include educational and psychological evaluations, assistive technology rentals and braille translation goods and services approved by the department.

(D) Tutoring or teaching services provided by an individual or facility accredited by a state, regional or national accrediting organization;

(E) Curricula and supplementary materials, including educational software;

(F) Tuition or fees for career and technical education, vocational education, or a nonpublic online learning program;

(G) Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination or any exams related to college or university admission;

(H) Tuition or fees at an eligible postsecondary institution;

(I) Textbooks required by an eligible postsecondary institution;

(J) Fees to manage the empowerment scholarship account;

(K) Services provided by a public school, including tuition or fees for individual classes and extracurricular programs;

(L) Insurance or surety bond payments;

(M) Uniforms purchased from or through a qualified school;

(N) If the qualified student meets the criteria specified in [Section 1], paragraph (g), subdivision (1), item (A), (B) or (C) and if the qualified student is in the second year prior to the final year of a contract executed pursuant to this article, costs associated with an annual education plan conducted by an independent evaluation team. The department shall prescribe minimum qualifications for independent evaluation teams pursuant to this subdivision and factors that teams must use to determine whether the qualified student shall be eligible to continue to receive monies pursuant to this article through the school year in which the qualified student reaches twenty-two years of age. An independent evaluation team that provides an

annual education plan pursuant to this subdivision shall submit a written report that summarizes the results of the evaluation to the parent of the qualified student and to the department on or before July 31. The written report submitted by the independent evaluation team is valid for one year. If the department determines that the qualified student meets the eligibility criteria prescribed in the annual education plan, the qualified student is eligible to continue to receive monies pursuant to this article until the qualified student reaches twenty-two years of age, subject to annual review. A parent may appeal the department's decision. As an addendum to a qualified student's final-year contract, the department shall provide the following written information to the parent of the qualified student:

(i) That the qualified student will not be eligible to continue to receive monies pursuant to this article unless the results of an annual education plan conducted pursuant to this subdivision demonstrate that the qualified student meets the eligibility criteria prescribed in the annual education plan;

(ii) That the parent is entitled to obtain an annual education plan pursuant to this subdivision to determine whether the qualified student meets the eligibility criteria prescribed in the annual education plan; and

(iii) A list of independent evaluation teams that meet the minimum qualifications prescribed by the department pursuant to this subdivision.

(5) [As applicable] Not file an affidavit of intent to homeschool pursuant to [state statute];

(6) Not use monies deposited in the qualified student's account for any of the following:

(A) Video game consoles or accessories;



(B) Transportation of the pupil.

(c) In exchange for the parent's agreement pursuant to subsection (b) of this section, the department shall transfer from the monies that would otherwise be allocated to a recipient's prior school district or charter school, or if the child is currently eligible to attend kindergarten, the monies that the department determines would otherwise be allocated to a recipient's expected school district of attendance, to the treasurer for deposit into an empowerment scholarship account an amount that is equivalent to ninety percent of the per pupil funding that the particular child would have generated in the district or charter school under [THE STATE EQUALIZATION FORMULA].

(d) The department of education empowerment scholarship account fund is established consisting of monies appropriated by the legislature. The department shall administer the fund. Monies in the fund are subject to legislative appropriation. Monies in the fund shall be used for the department's costs in administering empowerment scholarship accounts under this chapter. Notwithstanding any other law, monies in the fund are exempt from the lapsing of appropriations. The department shall list monies in the fund as a separate line item in its budget estimate.

(e) The state treasurer empowerment scholarship account fund is established consisting of monies appropriated by the legislature. The state treasurer shall administer the fund. Monies in the fund shall be used for the state treasurer's costs in administering the empowerment scholarship accounts under this chapter. Monies in the fund are subject to legislative appropriation. Notwithstanding any other law, monies in the fund are exempt from the lapsing of appropriations. The state treasurer shall list monies in the fund as a separate line item in its budget estimate.

(f) A parent must renew the qualified student's empowerment scholarship account on an annual basis in order to continue receiving deposits into an empowerment scholarship account.

(g) Notwithstanding any changes to the student's multidisciplinary evaluation team plan, a student who has previously qualified for an empowerment scholarship account remains eligible to apply for renewal until the student finishes high school.

(h) A signed agreement under this section constitutes school attendance required by [STATE LAW].

(i) A qualified school or a provider of goods or services purchased pursuant to subsection (b), paragraph (4) of this section may not share, refund or rebate any empowerment scholarship account monies with the parent or qualified student in any manner without the prior approval of the department.

(j) On the qualified student's graduation from a postsecondary institution or after any period of four consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary institution, the qualified student's empowerment scholarship account shall be closed and any remaining monies shall be returned to the state.

(k) Monies received pursuant to this article do not constitute taxable income to the parent of the qualified student.

SECTION 3. EMPOWERMENT SCHOLARSHIP ACCOUNTS; ADMINISTRATION; APPEALS; AUDIT; RULES; POLICY HANDBOOK.

(a) The treasurer may contract with private financial management firms to manage empowerment scholarship accounts.

(b) The department shall conduct or contract for annual audits of empowerment scholarship accounts to ensure compliance with [Section 2], subsection (b), paragraph (4). The



department shall also conduct or contract for random, quarterly and annual audits of empowerment scholarship accounts as needed to ensure compliance with Section 2, subsection (b), paragraph (4).

(c) The department may, within one year of an alleged infraction taking place and not afterwards, remove any parent or qualified student from eligibility for an empowerment scholarship account if the parent or qualified student fails to comply with the terms of the contract or applicable laws, rules or orders or knowingly misuses monies or knowingly fails to comply with the terms of the contract with intent to defraud and shall notify the treasurer. The department shall notify the treasurer to suspend the account of a parent or qualified student and shall notify the parent or qualified student in writing that the account has been suspended and that no further transactions will be allowed or disbursements made. The notification shall specify the reason for the suspension and state that the parent or qualified student has sixty days, not including weekends, to respond and take corrective action. The department shall reinstate the account within two business days of receiving notice that corrective action has been taken. If the corrective action requires the repayment of any empowerment scholarship account fund expenditure by the parent or student, the repaid amount shall be credited to that individual empowerment scholarship account fund balance. If the parent or qualified student refuses or fails to contact the department, furnish any information or make any report that may be required for reinstatement within the 60-day period, the department may remove the parent or qualified student pursuant to this subsection.

(d) A parent may appeal to the state board of education any administrative decision the department makes pursuant to this article, including determinations of allowable expenses, removal from the program or enrollment eligibility. The department shall notify the parent in

writing that the parent may appeal any administrative decision under this article and the process by which the parent may appeal at the same time the department notifies the parent of an administrative decision under this article. The state board of education shall establish an appeals process, and the department shall post this information on the department's website in the same location as the policy handbook developed pursuant to subsection (j) of this section.

(e) The state board of education may, within one year of an alleged infraction and not afterwards, refer cases of substantial misuse of monies to the attorney general for the purpose of collection or for the purpose of a criminal investigation if the state board of education obtains evidence of fraudulent use of an account. The department may not refer for collections any uses of monies for educational goods or services the department has previously approved unless the department provided direct written notice to the parent prior to the purchase that such use is not allowed.

(f) The department shall make quarterly transfers of the amount calculated pursuant to Section 2, subsection (c) to the treasurer for deposit in the empowerment scholarship account of each qualified student, except the department may make transfers according to another transfer schedule if the department determines a transfer schedule other than quarterly transfers is necessary to operate the empowerment scholarship account. The department shall not delay the quarterly transfer of funds for any empowerment scholarship account prior to referral of that account to the attorney general for the purpose of collection or criminal investigation pursuant to paragraph (e). The department shall make the first quarterly transfer of funds for a new empowerment scholarship account within ten days of enrolling the applicant or upon the department's first normally scheduled disbursement of empowerment scholarship account funds for the academic year for which the student has applied, whichever is later.

(g) The department shall accept applications between July 1 and June 30 of each year. The department shall enroll and issue an award letter to eligible applicants within thirty days after receipt of a completed application and all required documentation. The department shall notify any denied applicant of the specific deficiency in the application. On or before May 30 of each year, the department shall furnish to the state legislature an estimate of the amount required to fund empowerment scholarship accounts for the following fiscal year. The department shall include in its budget request for the following fiscal year the amount estimated pursuant to Section 2, subsection (c) for each qualified student.

(h) The state board of education may, after at least sixty days of public review of any proposed rules and policies, adopt rules and policies necessary to administer empowerment scholarship accounts, including rules and policies:

- (1) For establishing an appeals process pursuant to subsection (d) of this section.
- (2) For conducting or contracting for examinations of the use of account monies.
- (3) For conducting or contracting for random, quarterly and annual reviews of accounts.
- (4) For establishing or contracting for the establishment of an online anonymous fraud reporting service.
- (5) For establishing an anonymous telephone hotline for fraud reporting.
- (6) That require a surety bond or insurance for account holders.

(i) The department shall contract with an independent third party for the purposes of determining whether a qualified student is eligible to receive educational therapies or services pursuant to Section 2, subsection (b), paragraph (4), subdivision (C).

(j) On or before July 1 of each year, the department shall develop an applicant and participant handbook that includes information relating to policies and processes of empowerment scholarship accounts. The policy handbook shall comply with the rules adopted by the state board of education pursuant to this section. The department shall post the handbook on its website.

(k) The department shall maintain a database of expenditures that have been allowed and disallowed and make the database available to empowerment scholarship account holders on its website.

(l) The department of education shall employ a case management approach to serving applicants to the empowerment scholarship account program in which an applicant has a main point of contact.



EXEMPTION FOR ONLINE EDUCATION ACT

Online private and public instructional services in this state shall be exempt from all health-related emergency closures of school campuses and any associated reductions in the number of students authorized to enroll in instruction, unless the specific form of instruction poses a material health or safety risk to enrolled students or staff.





EDUCATIONAL RESULTS ACT

Within 10 days of the start of a statewide closure of public school campuses in this state, each public school shall offer students general educational opportunities as determined by the public school for the duration of statewide closures of school facilities as a condition of the public school receiving continued formula funding.





SCHOOL TUITION ORGANIZATION CONTRIBUTION CREDITS

SECTION 1. DEFINITIONS.

(a) “Allocate” includes reserving money for an award of a multiyear educational scholarship or tuition grant for a specific student.

(b) “Fiscal year” means the fiscal year of the state.

(c) “Qualified school” means a preschool that offers services to students with disabilities, nongovernmental primary school or secondary school that is located in this state and that does not discriminate on the basis of race, color, disability, familial status or national origin and that requires all teaching staff and personnel that have unsupervised contact with students to be fingerprinted. Qualified school does not include a charter school or programs operated by a charter school.

SECTION 2. CREDIT FOR CONTRIBUTIONS TO SCHOOL TUITION ORGANIZATION.

(a) A credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions by the taxpayer or on the taxpayer’s behalf pursuant to Section 3 during the taxable year to a school tuition organization that is certified pursuant to Section 4 at the time of



donation. Except as provided by subsection (c) of this section, the amount of the credit shall not exceed:

(1) Six hundred dollars in any taxable year for a single individual or a head of household;

(2) One thousand two hundred dollars in any taxable year for a married couple filing a joint return.

(b) A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

(c) For each taxable year beginning on or after January 1, the department shall adjust the dollar amounts prescribed by subsection (a), paragraphs (1) and (2) of this section according to the average annual change in the metropolitan [STATE CAPITAL] consumer price index published by the United States bureau of labor statistics, except that the dollar amounts shall not be revised downward below the amounts allowed in the prior taxable year. The revised dollar amounts shall be raised to the nearest whole dollar.

(d) If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

(e) The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the Internal Revenue Code and taken for state tax purposes.

(f) The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any dependent of the taxpayer or if the

taxpayer designates a student beneficiary as a condition of the taxpayer's contribution to the school tuition organization. The tax credit is not allowed if the taxpayer, with the intent to benefit the taxpayer's dependent, agrees with one or more other taxpayers to designate each taxpayer's contribution to the school tuition organization for the direct benefit of the other taxpayer's dependent.

(g) For the purposes of this section, a contribution, for which a credit is claimed, that is made on or before the fifteenth day of the fourth month following the close of the taxable year may be applied to either the current or preceding taxable year and is considered to have been made on the last day of that taxable year.

SECTION 3.

(a) At an employee's written request, an employer may agree to reduce the amount withheld under [STATE LAW] by the amount of credit that the employee represents to the employer that the employee will qualify for and be entitled to under Section 2. The employee's request must include the name and address of the qualifying charitable organization, qualified school tuition organization or public school. Within thirty days after agreeing to the employee's request, the employer shall reduce the withholding amount by the amount of the credit, but not below zero, prorated for the number of pay periods remaining in the employee's taxable year after the employee makes the request. If an employer agrees to reduce the withholding amount pursuant to this subsection, the following apply:

(1) Within fifteen days after the end of each calendar quarter, the employer must pay the entire amount of the reduction in withholding tax for that quarter to the designated charitable organization, school tuition organization or public school. These payments are

considered to be on the employee's behalf, and not the employer's, for the purposes of qualifying for the income tax credits under Section 2.

(2) The employee is responsible and accountable for the accuracy and the amount of reduction in withholding tax and the payments to the charitable organization, school tuition organization or public school.

(3) The employer is responsible and accountable to the charitable organization, school tuition organization or public school, to the employee and to the department for actually making the required payments.

(4) Within 30 days after the end of each calendar year, or within fifteen days after the termination of employment, the employer must furnish to each electing employee a statement of the amount withheld and paid on behalf of the employee during that year.

SECTION 4. CERTIFICATION AS A SCHOOL TUITION ORGANIZATION.

(a) A nonprofit organization in this state that is exempt or has applied for exemption from federal taxation under section 501(c)(3) of the internal revenue code may apply to the department of revenue for certification as a school tuition organization, and the department shall certify the school tuition organization if it meets the requirements prescribed by this chapter. An organization must apply for certification on a form prescribed and furnished on request by the department.

(b) The department shall:

- (1) Maintain a public registry of currently certified school tuition organizations;
- (2) Make the registry available to the public on request; and
- (3) Post the registry on the department's official website.

(c) The department shall send notice by certified mail or by e-mail to a school tuition organization if the department determines that the school tuition organization has engaged in any of the following activities:

- (1) Failed or refused to allocate at least ninety percent of annual revenues from contributions made for the purposes of Section 2 for educational scholarships or tuition grants;
- (2) Failed or refused to file the annual reports required by Section 6;
- (3) Limited the availability of scholarships to students of only one school;
- (4) Encouraged, facilitated or knowingly permitted taxpayers to engage in actions prohibited by this article;
- (5) Awarded, restricted or reserved educational scholarships or tuition grants for use by a particular student based solely on the recommendation of the donor;
- (6) Failed or refused to meet any of the requirements in Section 5;
- (7) Failed or refused to include the notice required in Section 5, subsection (c); or
- (8) Failed or refused to comply with the audit or financial review requirements of Section 7.

(d) A school tuition organization that receives notice from the department pursuant to subsection (c) of this section has ninety days to correct the violation identified by the department in the notice. If a school tuition organization fails or refuses to comply after ninety days, the department may remove the organization from the list of certified school tuition organizations and shall make available to the public notice of removal as soon as possible. An organization that is removed from the list of certified school tuition organizations must notify any taxpayer who attempts to make a contribution that the contribution is not eligible for the tax credit and offer to refund all donations received after the date of the notice of termination of certification.

(e) A school tuition organization may request an administrative hearing on the revocation of its certification as provided by [STATE LAW].

SECTION 5. OPERATIONAL REQUIREMENTS FOR SCHOOL TUITION ORGANIZATIONS; NOTICE; QUALIFIED SCHOOLS.

(a) A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under Section 2 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' choice.

(b) To be eligible for certification and retain certification, the school tuition organization:

(1) Must allocate at least ninety percent of its annual revenue from contributions made for the purposes of Section 2 for educational scholarships or tuition grants;

(2) Shall not limit the availability of educational scholarships or tuition grants to only students of one school;

(3) May allow donors to recommend student beneficiaries, but shall not award, designate or reserve scholarships solely on the basis of donor recommendations;

(4) Shall not allow donors to designate student beneficiaries as a condition of any contribution to the organization, or facilitate, encourage or knowingly permit the exchange of beneficiary student designations in violation of Section 2, subsection (f);

(5) Shall include on the organization's website, if one exists, the percentage and total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year to:

(A) Students whose family income meets the economic eligibility requirements established under the National School Lunch and Child Nutrition Acts (42 United States Code sections 1751 through 1785) for free or reduced-price lunches.

(B) Students whose family income exceeds the threshold prescribed by subdivision (A) of this paragraph but does not exceed one hundred eighty-five percent of the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced-price lunches; and

(6) Must not award educational scholarships or tuition grants to students who are simultaneously enrolled in a district school or charter school and a qualified school.

(c) A school tuition organization shall include the following notice in any printed materials soliciting donations, in applications for scholarships and on its website, if one exists:

Notice.

A school tuition organization cannot award, restrict or reserve scholarships solely on the basis of a donor's recommendation.

A taxpayer may not claim a tax credit if the taxpayer agrees to swap donations with another taxpayer to benefit either taxpayer's own dependent.

(d) In evaluating applications and awarding, designating or reserving scholarships, a school tuition organization:

(1) Shall not award, designate or reserve a scholarship solely on the recommendation of any person contributing money to the organization, but may consider the recommendation among other factors; and

(2) Shall consider the financial need of applicants.

(e) If an individual educational scholarship or tuition grant exceeds the school's tuition, the amount in excess shall be returned to the school tuition organization that made the award or grant. The school tuition organization may allocate the returned monies as a multiyear award for that student and report the award pursuant to Section 5, subsection (b), paragraph (5) or may allocate the returned monies for educational scholarships or tuition grants for other students.

SECTION 6. ANNUAL REPORT.

(a) On or before September 30 of each year, each school tuition organization shall report electronically to the department, in a form prescribed by the department, the following information, separately compiled and identified for the purposes of Section 2:

- (1) The name, address and contact person of the school tuition organization;
- (2) The total number of contributions received during the previous fiscal year;
- (3) The total dollar amount of contributions received during the previous fiscal year;
- (4) The total number of children awarded educational scholarships or tuition grants during the previous fiscal year;
- (5) The total dollar amount of:
 - (A) Educational scholarships and tuition grants distributed during the previous fiscal year; and
 - (B) Money being held for identified students' scholarships and tuition grants in future years;
- (6) The cost of audits pursuant to Section 7 paid during the fiscal year;
- (7) The total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year to:

(A) Students whose family income meets the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches; and

(B) Students whose family income exceeds the threshold prescribed by subdivision (a) of this paragraph but does not exceed one hundred eighty-five per cent of the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches;

(8) For each school to which educational scholarships or tuition grants were awarded:

(A) The name and address of the school;

(B) The number of educational scholarships and tuition grants awarded during the previous fiscal year; and

(C) The total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year; and

(9) The names, job titles and annual salaries of the three employees who receive the highest annual salaries from the school tuition organization.

SECTION 7. AUDITS AND FINANCIAL REVIEWS.

(a) On or before September 30 of each year, each school tuition organization that received one million dollars or more in total donations in the previous fiscal year shall provide for a financial audit of the organization. The audit must be conducted in accordance with generally accepted auditing standards and must evaluate the organization's compliance with Section 5, subsection (b), paragraph (1). The audit must be conducted by an independent certified public accountant who is licensed in this state or who has a limited reciprocity privilege

pursuant to [STATE LAW]. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

(b) On or before September 30 of each year, each school tuition organization that received less than one million dollars in total donations in the previous fiscal year shall provide for a financial review of the organization. The review must be conducted in accordance with standards for accounting and review services and must evaluate the organization's compliance with the fiscal requirements of this article. The review must be conducted by an independent certified public accountant who is licensed in this state or who has a limited reciprocity privilege pursuant to [STATE LAW]. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

(c) Within five days after receiving the audit or financial review the school tuition organization shall file a signed copy of the audit or financial review with the department.

(d) The school tuition organization shall pay the fees and costs of the certified public accountant under this section from the organization's operating monies. The fees and costs shall be excluded from the calculation of total revenues spent on scholarships and tuition grants.



FINANCIAL ACCOUNTABILITY IN EDUCATION ACT

Each school district in this state that received funding pursuant to the U.S. Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 shall report to the legislature the following information:

(a) The total amount of funding received by the school district under sections 18003 and 18004 of the CARES Act.

(b) The total amount expended to provide equitable services to nonpublic schools pursuant to section 18005 of the CARES Act.

(c) The net change in each expenditure category from March 1 to June 30 above or below the amounts listed in the school district's official FY 2020 budget.





ACADEMIC TRANSPARENCY ACT

SECTION 1. EACH PUBLIC SCHOOL SHALL PROMINENTLY LIST ON A PUBLICLY ACCESSIBLE PORTION OF ITS WEBSITE BY JULY 1:

- (a) The learning materials and activities that were used for student instruction at the school during the prior year, organized at a minimum by subject area and grade.
- (b) Any procedures for the documentation, review, or approval of the learning materials used for student instruction at the school, including by the principal, curriculum administrators, or other teachers.

SECTION 2. FOR THE PURPOSES OF THIS SECTION:

- (a) Learning materials include, but are not limited to, the following: all textbooks and reading materials, videos, digital materials, websites and other online applications.
- (b) “Used for student instruction”:
 - (1) Means assigned, distributed, or otherwise presented to students in any course for which students receive academic credit or in any capacity in which attendance of the student body is required by the school.



(2) Applies also to any materials from among which students are required to select one or more, if the available selection is restricted to specific titles.

(c) Activities include, but are not limited to, presentations, assemblies, lectures, or other activities or events facilitated by the institution's staff, excluding student presentations.

SECTION 3.

(a) A school shall be required to list only the information necessary to identify the learning materials and activities used for instruction, including the title and the author, organization, or website associated with each material and activity. Nothing in this section shall be construed to require the digital reproduction of the materials themselves, nor the separate reporting of individual components of materials produced as a single volume.

SECTION 4.

(a) A school whose governing board is responsible for the operation of schools with fewer than 500 students cumulatively is not required to post a list of learning materials and activities pursuant to this section.



TRUTH IN MEDICINE ACT

SECTION 1. DEFINITIONS

(a) “Off-label” means the use of an United States Food and Drug Administration- approved drug, biological product, or device other than the use(s) approved by the FDA.

(b) “Misbranding” shall refer to either the federal definition under 21 U.S.C. § 352 or the state definition under [STATE LAW].

SECTION 2.

(a) A pharmaceutical manufacturer or its representatives may engage in truthful promotion of off-label uses.

(b) This article does not require a health insurance carrier, other third-party payer, or other health plan sponsor to provide coverage for the cost of any off-label treatment. A health insurance carrier, other third-party payer or other health plan sponsor may provide coverage for an off-label treatment.

SECTION 3.

(a) Notwithstanding any other law, no official, employee or agent of this state



shall enforce or apply [STATE LAW] against or otherwise prosecute a pharmaceutical manufacturer or its representatives for engaging in truthful promotion of off-label uses.

(b) Notwithstanding any other law, no state regulatory board may revoke, fail to renew or take any other action against a pharmaceutical manufacturer's or representative's, health care institution's, or physician's license solely for engaging in truthful promotion of off-label uses.

SECTION 4.

(a) This state and all political subdivisions of this state are prohibited from using any personnel or financial resources to enforce or cooperate with federal attempts to enforce or apply 21 U.S.C. §§ 331 or 352 against or otherwise prosecute a pharmaceutical manufacturer or its representatives solely for engaging in truthful promotion of off-label uses.



TELEMEDICINE ACT

SECTION 1. DEFINITIONS.

(a) “Certification” means a voluntary, government-granted and nontransferable recognition to an individual who meets personal qualifications related to a lawful occupation as a healthcare professional.

(b) “Healthcare professional board” means a government agency, board, department or other government entity that regulates a lawful occupation as a healthcare professional and issues an occupational license or government certification to an individual.

(c) “License” is a nontransferable authorization in law for an individual to perform exclusively a lawful occupation based on meeting personal qualifications. It includes a military occupational specialty. In an occupation for which a license is required, it is illegal for an individual who does not possess a valid occupational license to perform the occupation.

(d) “Scope of practice” means the procedures, actions, processes and work that a person may perform under an occupational license or government certification issued in this or the state where the nexus of care is occurring.

(e) “Telehealth services” are the delivery of health care services, including telemedicine



services and other medical, emergency medical, and behavioral health services that do not use face-to-face consultation or direct contact between a health care provider and a patient.

Telehealth services are delivered through the use of telecommunications and information technology that supports the delivery of remote or long-distance health care services.

SECTION 2.

(a) The State's healthcare professional boards shall maintain consistent licensure and standards of care requirements between in-person and telemedicine-provided practices with the following exemptions:

(1) A health care professional licensed or certified in good standing in another jurisdiction shall be free to consult with a licensed peer health professional in this State without the need for any additional license issued by this State or state registration or approval, and

(2) A health care professional licensed or certified in good standing in this or another jurisdiction shall be free to consult, within his or her scope of practice, with a consenting patient using telecommunications without the need for any additional license, registration, or approval issued by this State, and without any requirement that the patient and professional be in each other's physical presence prior to such consultation. For services provided under this section, the nexus of care shall be deemed to be the provider's physical location.

(b) A healthcare provider who delivers services in good faith through the use of telehealth shall be held to the same standard of professional practice as a similar licensee of the same practice area or specialty would be if the provider were providing the same services in person. Nothing in this section shall create any new standard of care.

(c) The healthcare professional boards governing any healthcare provider covered by this section shall not adopt any rule, regulation, order, or other restriction imposing a more restrictive standard of professional practice or care for telehealth services than applies to in-person services.



SCOPE OF PRACTICE

SECTION 1. DEFINITIONS.

(a) “Certification” means a voluntary, government-granted and nontransferable recognition to an individual who meets personal qualifications related to a lawful occupation as a healthcare professional.

(b) “Healthcare professional board” means a government agency, board, department or other government entity that regulates a lawful occupation as a healthcare professional and issues an occupational license or government certification to an individual.

(c) “License” is a nontransferable authorization in law for an individual to perform exclusively a lawful occupation based on meeting personal qualifications. It includes a military occupational specialty. In an occupation for which a license is required, it is illegal for an individual who does not possess a valid occupational license to perform the occupation.

(d) “Scope of practice” means the procedures, actions, processes and work that a person may perform under an occupational license or government certification issued in this state.



SECTION 2. SCOPE OF PRACTICE.

(a) Health care professionals licensed or certified in this State shall be allowed to practice to the full extent of their educational preparation and medical training.

(b) Health care professionals licensed or certified in this State shall not be subject to written supervision or collaboration agreements if they verify professional liability coverage for their scope of practice as required by the State.

(c) The State's healthcare professional boards shall not require healthcare professionals to maintain liability insurance that exceed the requirements for other professionals holding the same license.

(d) Health care professionals licensed or certified in the State shall be allowed to practice telehealth services within their scope of practice and shall not be subject to written supervision or collaboration agreements if they verify professional liability coverage for telehealth services as required by the State.



CERTIFICATE OF NEED REFORM

SECTION 1. DEFINITIONS.

(a) “Bed capacity” means space used exclusively for inpatient care, care at a health service facility, including space designed or remodeled for licensed inpatient beds even though temporarily not used for such purposes. The term “bed capacity” also refers to the number of dialysis stations in kidney disease treatment centers, including freestanding dialysis units.

(b) “Change in bed capacity” means:

(1) any relocation of health service facility beds, or dialysis station beds from one licensed facility or campus to another, or

(2) any redistribution of health service facility bed capacity among the categories of health service facility bed, or

(3) any increase in the number of health service facility.

(c) “Health care Facilities” means facilities licensed or certified by a U.S. federal government agency or State agency including federally- and state-operated facilities and any government-operated site providing health care services established for the purpose of responding to a state-declared public health emergency or disaster.



(d) “Health service” means an organized, interrelated medical, diagnostic, therapeutic, and/or or rehabilitative activity, or any combination of these, that is integral to the prevention of disease or the clinical management of a sick, injured, or disabled person. “Health service” does not include administrative and other activities that are not integral to clinical management, or any activities performed at a facility that does not meet the definition of a health service facility.

(e) “Health service facility” means a hospital; long-term care hospital; psychiatric facility; rehabilitation facility; nursing home facility; adult care home; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; home health agency office; chemical dependency treatment facility; diagnostic center; hospice office, hospice inpatient facility, and hospice residential care facility; or ambulatory surgical facility.

(f) “Health service facility bed” means a bed licensed for use in a health service facility in the categories of:

- (1) acute care beds;
- (2) psychiatric beds;
- (3) 21 rehabilitation beds;
- (4) nursing home beds;
- (5) intermediate care beds for the developmentally disabled;
- (6) chemical dependency treatment beds;
- (7) hospice inpatient facility beds;
- (8) hospice residential care facility beds;
- (9) adult care home beds; or
- (10) long-term care hospital beds.

SECTION 2. CON LAW REFORM.

(a) For 24 months from [DATE OF ENACTMENT], notwithstanding any other law, the economic impact of a new or expanded facility upon existing facilities shall not be a consideration for the granting or denial of any certificate of need.



LIABILITY PROTECTION

SECTION 1. DEFINITIONS.

(a) “Certification” means a voluntary, government-granted and nontransferable recognition to an individual who meets personal qualifications related to a lawful occupation as a healthcare professional or government-granted and nontransferable authorization to a facility that meets federal or state requirements to provide healthcare services.

(b) "Health care Facilities” means facilities licensed or certified by a U.S. federal government agency or State agency including federally- and state-operated facilities and any government-operated site providing health care services established for the purpose of responding to a state-declared public health emergency or disaster.

(c) “Health Care Professionals” means licensed or certified health care or emergency medical services workers who

(1) Are providing health care services at a health care facility in response to a state-declared public health emergency or disaster and are authorized to do so; or

(2) Are working under the direction of the [STATE EMERGENCY SERVICES



OR HEALTH CARE AGENCY] in response to a state-declared public health emergency or disaster.

(d) “Health Care Volunteers” means all volunteers or medical or nursing students who do not have licensure who

(1) are providing services, assistance, or support at a health care facility in response to a state-declared public health emergency or disaster and are authorized to do so; or

(2) are working under the direction of the [STATE EMERGENCY SERVICES OR HEALTHCARE AGENCY] in response to a state-declared public health emergency or disaster.

(e) “License” is a nontransferable authorization in law for an individual to perform exclusively a lawful occupation based on meeting personal qualifications or a government-granted and nontransferable authorization to a facility that meets federal or state requirements to provide healthcare services. In an occupation for which a license is required, it is illegal for an individual who does not possess a valid occupational license to perform the occupation.

SECTION 2.

(a) Health care facilities, health care professionals, and health care volunteers shall be immune from civil liability for any injury or death alleged to have been caused by any act or omission by the health care facility, the health care professional, or the health care volunteer which injury or death occurred at a time when a health care facility, the health care professional, or the health care volunteer was engaged in the course of rendering assistance by providing health care services in response to a state-declared public health emergency or disaster, unless it is established that such injury or death was caused by gross negligence or willful misconduct of such health care facility, health care professional, or health care volunteer.



PHARMACY TRANSFER ACT

SECTION 1.

(a) At a patient's written or oral request and consistent with federal rules allowing patients to access their own medical records, current medication history shall be accessed from a real-time, electronic database to serve as an equivalent to an electronically transmitted prescription or refill order and must be documented promptly and filed by the pharmacist.

(b) A pharmacist may change the initial fill for any written, electronically transmitted, or oral prescription or refill order for a non-schedule drug not to exceed the total fill.

(c) At a patient's written or oral request, a medical practitioner shall electronically or by way of fax or phone, transmit prescription to a patient's preferred non-dispensing pharmacy network via smartphone app whereby prescription can be made available for dispensing pharmacies to retrieve and fill prescription as directed by patient.

(d) Physicians or other healthcare provider shall not restrict patient access to non-dispensing pharmacy network. If the physician or healthcare provider does not have connectivity or access to patient requested non-dispensing pharmacy network, patient may request and receive written prescription for a non-schedule drug.



(e) Patients may submit written prescription to non-dispensing pharmacy network via facsimile, photo, or other self-initiated means of electronic capture for a non-schedule drug.

(f) Dispensing pharmacies may retrieve prescriptions and dispense per patient request from non-dispensing pharmacy networks through electronic transmission

(g) Non-dispensing pharmacy networks must maintain records of all inbound and outbound routing activities of prescriptions for minimum of 7 years

(h) For electronic transmission of prescription order of a Schedule II, III, IV, or V controlled substance under the U.S. Controlled Substances Act, the medical practitioner and pharmacy shall ensure that the transmission complies with any security or other requirements of federal law.

(i) All electronic transmissions shall comply with all the security requirements of state or federal law related to the privacy of protected health information.