
HOUSE BILL 1104

State of Washington

66th Legislature

2019 Regular Session

By Representatives Appleton, Dolan, Chapman, Macri, Wylie, Goodman, Pollet, Stanford, Valdez, Ryu, Frame, and Tarleton

Prefiled 01/09/19. Read first time 01/14/19. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to requiring the submission of a waiver to the
2 federal government to create the Washington health security trust;
3 adding a new chapter to Title 43 RCW; creating new sections;
4 repealing RCW 82.04.260 and 48.14.0201; providing contingent
5 effective dates; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) There is a crisis in health care
8 accessibility, affordability, and choice in Washington state. Health
9 care through insurance companies has failed to control costs,
10 increase access, or preserve choice. More than six hundred thousand
11 Washington residents have no health care coverage. Individual plans
12 are unavailable or unaffordable in most counties. Many clinics,
13 physician practices, and emergency departments, especially in rural
14 areas, are failing. Employers, faced with fewer choices and more
15 expensive premiums, are reducing employment-based health care
16 coverage. Simplifying health care financing and eliminating
17 administrative waste inherent in multiple insurance plans can create
18 sufficient savings to extend health care coverage to all residents
19 and enhance fairness in the system.

20 (2) The people of the state of Washington declare their intention
21 to create a single health financing entity called the Washington

1 health security trust. Through public hearings, research, and
2 consensus building, the trust will: (a) Provide fair, simple, and
3 accountable health care financing for all Washington residents using
4 a single health care financing entity; (b) cover a comprehensive
5 package of effective and necessary personal health services; (c) make
6 health care coverage independent from employment; (d) eliminate
7 excessive administrative costs resulting from the current fragmented
8 system of multiple insurers; (e) generate savings sufficient to
9 ensure coverage for all Washington residents; (f) integrate current
10 publicly sponsored health programs into the health security trust;
11 (g) preserve choice of providers for Washington residents; (h)
12 protect patient rights; (i) keep clinical decisions in the hands of
13 health professionals and patients, rather than administrative
14 personnel; (j) promote health care quality; and (k) control excessive
15 health care costs.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires
18 otherwise.

19 (1) "Board" means the board of trustees of the Washington health
20 security trust, created in section 3 of this act.

21 (2) "Capitation" means a mechanism of payment in which a provider
22 is paid a negotiated monthly sum and is obliged to provide all
23 covered services for specific patients who enroll with that provider.

24 (3) "Case rate" means a method of payment based on diagnosis.
25 Case rate assumes that a given set of services shall be provided and
26 the rate is based on the total compensation for those services.

27 (4) "Chair" means the presiding officer of the board.

28 (5) "Employer" means any person, partnership, corporation,
29 association, joint venture, or public or private entity operating in
30 Washington state and employing for wages, salary, or other
31 compensation, one or more residents.

32 (6) "Federal poverty level" means the federal poverty guidelines
33 determined annually by the United States department of health and
34 human services or its successor agency.

35 (7) "Group practice" or "group" means a group of practitioners
36 voluntarily joined into an organization for the purpose of sharing
37 administrative costs, negotiating with payers and controlling the
38 circumstances of their medical practice, and, in some cases, sharing

1 revenues. The group may be of a single specialty or include more than
2 one specialty.

3 (8) "Health care facility" or "facility" includes any of the
4 following appropriately accredited entities: Hospices licensed
5 pursuant to chapter 70.127 RCW; hospitals licensed pursuant to
6 chapter 70.41 RCW; rural health care facilities as defined in RCW
7 70.175.020; psychiatric hospitals licensed pursuant to chapter 71.12
8 RCW; nursing homes licensed pursuant to chapter 18.51 RCW; community
9 mental health centers licensed pursuant to chapter 71.05 or 71.24
10 RCW; kidney disease treatment centers licensed pursuant to chapter
11 70.41 RCW; ambulatory diagnostic, treatment, or surgical facilities
12 licensed pursuant to chapter 70.41 RCW; approved drug and alcohol
13 treatment facilities certified by the department of social and health
14 services; home health agencies licensed pursuant to chapter 70.127
15 RCW; and such facilities if owned and operated by a political
16 subdivision or instrumentality of the state and such other facilities
17 as required by federal law and implementing regulations.

18 (9) "Health care practitioner" or "practitioner" means a person
19 licensed or certified under Title 18 RCW or chapter 70.127 RCW, and
20 covered by the all categories of provider law, RCW 48.43.045,
21 providing health care services in Washington state consistent with
22 their lawful scope of practice.

23 (10) "Health care provider" or "provider" means any health care
24 facility, or health care practitioner or group practice licensed or
25 certified under Washington state law to provide health or health-
26 related services in Washington state.

27 (11) "Income" means the adjusted gross household income for
28 federal income tax purposes.

29 (12) "Long-term care" means institutional, residential,
30 outpatient, or community-based services that meet the individual
31 needs of persons of all ages who are limited in their functional
32 capacities or have disabilities and require assistance with
33 performing two or more activities of daily living for an extended or
34 indefinite period of time. These services include case management,
35 protective supervision, in-home care, nursing services, convalescent,
36 custodial, chronic, and terminally ill care.

37 (13) "Native American" means an American Indian or Alaska native
38 as defined under 25 U.S.C. Sec. 1603.

1 (14) "Payroll" means any amount paid to Washington state
2 residents and defined as "wages" under section 3121 of the internal
3 revenue code.

4 (15) "Resident" means an individual who presents evidence of
5 established, permanent residency in the state of Washington, who did
6 not enter the state for the primary purpose of obtaining health
7 services. "Resident" also includes people and their accompanying
8 family members who are residing in the state for the purpose of
9 engaging in employment for at least one month. The confinement of a
10 person in a nursing home, hospital, or other medical institution in
11 the state may not by itself be sufficient to qualify such person as a
12 resident.

13 (16) "Trust" means the Washington health security trust created
14 in section 3 of this act.

15 NEW SECTION. **Sec. 3.** An agency of state government known as the
16 Washington health security trust is created. The purpose of the trust
17 is to provide coverage for a set of health services for all
18 residents.

19 NEW SECTION. **Sec. 4.** (1) The trust must be governed by a board
20 of trustees consisting of nine members with expertise in health care
21 financing and delivery, and representing Washington citizens,
22 business, labor, and health professions. Trustees must include
23 individuals with knowledge of the health care needs of diverse
24 populations, including low-income, Native American, undocumented,
25 non-English speaking, disabled, rural, and other minority
26 populations. Members of the board shall have no pecuniary interest in
27 any business subject to regulation by the board.

28 (2) (a) By October 1st following the effective date of this
29 section, each of the two largest caucuses in both the house of
30 representatives and the senate shall submit to the governor a list of
31 five nominees who are not legislators or employees of the state or
32 its political subdivisions, with no caucus submitting the same
33 nominee.

34 (b) By December 15th following the effective date of this
35 section, the governor shall appoint the initial trustees. The
36 governor shall appoint one trustee from each of the lists submitted
37 by the house of representatives and the senate. If a caucus fails to
38 submit a list as required in (a) of this subsection, or if the

1 nominees on the list do not meet the qualifications specified in
2 subsection (1) of this section, the governor shall appoint a
3 substitute trustee meeting the qualifications specified in subsection
4 (1) of this section at the governor's discretion. The governor shall
5 appoint five additional trustees meeting the qualifications specified
6 in subsection (1) of this section at his or her discretion.

7 (c) Of the initial trustees, three shall be appointed to terms of
8 two years, three shall be appointed to terms of four years, and three
9 shall be appointed to terms of six years. Thereafter, trustees shall
10 be appointed to six-year terms. Trustees may be appointed to multiple
11 terms.

12 (d) The governor shall appoint one of the initial trustees as the
13 chair of the board. The board shall elect its own chair from its
14 members upon the expiration of the term of the initial chair or his
15 or her departure from the board. The term of a chair elected by the
16 board expires upon the expiration of his or her term on the board.

17 (3) If convinced by a preponderance of the evidence in a due
18 process hearing that a trustee has failed to perform required duties
19 or has a conflict with the public interest, the governor may remove
20 that trustee and appoint another to serve the unexpired term.

21 (4) A trustee whose term has expired or who otherwise leaves the
22 board must be replaced by gubernatorial appointment. When the person
23 leaving was nominated by one of the caucuses of the house of
24 representatives or the senate, his or her replacement must be
25 appointed from a list of five nominees submitted by that caucus
26 within thirty days after the vacancy occurs. If the caucus fails to
27 submit the list of nominees, or if the nominees do not meet the
28 qualifications specified in subsection (1) of this section, the
29 governor shall appoint a trustee meeting the qualifications specified
30 in subsection (1) of this section at the governor's discretion. A
31 person appointed to replace a trustee who leaves the board prior to
32 the expiration of his or her term shall serve only the duration of
33 the unexpired term.

34 (5) The initial board shall convene no later than three months
35 following the initial appointment.

36 (6) Members of the board are subject to chapter 42.52 RCW.

37 (7) The health care authority shall provide staff support to the
38 board.

39 (8) The trustees occupy their positions according to the bylaws,
40 rules, and relevant governing documents of the board and are exempt

1 from chapter 41.06 RCW. The board and its professional staff are
2 subject to the public disclosure provisions of chapter 42.17A RCW.
3 Trustees shall be paid a salary to be fixed by the governor in
4 accordance with RCW 43.03.040. Six trustees constitute a quorum for
5 the conduct of business.

6 NEW SECTION. **Sec. 5.** (1) Subject to the approval of the board,
7 the chair shall appoint three standing committees:

8 (a) A financial advisory committee consisting of financial
9 experts from the office of financial management, the office of the
10 state treasurer, and the office of the insurance commissioner. The
11 financial advisory committee shall recommend specific details for
12 major budget decisions and for appropriations, taxes, and other
13 funding legislation necessary to conduct the operations of the
14 Washington health security trust;

15 (b) A citizens' advisory committee consisting of balanced
16 representation from health experts, business, labor, and consumers.
17 The citizens' advisory committee shall hold public hearings on
18 priorities for inclusion in the set of health services, survey public
19 satisfaction, investigate complaints, and identify and report on
20 health care access and other priority issues for residents; and

21 (c) A technical advisory committee consisting of members with
22 broad experience in and knowledge of health care delivery, research,
23 and policy, as well as public and private funding of health care
24 services. The technical advisory committee shall make recommendations
25 to the board on technical issues related to covered benefits, quality
26 assurance, utilization, and other issues as requested by the board.

27 (2) The board shall consult with the citizens' advisory committee
28 at least quarterly, receive its reports and recommendations, and then
29 report to the governor and legislature at least annually on board
30 actions in response to citizens' advisory committee input. The board
31 shall also seek financially sound recommendations from the financial
32 advisory committee whenever the board requests funding legislation
33 necessary to operate the Washington health security trust and
34 whenever the board considers major budget decisions.

35 (3) Subject to approval of the board, the chair may appoint other
36 committees and task forces as needed.

37 (4) Members of committees shall serve without compensation for
38 their services but shall be reimbursed for their expenses while

1 attending meetings on behalf of the board in accordance with RCW
2 43.03.050 and 43.03.060.

3 NEW SECTION. **Sec. 6.** The chair is the presiding officer of the
4 board and has the following powers and duties:

5 (1) Appoint an executive director with the approval of the board;

6 (2) Enter into contracts on behalf of the board. All contracts
7 are subject to review and binding legal opinions by the attorney
8 general's office if disputed in a due process hearing by a party to
9 such a contract;

10 (3) Subject to explicit approval of a majority of the board,
11 accept and expend gifts, donations, grants, and other funds received
12 by the board; and

13 (4) Delegate administrative functions of the board to the
14 executive director and staff of the trust as necessary to ensure
15 efficient administration.

16 NEW SECTION. **Sec. 7.** (1) The board shall: (a) With advice from
17 the citizens' advisory committee and the technical advisory
18 committee, establish and keep current a set of health services to be
19 financed by the trust, as provided in section 11 of this act; (b)
20 subject to the funding mechanism established pursuant to the
21 recommendations made under section 16 of this act, seek all necessary
22 waivers so that current federal and state payments for health
23 services to residents will be paid directly to the trust; (c) subject
24 to the funding mechanism established pursuant to the recommendations
25 made under section 16 of this act, request legislation authorizing
26 the health security assessments and premiums necessary to operate the
27 trust and make rules, policies, guidelines, and timetables needed for
28 the trust to finance the set of health services for all residents
29 starting the second May 15th following the effective date of this
30 section; (d) develop or contract for development of a statewide,
31 anonymous health care data system to use for quality assurance and
32 cost containment; (e) with advice from the technical advisory
33 committee, develop health care practice guidelines and quality
34 standards; (f) develop policies to protect confidentiality of patient
35 records throughout the health care delivery system and the claims
36 payment system; (g) make eligibility rules, including eligibility for
37 residents temporarily out-of-state; (h) develop or contract for
38 development of a streamlined uniform claims processing system that

1 must pay providers in a timely manner for covered health services;
2 (i) develop appeals procedures for residents and providers; (j)
3 integrate functions with other state agencies; (k) work with the
4 citizens' advisory committee and the technical advisory committee to
5 balance benefits and provider payments with revenues, and develop
6 effective measures to control excessive and unnecessary health care
7 costs; (l) address nonfinancial barriers to health care access; (m)
8 monitor population migration into Washington state to detect any
9 trends related to availability of universal health care coverage; and
10 (n) develop an annual budget for the trust.

11 (2) To the extent that the exercise of any of the powers and
12 duties specified in this section may be inconsistent with the powers
13 and duties of other state agencies, offices, or commissions, the
14 authority of the board supersedes that of such other state agency,
15 office, or commission.

16 NEW SECTION. **Sec. 8.** Beginning the third May 15th following the
17 effective date of this section, the board shall adopt, in
18 consultation with the office of financial management, an annual
19 Washington health security trust budget. Except by legislative
20 approval, each annual budget shall not exceed the budget for the
21 preceding year by more than the Washington state consumer price
22 index. If operations expenses exceed revenues generated in two
23 consecutive years, the board shall recommend adjustments in either
24 benefits or revenues, or both, to the legislature.

25 NEW SECTION. **Sec. 9.** (1) The board shall report annual changes
26 in total Washington health care costs, along with the financial
27 position and the status of the trust, to the governor and legislature
28 at least once a year.

29 (2) The board shall seek audits annually from the state auditor.

30 (3) The board shall contract with the state auditor for a
31 performance audit every two years.

32 (4) The board shall adopt bylaws, rules, and other appropriate
33 governance documents to assure accountable, open, fair, effective
34 operations of the trust, including rules under which reserve funds
35 may be prudently invested subject to advice of the state treasurer
36 and the director of the department of financial management.

1 (5) The board shall submit any internal rules or policies it
2 adopts to the secretary of state. The internal rules or policies must
3 be made available by the secretary of state for public inspection.

4 NEW SECTION. **Sec. 10.** (1) All residents are eligible for
5 coverage through the trust.

6 (2) If a resident has health insurance coverage for any health
7 services provided in the state, the benefits provided in this act are
8 secondary to that insurance. Nonresidents are covered for emergency
9 services and emergency transportation only.

10 (3) Until federal waivers are accomplished, residents covered
11 under federal health programs shall continue to use that coverage,
12 and benefits provided by the trust shall extend only to costs not
13 covered by the federal health programs unless: (a) The resident
14 voluntarily elects to participate in the trust; (b) the resident's
15 pay is considered in calculating the employer's health security
16 assessment established pursuant to the recommendations made under
17 section 16 of this act; and (c) either the employer or the employee
18 pays the health security premium established pursuant to the
19 recommendations made under section 16 of this act.

20 (4) The board shall make provisions for determining eligibility
21 for coverage for residents while they are temporarily out of the
22 state.

23 (5) Pending integration of federally qualified trusts into the
24 health security trust, employees covered under the trusts are not
25 eligible for coverage through the health security trust unless: (a)
26 The employee's pay is considered in calculating the employer's health
27 security assessment established pursuant to the recommendations made
28 under section 16 of this act; and (b) either the employer or the
29 employee pays the health security premium established pursuant to the
30 recommendations made under section 16 of this act.

31 (6) Pending integration of federally qualified trusts into the
32 health security trust, residents who are retirees covered under the
33 trusts are not eligible for coverage through the health security
34 trust unless they pay the health security premium established
35 pursuant to the recommendations made under section 16 of this act.

36 (7) Pending integration into the health security trust of
37 applicable federal programs described in section 19 of this act,
38 Native American residents are not eligible for coverage through the
39 health security trust unless: (a) The resident's pay is considered in

1 calculating the employer's health security assessment established
2 pursuant to the recommendations made under section 16 of this act;
3 and (b) either the employer or the resident pays any health security
4 premium established pursuant to the recommendations made under
5 section 16 of this act.

6 (8) Nothing in this act shall be construed to limit a resident's
7 right to seek health care from any provider he or she chooses, or
8 from obtaining coverage for health care benefits in excess of those
9 available under the trust.

10 NEW SECTION. **Sec. 11.** (1) With advice from the citizens'
11 advisory committee and the technical advisory committee, the board
12 shall establish a single benefits package covering health services
13 that are effective and necessary for the good health of residents and
14 that emphasize preventive and primary health care. The board shall
15 ensure that the benefits package constitutes minimum essential
16 coverage for purposes of the federal patient protection and
17 affordable care act.

18 (2) The benefits package shall include, but is not limited to:
19 (a) Inpatient and outpatient hospital care, including twenty-four
20 hour a day emergency services and emergency ambulance services; (b)
21 outpatient, home-based, and office-based care; (c) rehabilitation
22 services, including speech, occupational, and physical therapy; (d)
23 inpatient and outpatient mental health services and substance abuse
24 treatment; (e) hospice care; (f) prescription drugs and prescribed
25 medical nutrition; (g) vision and hearing care; (h) diagnostic tests;
26 (i) durable medical equipment; (j) preventive care; and (k) any other
27 benefits defined as "essential health benefits" under the federal
28 patient protection and affordable care act.

29 (3) Subject to a financial analysis demonstrating ongoing
30 sufficient funds in the trust, long-term care shall be a covered
31 benefit as of the third May 15th following the effective date of this
32 section. Long-term care coverage shall include a uniform initial
33 assessment and coordination between home health, adult day care, and
34 nursing home services, and other treatment alternatives. The board
35 shall establish a copayment for long-term nursing home care, to cover
36 some costs of room and board, for residents with incomes above one
37 hundred fifty percent of the federal poverty level.

38 (4) The board, in coordination with the office of the insurance
39 commissioner, shall examine by the third May 15th following the

1 effective date of this section, possible remedies for residents who
2 have made previous payments for long-term care insurance.

3 (5) The board shall submit to the legislature by the third July
4 1st following the effective date of this section, a plan to
5 incorporate dental care coverage in the benefits package, to be
6 effective the following year.

7 (6) The board shall submit to the governor and legislature by the
8 first December 1st following the effective date of this section, and
9 by December 1st of the following years: (a) The benefits package, and
10 (b) an actuarial analysis of the cost of the package.

11 (7) The board shall consider the extent to which medical research
12 and health professions training activities should be included in the
13 scope of covered activities set forth in this act. The board shall
14 make a report to the governor and the legislature by the third July
15 1st following the effective date of this section.

16 NEW SECTION. **Sec. 12.** (1) When consistent with existing federal
17 law, the board shall require pharmaceutical and durable medical
18 equipment manufacturers to provide their products in Washington state
19 at the lowest rate offered to federal and other government entities.

20 (2) The board may seek other means of financing drugs and durable
21 medical equipment at the lowest possible cost, including bulk
22 purchasing agreements with Washington state tribes.

23 (3) The board may enact drug formularies that do not interfere
24 with treatments necessary for appropriate standards of care.

25 NEW SECTION. **Sec. 13.** (1) The board shall adopt rules
26 permitting providers to collectively negotiate budgets, payment
27 schedules, and other terms and conditions of trust participation.

28 (2) The board shall annually negotiate with each hospital and
29 each facility a prospective global budget for operational and other
30 costs to be covered by the trust. Group practices may also negotiate
31 on a global budget basis. Hospitals and other facilities shall be
32 paid on a fee-for-service or case rate basis, within the limits of
33 their prospective annual budget.

34 (3) Payment to individual practitioners shall be by fee-for-
35 service or on a case rate basis or on a combination of bases. The
36 board shall study the feasibility of paying by capitation to
37 providers, and how resident enrollment would take place under
38 capitation.

1 (4) Individual practitioners who are employed by a group,
2 facility, clinic, or hospital may be paid by salary.

3 (5) The board shall adopt rules ensuring that payment schedules
4 and procedures for mental health services are comparable to other
5 health care services.

6 (6) The board shall study and seek to develop provider payment
7 methods that: (a) Encourage an integrated multispecialty approach to
8 disease management; (b) reward education time spent with patients;
9 and (c) include a medical risk adjustment formula for providers whose
10 practices serve patients with higher than average health risks.

11 (7) Nothing in this act shall be construed to limit a provider's
12 right to receive payments from sources other than the trust. However,
13 any provider who does accept payment from the trust for a service
14 must accept that payment, along with applicable copayments, as
15 payment in full.

16 NEW SECTION. **Sec. 14.** (1) The intent of this section is to
17 exempt activities approved under this act from state antitrust laws
18 and to provide immunity from federal antitrust laws through the state
19 action doctrine.

20 (2) Activities that might otherwise be constrained by antitrust
21 laws, including: (a) Containing the aggregate cost of health care
22 services; (b) promoting cooperative activities among health care
23 providers to develop cost-effective health care delivery systems; and
24 (c) any other lawful actions taken under this act by any person or
25 entity created or regulated by this act, are declared to be pursuant
26 to state statute and for the public purposes of the state of
27 Washington.

28 NEW SECTION. **Sec. 15.** (1) Administrative expenses to operate
29 and maintain the trust shall not exceed eleven percent of the trust's
30 annual budget. The board shall not shift administrative costs or
31 duties of the trust to providers or to resident beneficiaries.

32 (2) The board shall work with providers to develop and apply
33 scientifically based utilization standards, to use encounter and
34 prescribing data to detect excessive utilization, to develop due
35 processes for enforcing appropriate utilization standards, and to
36 identify and prosecute fraud.

37 (3) The board may institute other cost-containment measures in
38 order to maintain a balanced budget. The board shall pursue due

1 diligence to ensure that cost-containment measures do not limit
2 access to clinically necessary care, nor infringe upon legitimate
3 clinical decision making by practitioners.

4 NEW SECTION. **Sec. 16.** (1) The joint select committee on health
5 care oversight shall contract for an actuarial analysis of the
6 funding needs of the Washington health security trust created in
7 section 3 of this act and recommend a funding mechanism to the
8 appropriate standing committees of the house of representatives, the
9 senate, and the governor by November 15, 2019.

10 (2) The recommended funding mechanism may contain the following
11 elements:

12 (a) A health security assessment to be paid by all employers in
13 Washington state; and

14 (b) A monthly health security premium to be paid by Washington
15 residents with incomes over two hundred percent of the federal
16 poverty level, subject to exemptions such as for medicare and
17 medicaid beneficiaries or for persons under the age of eighteen.

18 (3) The recommendations must also include recommended additional
19 funding sources including, but not limited to, revenues collected
20 under RCW 41.05.120, 41.05.130, 66.24.290, 82.24.020, 82.26.020,
21 82.08.150, 43.79.480, and 41.05.220.

22 (4) The recommendations shall specify the amounts that must be
23 deposited in the reserve account created in section 20 of this act,
24 the displaced worker training account created in section 21 of this
25 act, and the benefits account created in section 22 of this act.

26 (5) Prior to making its recommendations, the joint select
27 committee on health care oversight shall conduct at least six public
28 hearings in different geographic regions of the state seeking public
29 input or comment on the recommended funding mechanism.

30 (6) The legislature shall enact legislation implementing the
31 recommendations of the joint select committee during the 2020 regular
32 legislative session.

33 NEW SECTION. **Sec. 17.** Revenue derived from the health security
34 assessment and the health security premium established pursuant to
35 the recommendations made under section 16 of this act may not be used
36 to pay for medical assistance currently provided under chapter 74.09
37 RCW or other existing federal and state health care programs. If
38 existing federal and state sources of payment for health services are

1 reduced or terminated after the effective date of this section, the
2 legislature shall replace these appropriations from the general fund.

3 NEW SECTION. **Sec. 18.** (1) No later than January 1, 2021, the
4 Washington state health care authority shall apply for a waiver from
5 the provisions of the federal patient protection and affordable care
6 act, P.L. 111-148, as amended by the federal health care and
7 education reconciliation act, P.L. 111-152, to:

8 (a) Suspend the operation of the Washington health benefit
9 exchange established in chapter 43.71 RCW;

10 (b) Enable the state to receive appropriate federal funding in
11 lieu of the federal premium tax credits, federal cost-sharing
12 subsidies, and other federal payments and tax credits that will no
13 longer be necessary due to the suspension of the operations of the
14 Washington health benefits exchange;

15 (c) Ensure the operation of the Washington health security trust
16 consistent with this act; and

17 (d) Enable the state to provide equitable coverage for all
18 residents, including those covered through medicaid and medicare, and
19 maximize the use of appropriate federal funding in the Washington
20 health security trust.

21 (2) The waiver application must be consistent with 42 U.S.C. Sec.
22 18052.

23 (3) Beginning November 15, 2019, the health care authority shall
24 submit annual progress reports to the appropriate legislative
25 committees regarding the development of the waiver application. The
26 report submitted on November 15, 2020, must include a list of any
27 statutory changes necessary to implement the waiver.

28 (4) Upon receipt of the waiver, the health care authority shall
29 promptly notify in writing the office of the code reviser, the
30 governor, and the appropriate committees of the legislature.

31 NEW SECTION. **Sec. 19.** (1) The board, in consultation with
32 sovereign tribal governments as called for by the centennial accord,
33 shall determine the state and federal laws that need to be repealed,
34 amended, or waived to implement this act, and report its
35 recommendations, with proposed revisions to the Revised Code of
36 Washington, to the governor and the appropriate committees of the
37 legislature by the first October 1st following the effective date of
38 this section.

1 (2) The governor, in consultation with the board and sovereign
2 tribal governments as called for by the centennial accord, shall take
3 the following steps in an effort to receive waivers or exemptions
4 from federal statutes necessary to fully implement this act:

5 (a) Negotiate with the federal department of health and human
6 services, health care financing administration, to obtain a statutory
7 or regulatory waiver of provisions of the medical assistance statute,
8 Title XIX of the federal social security act and the children's
9 health insurance program;

10 (b) Negotiate with the federal department of health and human
11 services to obtain a statutory or regulatory waiver of provisions of
12 the medicare statute, Title XVIII of the federal social security act,
13 that currently constitute barriers to full implementation of this
14 act;

15 (c) Negotiate with the federal department of health and human
16 services to obtain any statutory or regulatory waivers of provisions
17 of the United States public health services act necessary to ensure
18 integration of federally funded community and migrant health clinics
19 and other health services funded through the public health services
20 act into the trust system under this act;

21 (d) Negotiate with the federal office of personnel management for
22 the inclusion of federal employee health benefits in the trust under
23 this act;

24 (e) Negotiate with the federal department of veterans' affairs
25 for the inclusion of veterans' medical benefits in the trust under
26 this act;

27 (f) Negotiate with the federal department of defense and other
28 federal agencies for the inclusion of the civilian health and medical
29 program of the uniformed services (CHAMPUS) in the trust under this
30 act;

31 (g) Negotiate with the Indian health services and sovereign
32 tribal governments for inclusion and adequate reimbursement of Indian
33 health benefits under the trust created by this act; and

34 (h) Request that the United States congress amend the internal
35 revenue code to treat the employer health security assessment and the
36 individual health security premiums established pursuant to the
37 recommendations made under section 16 of this act as fully deductible
38 from adjusted gross income.

1 NEW SECTION. **Sec. 20.** (1) The reserve account is created in the
2 custody of the state treasurer. The reserve account will accumulate
3 moneys until its value equals ten percent of the total annual
4 budgeted expenditures of the trust and then will be considered fully
5 funded, unless the legislature determines that a different level of
6 reserve is necessary and prudent. Whenever the reserve account is
7 fully funded, additional moneys shall be transferred to the benefits
8 account created in section 22 of this act.

9 (2) Expenditures from the reserve account may be used only for
10 the purposes of health care services and maintenance of the trust.
11 Only the board or the board's designee may authorize expenditures
12 from the account. The account is subject to allotment procedures
13 under chapter 43.88 RCW, but an appropriation is not required for
14 expenditures.

15 NEW SECTION. **Sec. 21.** (1) The displaced worker training account
16 is created in the custody of the state treasurer. Expenditures from
17 the account may be used only for retraining and job placement of
18 workers displaced by the transition to the trust. Only the board or
19 the board's designee may authorize expenditures from the account. The
20 account is subject to allotment procedures under chapter 43.88 RCW,
21 but an appropriation is not required for expenditures.

22 (2) Any funds remaining in the account on the second December
23 31st following the effective date of this section must be deposited
24 into the benefits account created in section 22 of this act.

25 (3) This section expires the third January 1st following the
26 effective date of this section.

27 NEW SECTION. **Sec. 22.** The benefits account is created in the
28 custody of the state treasurer. Expenditures from the account may be
29 used only for health care services and maintenance of the trust. Only
30 the board or the board's designee may authorize expenditures from the
31 account. The account is subject to allotment procedures under chapter
32 43.88 RCW, but an appropriation is not required for expenditures.

33 NEW SECTION. **Sec. 23.** Following the repeal, amendment, or
34 waiver of existing state and federal laws delineated in section 19 of
35 this act, all other revenues currently deposited in the health
36 services account for personal health care services shall be deposited

1 to the reserve account created in section 20 of this act and the
2 benefits account created in section 22 of this act.

3 NEW SECTION. **Sec. 24.** Nothing in this act shall be construed to
4 limit an employer's right to maintain employee benefit plans under
5 the federal employee retirement income security act of 1974.

6 NEW SECTION. **Sec. 25.** No later than the third January 1st
7 following the effective date of this section, the board shall submit
8 to the legislature a proposal to integrate those current and future
9 federally qualified trusts that choose to participate in the trust.

10 NEW SECTION. **Sec. 26.** On or before the third January 1st
11 following the effective date of this section, the board, in
12 coordination with the department of labor and industries, shall study
13 and make a report to the governor and appropriate committees of the
14 legislature on the provision of medical benefits for injured workers
15 under the trust.

16 NEW SECTION. **Sec. 27.** An appropriation by separate act of the
17 legislature may be necessary for the fiscal year ending June 30th in
18 the second year following the effective date of this section, from
19 the general fund to the benefits account of the Washington health
20 security trust for start-up moneys for purposes of this act during
21 the period of the first July 1st following the effective date of this
22 section through the second June 30th following the effective date of
23 this section.

24 NEW SECTION. **Sec. 28.** The following acts or parts of acts are
25 each repealed:

26 (1) RCW 82.04.260 (Tax on manufacturers and processors of various
27 foods and by-products—Research and development organizations—Travel
28 agents—Certain international activities—Stevedoring and associated
29 activities—Low-level waste disposers—Insurance producers, surplus
30 line brokers, and title insurance agents—Hospitals—Commercial
31 airplane activities—Timber product activities—Canned salmon
32 processors) and 2018 c 164 s 3 & 2017 c 135 s 11; and

1 (2) RCW 48.14.0201 (Premiums and prepayments tax—Health care
2 services—Exemptions—State preemption) and 2016 c 133 s 2, 2013 2nd
3 sp.s. c 6 s 5, 2013 c 325 s 3, 2011 c 47 s 8, & 2009 c 479 s 41.

4 NEW SECTION. **Sec. 29.** Sections 1 through 15, 17, 19 through 22,
5 and 23 through 25 of this act constitute a new chapter in Title 43
6 RCW.

7 NEW SECTION. **Sec. 30.** (1) Sections 2 through 15, 17, 19, and 25
8 through 27 of this act take effect upon receipt of the waiver
9 requested under section 18 of this act.

10 (2) Sections 20 through 22 of this act take effect the second
11 January 1st following receipt of the waiver requested under section
12 18 of this act.

13 (3) Sections 23, 24, and 28 of this act take effect the second
14 May 15th following receipt of the waiver requested under section 18
15 of this act.

16 NEW SECTION. **Sec. 31.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 32.** If any part of this act is found to be in
21 conflict with federal requirements that are a prescribed condition to
22 the allocation of federal funds to the state, the conflicting part of
23 this act is inoperative solely to the extent of the conflict and with
24 respect to the agencies directly affected, and this finding does not
25 affect the operation of the remainder of this act in its application
26 to the agencies concerned. Rules adopted under this act must meet
27 federal requirements that are a necessary condition to the receipt of
28 federal funds by the state.

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