

2SHB 1087 - S COMM AMD

By Committee on Health & Long Term Care

ADOPTED AS AMENDED 04/16/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Long-term care is not covered by medicare or other health
5 insurance plans, and the few private long-term care insurance plans
6 that exist are unaffordable for most people, leaving more than ninety
7 percent of seniors uninsured for long-term care. The current market
8 for long-term care insurance is broken: In 2002, there were one
9 hundred two companies offering long-term care insurance coverage, but
10 today that number is only twelve.

11 (2) The majority of people over sixty-five years of age will need
12 long-term services and supports within their lifetimes. The senior
13 population has doubled in Washington since 1980, to currently over
14 one million, and will more than double again by 2040. Without access
15 to insurance, seniors must rely on family care and spend their life
16 savings down to poverty levels in order to access long-term care
17 through medicaid. In Washington, more than eight hundred fifty
18 thousand unpaid family caregivers provided care valued at eleven
19 billion dollars in 2015. Furthermore, family caregivers who leave the
20 workforce to provide unpaid long-term services and supports lose an
21 average of three hundred thousand dollars in their own income and
22 health and retirement benefits.

23 (3) Paying out-of-pocket for long-term care is expensive. In
24 Washington, the average cost for medicaid in-home care is twenty-four
25 thousand dollars per year and the average cost for nursing home care
26 is sixty-five thousand dollars per year. These are costs that most
27 seniors cannot afford.

28 (4) Seniors and the state will not be able to continue their
29 reliance on family caregivers in the near future. Demographic shifts
30 mean that fewer potential family caregivers will be available in the
31 future. Today, there are around seven potential caregivers for each

1 senior, but by 2030 that ratio will decrease to four potential
2 caregivers for each senior.

3 (5) Long-term services and supports comprise approximately six
4 percent of the state operating budget, and demand for these services
5 will double by 2030 to over twelve percent. This will result in an
6 additional six billion dollars in increased near-general fund costs
7 for the state by 2030.

8 (6) An alternative funding mechanism for long-term care access in
9 Washington state could relieve hardship on families and lessen the
10 burden of medicaid on the state budget. In addition, an alternative
11 funding mechanism could result in positive economic impact to our
12 state through increased state competition and fewer Washingtonians
13 leaving the workforce to provide unpaid care.

14 (7) The average aging and long-term supports administration
15 medicaid consumer utilizes ninety-six hours of care per month. At
16 current costs, a one hundred dollars per day benefit for three
17 hundred sixty-five days would provide complete financial relief for
18 the average in-home care consumer and substantial relief for the
19 average facility care consumer for a full year or more.

20 (8) Under current caseload and demographic projections, an
21 alternative funding mechanism for long-term care access could save
22 the medicaid program eight hundred ninety-eight million dollars in
23 the 2051-2053 biennium.

24 (9) As the state pursues an alternative funding mechanism for
25 long-term care access, the state must continue its commitment to
26 promoting choice in approved services and long-term care settings.
27 Therefore, any alternative funding mechanism program should be
28 structured such that:

29 (a) Individuals are able to use their benefits for long-term care
30 services in the setting of their choice, whether in the home, a
31 residential community-based setting, or a skilled nursing facility;

32 (b) The choice of provider types and approved services is the
33 same or greater than currently available through Washington's
34 publicly funded long-term services and supports;

35 (c) Transitions from private and public funding sources for
36 consumers are seamless; and

37 (d) Long-term care health status data is collected across all
38 home and community-based settings.

39 (10) The creation of a long-term care insurance benefit of an
40 established dollar amount per day for three hundred sixty-five days

1 for all eligible Washington employees, paid through an employee
2 payroll premium, is in the best interest of the state of Washington.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Account" means the long-term services and supports trust
7 account created in section 10 of this act.

8 (2) "Approved service" means long-term services and supports
9 including, but not limited to:

- 10 (a) Adult day services;
- 11 (b) Care transition coordination;
- 12 (c) Memory care;
- 13 (d) Adaptive equipment and technology;
- 14 (e) Environmental modification;
- 15 (f) Personal emergency response system;
- 16 (g) Home safety evaluation;
- 17 (h) Respite for family caregivers;
- 18 (i) Home delivered meals;
- 19 (j) Transportation;
- 20 (k) Dementia supports;
- 21 (l) Education and consultation;
- 22 (m) Eligible relative care;
- 23 (n) Professional services;
- 24 (o) Services that assist paid and unpaid family members caring
25 for eligible individuals, including training for individuals
26 providing care who are not otherwise employed as long-term care
27 workers under RCW 74.39A.074;
- 28 (p) In-home personal care;
- 29 (q) Assisted living services;
- 30 (r) Adult family home services; and
- 31 (s) Nursing home services.

32 (3) "Benefit unit" means up to one hundred dollars, increasing at
33 a three percent index subject to annual commission approval, paid by
34 the department of social and health services to a long-term services
35 and supports provider as reimbursement for approved services provided
36 to an eligible beneficiary on a specific date.

37 (4) "Commission" means the long-term services and supports trust
38 commission established in section 4 of this act.

1 (5) "Eligible beneficiary" means a qualified individual who is
2 age eighteen or older, residing in the state of Washington, was not
3 disabled before the age of eighteen, has been determined to meet the
4 minimum level of assistance with activities of daily living necessary
5 to receive benefits through the trust program, as established in this
6 chapter, and who has not exhausted the lifetime limit of benefit
7 units.

8 (6) "Employee" has the meaning provided in RCW 50A.04.010.

9 (7) "Employer" has the meaning provided in RCW 50A.04.010.

10 (8) "Employment" has the meaning provided in RCW 50A.04.010.

11 (9) "Long-term services and supports provider" means an entity
12 that meets the qualifications applicable in law to the approved
13 service they provide, including a qualified or certified home care
14 aide, licensed assisted living facility, licensed adult family home,
15 licensed nursing home, licensed in-home services agency, adult day
16 services program, vendor, instructor, qualified family member, or
17 other entities as registered by the department of social and health
18 services.

19 (10) "Premium" or "premiums" means the payments required by
20 section 8 of this act and paid to the employment security department
21 for deposit in the account created in section 10 of this act.

22 (11) "Program" means the long-term services and supports trust
23 program established in this chapter.

24 (12) "Qualified family member" means a relative of an eligible
25 beneficiary qualified to meet requirements established in state law
26 for the approved service they provide that would be required of any
27 other long-term services and supports provider to receive payments
28 from the state.

29 (13) "Qualified individual" means an individual who meets the
30 duration of payment requirements, as established in this chapter.

31 (14) "Wages" has the meaning provided in RCW 50A.04.010, except
32 that all wages are subject to a premium assessment and not limited by
33 the commissioner of the employment security department, as provided
34 under RCW 50A.04.115.

35 NEW SECTION. **Sec. 3.** (1) The health care authority, the
36 department of social and health services, and the employment security
37 department each have distinct responsibilities in the implementation
38 and administration of the program. In the performance of their
39 activities, they shall actively collaborate to realize program

1 efficiencies and provide persons served by the program with a well-
2 coordinated experience.

3 (2) The health care authority shall:

4 (a) Track the use of lifetime benefit units to verify the
5 individual's status as an eligible beneficiary as determined by the
6 department of social and health services;

7 (b) Ensure approved services are provided through audits or
8 service verification processes within the service provider payment
9 system for registered long-term services and supports providers and
10 recoup any inappropriate payments;

11 (c) Establish criteria for the payment of benefits to registered
12 long-term services and supports providers under section 7 of this
13 act;

14 (d) Establish rules and procedures for benefit coordination when
15 the eligible beneficiary is also funded for medicaid and other long-
16 term services and supports, including medicare, coverage through the
17 department of labor and industries, and private long-term care
18 coverage; and

19 (e) Adopt rules and procedures necessary to implement and
20 administer the activities specified in this section related to the
21 program.

22 (3) The department of social and health services shall:

23 (a) Make determinations regarding an individual's status as an
24 eligible beneficiary under section 6 of this act;

25 (b) Approve long-term services and supports eligible for payment
26 as approved services under the program, as informed by the
27 commission;

28 (c) Register long-term services and supports providers that meet
29 minimum qualifications;

30 (d) Discontinue the registration of long-term services and
31 supports providers that: (i) Fail to meet the minimum qualifications
32 applicable in law to the approved service that they provide; or (ii)
33 violate the operational standards of the program;

34 (e) Disburse payments of benefits to registered long-term
35 services and supports providers, utilizing and leveraging existing
36 payment systems for the provision of approved services to eligible
37 beneficiaries under section 7 of this act;

38 (f) Prepare and distribute written or electronic materials to
39 qualified individuals, eligible beneficiaries, and the public as

1 deemed necessary by the commission to inform them of program design
2 and updates;

3 (g) Provide customer service and address questions and
4 complaints, including referring individuals to other appropriate
5 agencies;

6 (h) Provide administrative and operational support to the
7 commission;

8 (i) Track data useful in monitoring and informing the program, as
9 identified by the commission; and

10 (j) Adopt rules and procedures necessary to implement and
11 administer the activities specified in this section related to the
12 program.

13 (4) The employment security department shall:

14 (a) Collect and assess employee premiums as provided in section 8
15 of this act;

16 (b) Assist the commission in monitoring the solvency and
17 financial status of the program;

18 (c) Perform investigations to determine the compliance of premium
19 payments in section 8 of this act in coordination with the same
20 activities conducted under the family and medical leave act, chapter
21 50A.04 RCW, to the extent possible;

22 (d) Make determinations regarding an individual's status as a
23 qualified individual under section 5 of this act; and

24 (e) Adopt rules and procedures necessary to implement and
25 administer the activities specified in this section related to the
26 program.

27 NEW SECTION. **Sec. 4.** (1) The long-term services and supports
28 trust commission is established.

29 (2) The commission includes:

30 (a) Two members from each of the two largest caucuses of the
31 house of representatives, appointed by the speaker of the house of
32 representatives;

33 (b) Two members from each of the two largest caucuses of the
34 senate, appointed by the president of the senate;

35 (c) The commissioner of the employment security department, or
36 the commissioner's designee;

37 (d) The secretary of the department of social and health
38 services, or the secretary's designee;

1 (e) The director of the health care authority, or the director's
2 designee, who shall serve as a nonvoting member;

3 (f) One representative of the organization representing the area
4 agencies on aging;

5 (g) One representative of a home care association that represents
6 caregivers who provide services to private pay and medicaid clients;

7 (h) One representative of a union representing long-term care
8 workers;

9 (i) One representative of an organization representing retired
10 persons;

11 (j) One representative of an association representing skilled
12 nursing facilities and assisted living providers;

13 (k) One representative of an association representing adult
14 family home providers;

15 (l) Two individuals receiving long-term services and supports, or
16 their designees, or representatives of consumers receiving long-term
17 services and supports under the program;

18 (m) One member who is a worker who is, or will likely be, paying
19 the premium established in section 8 of this act and who is not
20 employed by a long-term services and supports provider; and

21 (n) One representative of an organization of employers whose
22 members collect, or will likely be collecting, the premium
23 established in section 8 of this act.

24 (3)(a) Other than the legislators and agency heads identified in
25 subsection (2) of this section, members of the commission are
26 appointed by the governor for terms of two years, except that the
27 governor shall appoint the initial members identified in subsection
28 (2)(f) through (n) of this section to staggered terms not to exceed
29 four years.

30 (b) The secretary of the department of social and health
31 services, or the secretary's designee, shall serve as chair of the
32 commission. Meetings of the commission are at the call of the chair.
33 A majority of the voting members of the commission shall constitute a
34 quorum for any votes of the commission. Approval of sixty percent of
35 those voting members of the commission who are in attendance is
36 required for the passage of any vote.

37 (c) Members of the commission and the subcommittee established in
38 subsection (6) of this section must be compensated in accordance with
39 RCW 43.03.250 and must be reimbursed for their travel expenses while
40 on official business in accordance with RCW 43.03.050 and 43.03.060.

1 (4) Beginning January 1, 2021, the commission shall propose
2 recommendations to the appropriate executive agency or the
3 legislature regarding:

4 (a) The establishment of criteria for determining that an
5 individual has met the requirements to be a qualified individual as
6 established in section 5 of this act or an eligible beneficiary as
7 established in section 6 of this act;

8 (b) The establishment of criteria for minimum qualifications for
9 the registration of long-term services and supports providers who
10 provide approved services to eligible beneficiaries;

11 (c) The establishment of payment maximums for approved services
12 consistent with actuarial soundness which shall not be lower than
13 medicaid payments for comparable services. A service or supply may be
14 limited by dollar amount, duration, or number of visits. The
15 commission shall engage affected stakeholders to develop this
16 recommendation;

17 (d) Changes to rules or policies to improve the operation of the
18 program;

19 (e) The annual adjustment of the benefit unit in accordance with
20 the formula established in section 2 of this act;

21 (f) The preparation of regular actuarial reports on the solvency
22 and financial status of the program and advising the legislature on
23 actions necessary to maintain trust solvency; and

24 (g) For the January 1, 2021, report only, recommendations on
25 whether and how to extend coverage to individuals who became disabled
26 before the age of eighteen, including the impact on the financial
27 status and solvency of the trust. The commission shall engage
28 affected stakeholders to develop this recommendation.

29 (5) The commission shall monitor agency administrative expenses
30 over time. Beginning November 15, 2020, the commission must annually
31 report to the governor and the fiscal committees of the legislature
32 on agency spending for administrative expenses and anticipated
33 administrative expenses as the program shifts into different phases
34 of implementation and operation. The November 15, 2025, report must
35 include recommendations for a method of calculating future agency
36 administrative expenses to limit administrative expenses while
37 providing sufficient funds to adequately operate the program. The
38 agency heads identified in subsection (2) of this section may advise
39 the commission on the reports prepared under this subsection, but

1 must recuse themselves from the commission's process for review,
2 approval, and submission to the legislature.

3 (6) The commission shall establish an investment strategy
4 subcommittee consisting of the members identified in subsection
5 (2)(a) through (d) of this section as voting members of the
6 subcommittee. In addition, four members appointed by the governor who
7 are considered experienced and qualified in the field of investment
8 shall serve as nonvoting members. The subcommittee shall provide
9 guidance and advice to the state investment board on investment
10 strategies for the account, including seeking counsel and advice on
11 the types of investments that are constitutionally permitted.

12 NEW SECTION. **Sec. 5.** (1) The employment security department
13 shall deem a person to be a qualified individual as provided in this
14 chapter if the person has paid the long-term services and supports
15 premiums required by section 8 of this act for the equivalent of
16 either:

17 (a) A total of ten years without interruption of five or more
18 consecutive years; or

19 (b) Three years within the last six years.

20 (2) When deeming a person to be a qualified individual, the
21 employment security department shall require that the person have
22 worked at least two hundred eight hours during each of the ten years
23 in subsection (1)(a) of this section and each of the three years in
24 subsection (1)(b) of this section.

25 NEW SECTION. **Sec. 6.** (1) Beginning January 1, 2025, approved
26 services must be available and benefits payable to a registered long-
27 term services and supports provider on behalf of an eligible
28 beneficiary under this section.

29 (2) A qualified individual may become an eligible beneficiary by
30 filing an application with the department of social and health
31 services and undergoing an eligibility determination which includes
32 an evaluation that the individual requires assistance with at least
33 three activities of daily living. The department of social and health
34 services must engage sufficient qualified assessor capacity,
35 including via contract, so that the determination may be made within
36 forty-five days from receipt of a request by a beneficiary to use a
37 benefit.

1 (3) (a) An eligible beneficiary may receive approved services and
2 benefits through the program in the form of a benefit unit payable to
3 a registered long-term services and supports provider.

4 (b) An eligible beneficiary may not receive more than the dollar
5 equivalent of three hundred sixty-five benefit units over the course
6 of the eligible beneficiary's lifetime.

7 (i) If the department of social and health services reimburses a
8 long-term services and supports provider for approved services
9 provided to an eligible beneficiary and the payment is less than the
10 benefit unit, only the portion of the benefit unit that is used shall
11 be taken into consideration when calculating the person's remaining
12 lifetime limit on receipt of benefits.

13 (ii) Eligible beneficiaries may combine benefit units to receive
14 more approved services per day as long as the total number of
15 lifetime benefit units has not been exceeded.

16 NEW SECTION. **Sec. 7.** (1) Benefits provided under this chapter
17 shall be paid periodically and promptly to registered long-term
18 services and supports providers.

19 (2) Qualified family members may be paid for approved personal
20 care services in the same way as individual providers, through a
21 licensed home care agency, or through a third option if recommended
22 by the commission and adopted by the department of social and health
23 services.

24 NEW SECTION. **Sec. 8.** (1) Beginning January 1, 2022, the
25 employment security department shall assess for each individual in
26 employment with an employer a premium based on the amount of the
27 individual's wages. The premium is fifty-eight hundredths of one
28 percent of the individual's wages.

29 (2) (a) The employer must collect from the employees the premiums
30 provided under this section through payroll deductions and remit the
31 amounts collected to the employment security department.

32 (b) In collecting employee premiums through payroll deductions,
33 the employer shall act as the agent of the employees and shall remit
34 the amounts to the employment security department as required by this
35 chapter.

36 (3) Nothing in this chapter requires any party to a collective
37 bargaining agreement in existence on October 19, 2017, to reopen
38 negotiations of the agreement or to apply any of the responsibilities

1 under this chapter unless and until the existing agreement is
2 reopened or renegotiated by the parties or expires.

3 (4) (a) Premiums shall be collected in the manner and at such
4 intervals as provided in this chapter and directed by the employment
5 security department.

6 (b) To the extent feasible, the employment security department
7 shall use the premium assessment, collection, and reporting
8 procedures in chapter 50A.04 RCW.

9 (5) The employment security department shall deposit all premiums
10 collected in this section in the long-term services and supports
11 trust account created in section 10 of this act.

12 (6) Premiums collected in this section are placed in the trust
13 account for the individuals who become eligible for the program.

14 NEW SECTION. **Sec. 9.** (1) Beginning January 1, 2022, any self-
15 employed person, including a sole proprietor, independent contractor,
16 partner, or joint venturer, may elect coverage under this chapter.
17 Those electing coverage under this subsection are responsible for
18 payment of one hundred percent of all premiums assessed to an
19 employee under section 8 of this act. The self-employed person must
20 file a notice of election in writing with the employment security
21 department, in the manner required by the employment security
22 department in rule. The self-employed person is eligible for benefits
23 after paying the long-term services and supports premium for the time
24 required under section 5 of this act.

25 (2) A self-employed person who has elected coverage may withdraw
26 from coverage, at such times as the employment security department
27 may adopt by rule, by filing a notice of withdrawal in writing with
28 the employment security department, with the withdrawal to take
29 effect not sooner than thirty days after filing the notice with the
30 employment security department.

31 (3) The employment security department may cancel elective
32 coverage if the self-employed person fails to make required payments
33 or file reports. The employment security department may collect due
34 and unpaid premiums and may levy an additional premium for the
35 remainder of the period of coverage. The cancellation must be
36 effective no later than thirty days from the date of the notice in
37 writing advising the self-employed person of the cancellation.

38 (4) Those electing coverage are considered employers or employees
39 where the context so dictates.

1 (5) For the purposes of this section, "independent contractor"
2 means an individual excluded from the definition of "employment" in
3 section 2(8) of this act.

4 (6) The employment security department shall adopt rules for
5 determining the hours worked and the wages of individuals who elect
6 coverage under this section and rules for enforcement of this
7 section.

8 NEW SECTION. **Sec. 10.** (1) The long-term services and supports
9 trust account is created in the custody of the state treasurer. All
10 receipts from employers under section 8 of this act must be deposited
11 in the account. Expenditures from the account may be used for the
12 administrative activities of the department of social and health
13 services, the health care authority, and the employment security
14 department. Benefits associated with the program must be disbursed
15 from the account by the department of social and health services.
16 Only the secretary of the department of social and health services or
17 the secretary's designee may authorize disbursements from the
18 account. The account is subject to the allotment procedures under
19 chapter 43.88 RCW. An appropriation is required for administrative
20 expenses, but not for benefit payments. The account must provide
21 reimbursement of any amounts from other sources that may have been
22 used for the initial establishment of the program.

23 (2) The revenue generated pursuant to this chapter shall be
24 utilized to expand long-term care in the state. These funds may not
25 be used either in whole or in part to supplant existing state or
26 county funds for programs that meet the definition of approved
27 services.

28 (3) The moneys deposited in the account must remain in the
29 account until expended in accordance with the requirements of this
30 chapter. If moneys are appropriated for any purpose other than
31 supporting the long-term services and supports program, the
32 legislature shall notify each qualified individual by mail that the
33 person's premiums have been appropriated for an alternate use,
34 describe the alternate use, and state its plan for restoring the
35 funds so that premiums are not increased and benefits are not
36 reduced.

37 NEW SECTION. **Sec. 11.** (1) The department of social and health
38 services shall have the state investment board invest the funds in

1 the account. The state investment board has the full power to invest,
2 reinvest, manage, contract, sell, or exchange investment money in the
3 account. All investment and operating costs associated with the
4 investment of money shall be paid under RCW 43.33A.160 and 43.84.160.
5 With the exception of these expenses, the earnings from the
6 investment of the money shall be retained by the accounts.

7 (2) All investments made by the state investment board shall be
8 made with the degree of judgment and care required under RCW
9 43.33A.140 and the investment policy established by the state
10 investment board.

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

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

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

23 (6) The authority to establish all policies relating to the
24 account, other than the investment policies as provided in
25 subsections (1) through (3) of this section, resides with the
26 department of social and health services acting in accordance with
27 the principles set forth in this chapter. With the exception of
28 expenses of the state investment board under subsection (1) of this
29 section, disbursements from the account shall be made only on the
30 authorization of the department of social and health services or its
31 designee, and moneys in the account may be spent only for the
32 purposes specified in this chapter.

33 (7) The state investment board shall routinely consult and
34 communicate with the department of social and health services on the
35 investment policy, earnings of the accounts, and related needs of the
36 program.

37 NEW SECTION. **Sec. 12.** (1) Determinations made by the health
38 care authority or the department of social and health services under
39 this chapter, including determinations regarding functional

1 eligibility or related to registration of long-term services and
2 supports providers, are subject to appeal in accordance with chapter
3 34.05 RCW. In addition, the standards and procedures adopted for
4 these appeals must address the following:

- 5 (a) Timelines;
- 6 (b) Eligibility and benefit determination;
- 7 (c) Judicial review; and
- 8 (d) Fees.

9 (2) Determinations made by the employment security department
10 under this chapter are subject to appeal in accordance with the
11 appeal procedures under chapter 50A.04 RCW. The employment security
12 department shall adopt standards and procedures for appeals for
13 persons aggrieved by any determination or redetermination made by the
14 department. The standards and procedures must be consistent with
15 those adopted for the family and medical leave program under chapter
16 50A.04 RCW and must address topics including:

- 17 (a) Premium liability;
- 18 (b) Premium collection;
- 19 (c) Judicial review; and
- 20 (d) Fees.

21 NEW SECTION. **Sec. 13.** The department of social and health
22 services must:

23 (1) Seek access to medicare data from the federal centers for
24 medicare and medicaid services to analyze the potential savings in
25 medicare expenditures due to the operation of the program;

26 (2) Apply for a demonstration waiver from the federal centers for
27 medicare and medicaid services to allow for the state to share in the
28 savings generated in the federal match for medicaid long-term
29 services and supports and medicare due to the operation of the
30 program;

31 (3) Submit a report, in compliance with RCW 43.01.036, on the
32 status of the waiver to the office of financial management and the
33 appropriate committees of the legislature by December 1, 2022.

34 NEW SECTION. **Sec. 14.** Beginning December 1, 2026, and annually
35 thereafter, and in compliance with RCW 43.01.036, the commission must
36 report to the legislature on the program, including:

- 37 (1) Projected and actual program participation;
- 38 (2) Adequacy of premium rates;

1 (3) Fund balances;

2 (4) Benefits paid;

3 (5) Demographic information on program participants, including
4 age, gender, race, ethnicity, geographic distribution by county,
5 legislative district, and employment sector; and

6 (6) The extent to which the operation of the program has resulted
7 in savings to the medicaid program by avoiding costs that would have
8 otherwise been the responsibility of the state.

9 NEW SECTION. **Sec. 15.** Any benefits used by an individual under
10 this chapter are not income or resources for any determinations of
11 eligibility for any other state program or benefit, for medicaid, for
12 a state-federal program, or for any other means-tested program.

13 NEW SECTION. **Sec. 16.** Nothing in this chapter creates an
14 entitlement for a person to receive, or requires a state agency to
15 provide, case management services including, but not limited to, case
16 management services under chapter 74.39A RCW.

17 NEW SECTION. **Sec. 17.** A new section is added to chapter 44.28
18 RCW to read as follows:

19 By December 1, 2032, the joint legislative audit and review
20 committee must report on the performance of the long-term services
21 and supports trust commission established in section 4 of this act in
22 providing oversight to the long-term services and supports trust
23 program and make recommendations to the legislature on ways to
24 improve the functioning, efficiency, and membership, as well as
25 whether the long-term services and supports trust commission should
26 continue to exist or should expire.

27 **Sec. 18.** RCW 74.39A.076 and 2018 c 220 s 1 are each amended to
28 read as follows:

29 (1) Beginning January 7, 2012, except for long-term care workers
30 exempt from certification under RCW 18.88B.041(1) (a):

31 (a) A biological, step, or adoptive parent who is the individual
32 provider only for (~~his or her~~) the person's developmentally
33 disabled son or daughter must receive twelve hours of training
34 relevant to the needs of adults with developmental disabilities
35 within the first one hundred twenty days after becoming an individual
36 provider.

1 (b) A spouse or registered domestic partner who is a long-term
2 care worker only for a spouse or domestic partner, pursuant to the
3 long-term services and supports trust program established in chapter
4 50A.--- RCW (the new chapter created in section 21 of this act), must
5 receive fifteen hours of basic training, and at least six hours of
6 additional focused training based on the care-receiving spouse's or
7 partner's needs, within the first one hundred twenty days after
8 becoming a long-term care worker.

9 (c) A person working as an individual provider who (i) provides
10 respite care services only for individuals with developmental
11 disabilities receiving services under Title 71A RCW or only for
12 individuals who receive services under this chapter, and (ii) works
13 three hundred hours or less in any calendar year, must complete
14 fourteen hours of training within the first one hundred twenty days
15 after becoming an individual provider. Five of the fourteen hours
16 must be completed before becoming eligible to provide care, including
17 two hours of orientation training regarding the caregiving role and
18 terms of employment and three hours of safety training. The training
19 partnership identified in RCW 74.39A.360 must offer at least twelve
20 of the fourteen hours online, and five of those online hours must be
21 individually selected from elective courses.

22 ~~((e))~~ (d) Individual providers identified in ~~((e))~~ (d)(i) or
23 (ii) of this subsection must complete thirty-five hours of training
24 within the first one hundred twenty days after becoming an individual
25 provider. Five of the thirty-five hours must be completed before
26 becoming eligible to provide care. Two of these five hours shall be
27 devoted to an orientation training regarding an individual provider's
28 role as caregiver and the applicable terms of employment, and three
29 hours shall be devoted to safety training, including basic safety
30 precautions, emergency procedures, and infection control. Individual
31 providers subject to this requirement include:

32 (i) An individual provider caring only for ~~((his or her))~~ the
33 individual provider's biological, step, or adoptive child or parent
34 unless covered by (a) of this subsection; and

35 (ii) A person working as an individual provider who provides
36 twenty hours or less of care for one person in any calendar month.

37 (2) In computing the time periods in this section, the first day
38 is the date of hire.

1 (3) Only training curriculum approved by the department may be
2 used to fulfill the training requirements specified in this section.
3 The department shall only approve training curriculum that:

4 (a) Has been developed with input from consumer and worker
5 representatives; and

6 (b) Requires comprehensive instruction by qualified instructors.

7 (4) The department shall adopt rules to implement this section.

8 **Sec. 19.** RCW 18.88B.041 and 2015 c 152 s 1 are each amended to
9 read as follows:

10 (1) The following long-term care workers are not required to
11 become a certified home care aide pursuant to this chapter:

12 (a) (i) (A) Registered nurses, licensed practical nurses, certified
13 nursing assistants or persons who are in an approved training program
14 for certified nursing assistants under chapter 18.88A RCW, medicare-
15 certified home health aides, or other persons who hold a similar
16 health credential, as determined by the secretary, or persons with
17 special education training and an endorsement granted by the
18 superintendent of public instruction, as described in RCW
19 28A.300.010, if the secretary determines that the circumstances do
20 not require certification.

21 (B) A person who was initially hired as a long-term care worker
22 prior to January 7, 2012, and who completes all of (~~his or her~~) the
23 training requirements in effect as of the date (~~he or she~~) the
24 person was hired.

25 (ii) Individuals exempted by (a) (i) of this subsection may obtain
26 certification as a home care aide without fulfilling the training
27 requirements in RCW 74.39A.074(1)(d)(ii) but must successfully
28 complete a certification examination pursuant to RCW 18.88B.031.

29 (b) All long-term care workers employed by community residential
30 service businesses.

31 (c) An individual provider caring only for (~~his or her~~) the
32 individual provider's biological, step, or adoptive child or parent.

33 (d) A person working as an individual provider who provides
34 twenty hours or less of care for one person in any calendar month.

35 (e) A person working as an individual provider who only provides
36 respite services and works less than three hundred hours in any
37 calendar year.

38 (f) A long-term care worker providing approved services only for
39 a spouse or registered domestic partner, pursuant to the long-term

1 services and supports trust program established in chapter 50A.---
2 RCW (the new chapter created in section 21 of this act).

3 (2) A long-term care worker exempted by this section from the
4 training requirements contained in RCW 74.39A.074 may not be
5 prohibited from enrolling in training pursuant to that section.

6 (3) The department shall adopt rules to implement this section.

7 **Sec. 20.** RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and
8 2018 c 127 s 6 are each reenacted and amended to read as follows:

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

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

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

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

28 (b) The following accounts and funds must receive their
29 proportionate share of earnings based upon each account's or fund's
30 average daily balance for the period: The 24/7 sobriety account, the
31 Washington promise scholarship account, the Gina Grant Bull memorial
32 legislative page scholarship account, the Washington advanced college
33 tuition payment program account, the Washington college savings
34 program account, the accessible communities account, the Washington
35 achieving a better life experience program account, the community and
36 technical college innovation account, the agricultural local fund,
37 the American Indian scholarship endowment fund, the foster care
38 scholarship endowment fund, the foster care endowed scholarship trust
39 fund, the contract harvesting revolving account, the Washington state

1 combined fund drive account, the commemorative works account, the
2 county enhanced 911 excise tax account, the toll collection account,
3 the developmental disabilities endowment trust fund, the energy
4 account, the fair fund, the family and medical leave insurance
5 account, the fish and wildlife federal lands revolving account, the
6 natural resources federal lands revolving account, the food animal
7 veterinarian conditional scholarship account, the forest health
8 revolving account, the fruit and vegetable inspection account, the
9 future teachers conditional scholarship account, the game farm
10 alternative account, the GET ready for math and science scholarship
11 account, the Washington global health technologies and product
12 development account, the grain inspection revolving fund, the
13 Washington history day account, the industrial insurance rainy day
14 fund, the juvenile accountability incentive account, the law
15 enforcement officers' and firefighters' plan 2 expense fund, the
16 local tourism promotion account, the low-income home rehabilitation
17 revolving loan program account, the multiagency permitting team
18 account, the northeast Washington wolf-livestock management account,
19 the pilotage account, the produce railcar pool account, the regional
20 transportation investment district account, the rural rehabilitation
21 account, the Washington sexual assault kit account, the stadium and
22 exhibition center account, the youth athletic facility account, the
23 self-insurance revolving fund, the children's trust fund, the
24 Washington horse racing commission Washington bred owners' bonus fund
25 and breeder awards account, the Washington horse racing commission
26 class C purse fund account, the individual development account
27 program account, the Washington horse racing commission operating
28 account, the life sciences discovery fund, the Washington state
29 heritage center account, the reduced cigarette ignition propensity
30 account, the center for childhood deafness and hearing loss account,
31 the school for the blind account, the Millersylvania park trust fund,
32 the public employees' and retirees' insurance reserve fund, the
33 school employees' benefits board insurance reserve fund, (~~{the}~~)
34 the public employees' and retirees' insurance account, (~~{the}~~) the
35 school employees' insurance account, the long-term services and
36 supports trust account, and the radiation perpetual maintenance fund.

37 (c) The following accounts and funds must receive eighty percent
38 of their proportionate share of earnings based upon each account's or
39 fund's average daily balance for the period: The advanced right-of-
40 way revolving fund, the advanced environmental mitigation revolving

1 account, the federal narcotics asset forfeitures account, the high
2 occupancy vehicle account, the local rail service assistance account,
3 and the miscellaneous transportation programs account.

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

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

14 NEW SECTION. **Sec. 21.** Sections 1 through 16 of this act
15 constitute a new chapter in a new title to be codified as Title 50B
16 RCW."

2SHB 1087 - S COMM AMD

By Committee on Health & Long Term Care

ADOPTED AS AMENDED 04/16/2019

17 On page 1, line 1 of the title, after "supports;" strike the
18 remainder of the title and insert "amending RCW 74.39A.076 and
19 18.88B.041; reenacting and amending RCW 43.79A.040; adding a new
20 section to chapter 44.28 RCW; and adding a new title to the Revised
21 Code of Washington to be codified as Title 50B RCW."

EFFECT: (1) Makes a technical correction so that the eligibility
requirements to access the benefit are consistent throughout the
bill.

(2) Codifies the long-term services and supports trust program in
a new title rather than in the Family and Medical Leave Program
title.

--- END ---