

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1087

66th Legislature
2019 Regular Session

Passed by the House April 23, 2019
Yeas 55 Nays 41

Speaker of the House of Representatives

Passed by the Senate April 16, 2019
Yeas 26 Nays 22

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1087** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1087

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By House Appropriations (originally sponsored by Representatives Jinkins, MacEwen, Cody, Harris, Tharinger, Slatter, Kloba, Ryu, Macri, DeBolt, Bergquist, Doglio, Robinson, Stanford, Stonier, Frame, and Leavitt)

READ FIRST TIME 02/18/19.

1 AN ACT Relating to long-term services and supports; amending RCW
2 74.39A.076, 18.88B.041, and 44.44.040; reenacting and amending RCW
3 43.79A.040; adding a new section to chapter 43.09 RCW; and adding a
4 new title to the Revised Code of Washington to be codified as Title
5 50B RCW.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that:

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

15 (2) The majority of people over sixty-five years of age will need
16 long-term services and supports within their lifetimes. The senior
17 population has doubled in Washington since 1980, to currently over
18 one million, and will more than double again by 2040. Without access
19 to insurance, seniors must rely on family care and spend their life
20 savings down to poverty levels in order to access long-term care
21 through medicaid. Middle class families are at the greatest risk

1 because most have not saved enough to cover long-term care costs.
2 When seniors reach the point of needing assistance with eating,
3 dressing, and personal care, they must spend down to their last
4 remaining two thousand dollars before they qualify for state
5 assistance, leaving family members in jeopardy for their own future
6 care needs. In Washington, more than eight hundred fifty thousand
7 unpaid family caregivers provided care valued at eleven billion
8 dollars in 2015. Furthermore, family caregivers who leave the
9 workforce to provide unpaid long-term services and supports lose an
10 average of three hundred thousand dollars in their own income and
11 health and retirement benefits.

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

17 (4) Seniors and the state will not be able to continue their
18 reliance on family caregivers in the near future. Demographic shifts
19 mean that fewer potential family caregivers will be available in the
20 future. Today, there are around seven potential caregivers for each
21 senior, but by 2030 that ratio will decrease to four potential
22 caregivers for each senior.

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

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

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

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

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

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

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

16 (c) Transitions from private and public funding sources for
17 consumers are seamless;

18 (d) Long-term care health status data is collected across all
19 home and community-based settings; and

20 (e) Program design focuses on the need to provide meaningful
21 assistance to middle class families.

22 (10) The creation of a long-term care insurance benefit of an
23 established dollar amount per day for three hundred sixty-five days
24 for all eligible Washington employees, paid through an employee
25 payroll premium, is in the best interest of the state of Washington.

26 NEW SECTION. **Sec. 2.** The definitions in this section apply
27 throughout this chapter unless the context clearly requires
28 otherwise.

29 (1) "Account" means the long-term services and supports trust
30 account created in section 11 of this act.

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

33 (a) Adult day services;

34 (b) Care transition coordination;

35 (c) Memory care;

36 (d) Adaptive equipment and technology;

37 (e) Environmental modification;

38 (f) Personal emergency response system;

39 (g) Home safety evaluation;

- 1 (h) Respite for family caregivers;
2 (i) Home delivered meals;
3 (j) Transportation;
4 (k) Dementia supports;
5 (l) Education and consultation;
6 (m) Eligible relative care;
7 (n) Professional services;
8 (o) Services that assist paid and unpaid family members caring
9 for eligible individuals, including training for individuals
10 providing care who are not otherwise employed as long-term care
11 workers under RCW 74.39A.074;
12 (p) In-home personal care;
13 (q) Assisted living services;
14 (r) Adult family home services; and
15 (s) Nursing home services.

16 (3) "Benefit unit" means up to one hundred dollars paid by the
17 department of social and health services to a long-term services and
18 supports provider as reimbursement for approved services provided to
19 an eligible beneficiary on a specific date. The benefit unit must be
20 adjusted annually at a rate no greater than the Washington state
21 consumer price index, as determined solely by the council. Any
22 changes adopted by the council shall be subject to revision by the
23 legislature.

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

26 (5) "Council" means the long-term services and supports trust
27 council established in section 5 of this act.

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

35 (7) "Employee" has the meaning provided in RCW 50A.04.010.

36 (8) "Employer" has the meaning provided in RCW 50A.04.010.

37 (9) "Employment" has the meaning provided in RCW 50A.04.010.

38 (10) "Long-term services and supports provider" means an entity
39 that meets the qualifications applicable in law to the approved
40 service they provide, including a qualified or certified home care

1 aide, licensed assisted living facility, licensed adult family home,
2 licensed nursing home, licensed in-home services agency, adult day
3 services program, vendor, instructor, qualified family member, or
4 other entities as registered by the department of social and health
5 services.

6 (11) "Premium" or "premiums" means the payments required by
7 section 9 of this act and paid to the employment security department
8 for deposit in the account created in section 11 of this act.

9 (12) "Program" means the long-term services and supports trust
10 program established in this chapter.

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

16 (14) "Qualified individual" means an individual who meets the
17 duration of payment requirements, as established in this chapter.

18 (15) "State actuary" means the office of the state actuary
19 created in RCW 44.44.010.

20 (16) "Wages" has the meaning provided in RCW 50A.04.010, except
21 that all wages are subject to a premium assessment and not limited by
22 the commissioner of the employment security department, as provided
23 under RCW 50A.04.115.

24 NEW SECTION. **Sec. 3.** (1) The health care authority, the
25 department of social and health services, the office of the state
26 actuary, and the employment security department each have distinct
27 responsibilities in the implementation and administration of the
28 program. In the performance of their activities, they shall actively
29 collaborate to realize program efficiencies and provide persons
30 served by the program with a well-coordinated experience.

31 (2) The health care authority shall:

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

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

1 (c) Establish criteria for the payment of benefits to registered
2 long-term services and supports providers under section 8 of this
3 act;

4 (d) Establish rules and procedures for benefit coordination when
5 the eligible beneficiary is also funded for medicaid and other long-
6 term services and supports, including medicare, coverage through the
7 department of labor and industries, and private long-term care
8 coverage; and

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

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

13 (a) Make determinations regarding an individual's status as an
14 eligible beneficiary under section 7 of this act;

15 (b) Approve long-term services and supports eligible for payment
16 as approved services under the program, as informed by the
17 commission;

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

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

24 (e) Disburse payments of benefits to registered long-term
25 services and supports providers, utilizing and leveraging existing
26 payment systems for the provision of approved services to eligible
27 beneficiaries under section 8 of this act;

28 (f) Prepare and distribute written or electronic materials to
29 qualified individuals, eligible beneficiaries, and the public as
30 deemed necessary by the commission to inform them of program design
31 and updates;

32 (g) Provide customer service and address questions and
33 complaints, including referring individuals to other appropriate
34 agencies;

35 (h) Provide administrative and operational support to the
36 commission;

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

1 (j) Adopt rules and procedures necessary to implement and
2 administer the activities specified in this section related to the
3 program.

4 (4) The employment security department shall:

5 (a) Collect and assess employee premiums as provided in section 9
6 of this act;

7 (b) Assist the commission, council, and state actuary in
8 monitoring the solvency and financial status of the program;

9 (c) Perform investigations to determine the compliance of premium
10 payments in section 9 of this act in coordination with the same
11 activities conducted under the family and medical leave act, chapter
12 50A.04 RCW, to the extent possible;

13 (d) Make determinations regarding an individual's status as a
14 qualified individual under section 6 of this act; and

15 (e) Adopt rules and procedures necessary to implement and
16 administer the activities specified in this section related to the
17 program.

18 (5) The office of the state actuary shall:

19 (a) Beginning January 1, 2024, and biennially thereafter, perform
20 an actuarial audit and valuation of the long-term services and
21 supports trust fund. Additional or more frequent actuarial audits and
22 valuations may be performed at the request of the council;

23 (b) Make recommendations to the council and the legislature on
24 actions necessary to maintain trust solvency. The recommendations
25 must include options to redesign or reduce benefit units, approved
26 services, or both, to prevent or eliminate any unfunded actuarially
27 accrued liability in the trust or to maintain solvency; and

28 (c) Select and contract for such actuarial, research, technical,
29 and other consultants as the actuary deems necessary to perform its
30 duties under this act.

31 NEW SECTION. **Sec. 4.** (1) The long-term services and supports
32 trust commission is established. The commission's recommendations and
33 decisions must be guided by the joint goals of maintaining benefit
34 adequacy and maintaining fund solvency and sustainability.

35 (2) The commission includes:

36 (a) Two members from each of the two largest caucuses of the
37 house of representatives, appointed by the speaker of the house of
38 representatives;

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

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

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

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

9 (f) One representative of the organization representing the area
10 agencies on aging;

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

13 (h) One representative of a union representing long-term care
14 workers;

15 (i) One representative of an organization representing retired
16 persons;

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

19 (k) One representative of an association representing adult
20 family home providers;

21 (l) Two individuals receiving long-term services and supports, or
22 their designees, or representatives of consumers receiving long-term
23 services and supports under the program;

24 (m) One member who is a worker who is, or will likely be, paying
25 the premium established in section 9 of this act and who is not
26 employed by a long-term services and supports provider; and

27 (n) One representative of an organization of employers whose
28 members collect, or will likely be collecting, the premium
29 established in section 9 of this act.

30 (3) (a) Other than the legislators and agency heads identified in
31 subsection (2) of this section, members of the commission are
32 appointed by the governor for terms of two years, except that the
33 governor shall appoint the initial members identified in subsection
34 (2) (f) through (n) of this section to staggered terms not to exceed
35 four years.

36 (b) The secretary of the department of social and health
37 services, or the secretary's designee, shall serve as chair of the
38 commission. Meetings of the commission are at the call of the chair.
39 A majority of the voting members of the commission shall constitute a
40 quorum for any votes of the commission. Approval of sixty percent of

1 those voting members of the commission who are in attendance is
2 required for the passage of any vote.

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

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

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

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

17 (c) The establishment of payment maximums for approved services
18 consistent with actuarial soundness which shall not be lower than
19 medicaid payments for comparable services. A service or supply may be
20 limited by dollar amount, duration, or number of visits. The
21 commission shall engage affected stakeholders to develop this
22 recommendation;

23 (d) Changes to rules or policies to improve the operation of the
24 program;

25 (e) Providing a recommendation to the council for the annual
26 adjustment of the benefit unit in accordance with sections 2 and 5 of
27 this act;

28 (f) A refund of premiums for a deceased qualified individual with
29 a dependent who is an individual with a developmental disability who
30 is dependent for support from a qualified individual. The qualified
31 individual must not have been determined to be an eligible
32 beneficiary by the department of social and health services. The
33 refund shall be deposited into an individual trust account within the
34 developmental disabilities endowment trust fund for the benefit of
35 the dependent with a developmental disability. The commission shall
36 consider:

37 (i) The value of the refund to be one hundred percent of the
38 current value of the qualified individual's lifetime premium payments
39 at the time that certification of death of the qualified individual
40 is submitted, less any administrative process fees; and

1 (ii) The criteria for determining whether the individual is
2 developmentally disabled. The determination shall not be based on
3 whether or not the individual with a developmental disability is
4 receiving services under Title 71A RCW, or another state or local
5 program;

6 (g) Assisting the state actuary with the preparation of regular
7 actuarial reports on the solvency and financial status of the program
8 and advising the legislature on actions necessary to maintain trust
9 solvency. The commission shall provide the office of the state
10 actuary with all actuarial reports for review. The office of the
11 state actuary shall provide any recommendations to the commission and
12 the legislature on actions necessary to maintain trust solvency;

13 (h) For the January 1, 2021, report only, recommendations on
14 whether and how to extend coverage to individuals who became disabled
15 before the age of eighteen, including the impact on the financial
16 status and solvency of the trust. The commission shall engage
17 affected stakeholders to develop this recommendation; and

18 (i) For the January 1, 2021, report only, the commission shall
19 consult with the office of the state actuary on the development of an
20 actuarial report of the projected solvency and financial status of
21 the program. The office of the state actuary shall provide any
22 recommendations to the commission and the legislature on actions
23 necessary to achieve trust solvency.

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

37 (6) The commission shall establish an investment strategy
38 subcommittee consisting of the members identified in subsection
39 (2)(a) through (d) of this section as voting members of the
40 subcommittee. In addition, four members appointed by the governor who

1 are considered experienced and qualified in the field of investment
2 shall serve as nonvoting members. The subcommittee shall provide
3 guidance and advice to the state investment board on investment
4 strategies for the account, including seeking counsel and advice on
5 the types of investments that are constitutionally permitted.

6 NEW SECTION. **Sec. 5.** (1) The long-term services and supports
7 council is established. The council includes the members identified
8 in section 4(2)(a) through (e) of this act and the director of the
9 office of financial management, or the director's designee.

10 (2) On an annual basis, the council must determine adjustments to
11 the benefit unit as provided in the definition of "benefit unit" in
12 section 2 of this act to assure benefit adequacy and solvency of the
13 long-term services and supports trust account established in section
14 11 of this act. In determining adjustments to the benefit unit, the
15 council must review the state actuary's actuarial audit and valuation
16 of the trust account, any recommendations by the state actuary and
17 commission, data on relevant economic indicators and program costs,
18 and sustainability.

19 (3) The director of the office of financial management, or the
20 director's designee, shall serve as chair of the council. The council
21 must meet at least once annually to determine adjustments to the
22 benefit unit as defined in section 2 of this act. Additional meetings
23 of the council are at the call of the chair. A majority of the voting
24 members of the council shall constitute a quorum for any votes of the
25 council. Approval of sixty percent of the members of the council who
26 are in attendance is required for the passage of any vote. The
27 council may adopt rules for the conduct of meetings, including
28 provisions for meetings and voting to be conducted by telephonic,
29 video, or other conferencing process.

30 (4) Members of the council must be compensated in accordance with
31 RCW 43.03.250 and must be reimbursed for their travel expenses while
32 on official business in accordance with RCW 43.03.050 and 43.03.060.

33 NEW SECTION. **Sec. 6.** (1) The employment security department
34 shall deem a person to be a qualified individual as provided in this
35 chapter if the person has paid the long-term services and supports
36 premiums required by section 9 of this act for the equivalent of
37 either:

1 (a) A total of ten years without interruption of five or more
2 consecutive years; or

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

4 (2) When deeming a person to be a qualified individual, the
5 employment security department shall require that the person have
6 worked at least five hundred hours during each of the ten years in
7 subsection (1)(a) of this section and each of the three years in
8 subsection (1)(b) of this section.

9 NEW SECTION. **Sec. 7.** (1) Beginning January 1, 2025, approved
10 services must be available and benefits payable to a registered long-
11 term services and supports provider on behalf of an eligible
12 beneficiary under this section.

13 (2) A qualified individual may become an eligible beneficiary by
14 filing an application with the department of social and health
15 services and undergoing an eligibility determination which includes
16 an evaluation that the individual requires assistance with at least
17 three activities of daily living. The department of social and health
18 services must engage sufficient qualified assessor capacity,
19 including via contract, so that the determination may be made within
20 forty-five days from receipt of a request by a beneficiary to use a
21 benefit.

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

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

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

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

1 NEW SECTION. **Sec. 8.** (1) Benefits provided under this chapter
2 shall be paid periodically and promptly to registered long-term
3 services and supports providers.

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

9 NEW SECTION. **Sec. 9.** (1) Beginning January 1, 2022, the
10 employment security department shall assess for each individual in
11 employment with an employer a premium based on the amount of the
12 individual's wages. The initial premium rate is fifty-eight
13 hundredths of one percent of the individual's wages. Beginning
14 January 1, 2024, and biennially thereafter, the premium rate shall be
15 set by the pension funding council at a rate no greater than fifty-
16 eight hundredths of one percent. In addition, the pension funding
17 council must set the premium rate at the lowest amount necessary to
18 maintain the actuarial solvency of the long-term services and
19 supports trust account created in section 11 of this act in
20 accordance with recognized insurance principles and designed to
21 attempt to limit fluctuations in the premium rate. To facilitate the
22 premium rate setting the office of the state actuary must perform a
23 biennial actuarial audit and valuation of the fund and make
24 recommendations to the pension funding council.

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

28 (b) In collecting employee premiums through payroll deductions,
29 the employer shall act as the agent of the employees and shall remit
30 the amounts to the employment security department as required by this
31 chapter.

32 (3) Nothing in this chapter requires any party to a collective
33 bargaining agreement in existence on October 19, 2017, to reopen
34 negotiations of the agreement or to apply any of the responsibilities
35 under this chapter unless and until the existing agreement is
36 reopened or renegotiated by the parties or expires.

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

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

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

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

9 (7) If the premiums established in this section are increased,
10 the legislature shall notify each qualified individual by mail that
11 the person's premiums have been increased, describe the reason for
12 increasing the premiums, and describe the plan for restoring the
13 funds so that premiums are returned to fifty-eight hundredths of one
14 percent of the individual's wages.

15 (8) An employee who demonstrates that the employee has long-term
16 care insurance is exempt from the premium assessment in this section.

17 NEW SECTION. **Sec. 10.** (1) Beginning January 1, 2022, any self-
18 employed person, including a sole proprietor, independent contractor,
19 partner, or joint venturer, may elect coverage under this chapter.
20 Those electing coverage under this subsection are responsible for
21 payment of one hundred percent of all premiums assessed to an
22 employee under section 9 of this act. The self-employed person must
23 file a notice of election in writing with the employment security
24 department, in the manner required by the employment security
25 department in rule. The self-employed person is eligible for benefits
26 after paying the long-term services and supports premium for the time
27 required under section 6 of this act.

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

34 (3) The employment security department may cancel elective
35 coverage if the self-employed person fails to make required payments
36 or file reports. The employment security department may collect due
37 and unpaid premiums and may levy an additional premium for the
38 remainder of the period of coverage. The cancellation must be

1 effective no later than thirty days from the date of the notice in
2 writing advising the self-employed person of the cancellation.

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

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

8 (6) The employment security department shall adopt rules for
9 determining the hours worked and the wages of individuals who elect
10 coverage under this section and rules for enforcement of this
11 section.

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

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

32 (3) The moneys deposited in the account must remain in the
33 account until expended in accordance with the requirements of this
34 chapter. If moneys are appropriated for any purpose other than
35 supporting the long-term services and supports program, the
36 legislature shall notify each qualified individual by mail that the
37 person's premiums have been appropriated for an alternate use,
38 describe the alternate use, and state its plan for restoring the

1 funds so that premiums are not increased and benefits are not
2 reduced.

3 NEW SECTION. **Sec. 12.** (1) The department of social and health
4 services shall have the state investment board invest the funds in
5 the account. The state investment board has the full power to invest,
6 reinvest, manage, contract, sell, or exchange investment money in the
7 account. All investment and operating costs associated with the
8 investment of money shall be paid under RCW 43.33A.160 and 43.84.160.
9 With the exception of these expenses, the earnings from the
10 investment of the money shall be retained by the accounts.

11 (2) All investments made by the state investment board shall be
12 made with the degree of judgment and care required under RCW
13 43.33A.140 and the investment policy established by the state
14 investment board.

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

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

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

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

37 (7) The state investment board shall routinely consult and
38 communicate with the department of social and health services on the

1 investment policy, earnings of the accounts, and related needs of the
2 program.

3 NEW SECTION. **Sec. 13.** (1) Determinations made by the health
4 care authority or the department of social and health services under
5 this chapter, including determinations regarding functional
6 eligibility or related to registration of long-term services and
7 supports providers, are subject to appeal in accordance with chapter
8 34.05 RCW. In addition, the standards and procedures adopted for
9 these appeals must address the following:

- 10 (a) Timelines;
- 11 (b) Eligibility and benefit determination;
- 12 (c) Judicial review; and
- 13 (d) Fees.

14 (2) Determinations made by the employment security department
15 under this chapter are subject to appeal in accordance with the
16 appeal procedures under chapter 50A.04 RCW. The employment security
17 department shall adopt standards and procedures for appeals for
18 persons aggrieved by any determination or redetermination made by the
19 department. The standards and procedures must be consistent with
20 those adopted for the family and medical leave program under chapter
21 50A.04 RCW and must address topics including:

- 22 (a) Premium liability;
- 23 (b) Premium collection;
- 24 (c) Judicial review; and
- 25 (d) Fees.

26 NEW SECTION. **Sec. 14.** The department of social and health
27 services must:

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

31 (2) Apply for a demonstration waiver from the federal centers for
32 medicare and medicaid services to allow for the state to share in the
33 savings generated in the federal match for medicaid long-term
34 services and supports and medicare due to the operation of the
35 program;

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

1 NEW SECTION. **Sec. 15.** Beginning December 1, 2026, and annually
2 thereafter, and in compliance with RCW 43.01.036, the commission must
3 report to the legislature on the program, including:

4 (1) Projected and actual program participation;

5 (2) Adequacy of premium rates;

6 (3) Fund balances;

7 (4) Benefits paid;

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

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

14 NEW SECTION. **Sec. 16.** Any benefits used by an individual under
15 this chapter are not income or resources for any determinations of
16 eligibility for any other state program or benefit, for medicaid, for
17 a state-federal program, or for any other means-tested program.

18 NEW SECTION. **Sec. 17.** Nothing in this chapter creates an
19 entitlement for a person to receive, or requires a state agency to
20 provide, case management services including, but not limited to, case
21 management services under chapter 74.39A RCW.

22 NEW SECTION. **Sec. 18.** A new section is added to chapter 43.09
23 RCW to read as follows:

24 By December 1, 2032, the state auditor must conduct a
25 comprehensive evaluation of the long-term services and supports trust
26 program established in chapter 50B.--- RCW (the new chapter created
27 in section 23 of this act) and deliver a report, including a
28 conclusion and recommendations for improvement to the legislature
29 regarding:

30 (1) Program operations, including the performance of the long-
31 term services and supports trust commission established in section 4
32 of this act;

33 (2) Program financial status, including solvency, the value of
34 the benefit provided, and the financial balance of program benefits
35 to costs;

36 (3) The overall efficacy of the program, based on the established
37 goals under this act including, but not limited to:

1 (a) Delaying middle class families' need to spend to poverty to
2 receive medicaid-funded long-term care;

3 (b) Strengthening the state economy through improving workforce
4 participation;

5 (c) Reducing the caseload and expenditures of the state medicaid
6 program on long-term care; and

7 (d) Obtaining shared savings through a medicaid demonstration
8 waiver.

9 **Sec. 19.** RCW 74.39A.076 and 2018 c 220 s 1 are each amended to
10 read as follows:

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

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

19 (b) A spouse or registered domestic partner who is a long-term
20 care worker only for a spouse or domestic partner, pursuant to the
21 long-term services and supports trust program established in chapter
22 50B.--- RCW (the new chapter created in section 23 of this act), must
23 receive fifteen hours of basic training, and at least six hours of
24 additional focused training based on the care-receiving spouse's or
25 partner's needs, within the first one hundred twenty days after
26 becoming a long-term care worker.

27 (c) A person working as an individual provider who (i) provides
28 respite care services only for individuals with developmental
29 disabilities receiving services under Title 71A RCW or only for
30 individuals who receive services under this chapter, and (ii) works
31 three hundred hours or less in any calendar year, must complete
32 fourteen hours of training within the first one hundred twenty days
33 after becoming an individual provider. Five of the fourteen hours
34 must be completed before becoming eligible to provide care, including
35 two hours of orientation training regarding the caregiving role and
36 terms of employment and three hours of safety training. The training
37 partnership identified in RCW 74.39A.360 must offer at least twelve
38 of the fourteen hours online, and five of those online hours must be
39 individually selected from elective courses.

1 (~~(e)~~) (d) Individual providers identified in (~~(e)~~) (d)(i) or
2 (ii) of this subsection must complete thirty-five hours of training
3 within the first one hundred twenty days after becoming an individual
4 provider. Five of the thirty-five hours must be completed before
5 becoming eligible to provide care. Two of these five hours shall be
6 devoted to an orientation training regarding an individual provider's
7 role as caregiver and the applicable terms of employment, and three
8 hours shall be devoted to safety training, including basic safety
9 precautions, emergency procedures, and infection control. Individual
10 providers subject to this requirement include:

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

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

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

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

21 (a) Has been developed with input from consumer and worker
22 representatives; and

23 (b) Requires comprehensive instruction by qualified instructors.

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

25 **Sec. 20.** RCW 18.88B.041 and 2015 c 152 s 1 are each amended to
26 read as follows:

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

29 (a)(i)(A) Registered nurses, licensed practical nurses, certified
30 nursing assistants or persons who are in an approved training program
31 for certified nursing assistants under chapter 18.88A RCW, medicare-
32 certified home health aides, or other persons who hold a similar
33 health credential, as determined by the secretary, or persons with
34 special education training and an endorsement granted by the
35 superintendent of public instruction, as described in RCW
36 28A.300.010, if the secretary determines that the circumstances do
37 not require certification.

38 (B) A person who was initially hired as a long-term care worker
39 prior to January 7, 2012, and who completes all of (~~his or her~~) the

1 training requirements in effect as of the date (~~he or she~~) the
2 person was hired.

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

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

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

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

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

16 (f) A long-term care worker providing approved services only for
17 a spouse or registered domestic partner, pursuant to the long-term
18 services and supports trust program established in chapter 50B.---
19 RCW (the new chapter created in section 23 of this act).

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

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

24 **Sec. 21.** RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and
25 2018 c 127 s 6 are each reenacted and amended to read as follows:

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

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

34 (3) The investment income account may be utilized for the payment
35 of purchased banking services on behalf of treasurer's trust funds
36 including, but not limited to, depository, safekeeping, and
37 disbursement functions for the state treasurer or affected state
38 agencies. The investment income account is subject in all respects to
39 chapter 43.88 RCW, but no appropriation is required for payments to

1 financial institutions. Payments must occur prior to distribution of
2 earnings set forth in subsection (4) of this section.

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

6 (b) The following accounts and funds must receive their
7 proportionate share of earnings based upon each account's or fund's
8 average daily balance for the period: The 24/7 sobriety account, the
9 Washington promise scholarship account, the Gina Grant Bull memorial
10 legislative page scholarship account, the Washington advanced college
11 tuition payment program account, the Washington college savings
12 program account, the accessible communities account, the Washington
13 achieving a better life experience program account, the community and
14 technical college innovation account, the agricultural local fund,
15 the American Indian scholarship endowment fund, the foster care
16 scholarship endowment fund, the foster care endowed scholarship trust
17 fund, the contract harvesting revolving account, the Washington state
18 combined fund drive account, the commemorative works account, the
19 county enhanced 911 excise tax account, the toll collection account,
20 the developmental disabilities endowment trust fund, the energy
21 account, the fair fund, the family and medical leave insurance
22 account, the fish and wildlife federal lands revolving account, the
23 natural resources federal lands revolving account, the food animal
24 veterinarian conditional scholarship account, the forest health
25 revolving account, the fruit and vegetable inspection account, the
26 future teachers conditional scholarship account, the game farm
27 alternative account, the GET ready for math and science scholarship
28 account, the Washington global health technologies and product
29 development account, the grain inspection revolving fund, the
30 Washington history day account, the industrial insurance rainy day
31 fund, the juvenile accountability incentive account, the law
32 enforcement officers' and firefighters' plan 2 expense fund, the
33 local tourism promotion account, the low-income home rehabilitation
34 revolving loan program account, the multiagency permitting team
35 account, the northeast Washington wolf-livestock management account,
36 the pilotage account, the produce railcar pool account, the regional
37 transportation investment district account, the rural rehabilitation
38 account, the Washington sexual assault kit account, the stadium and
39 exhibition center account, the youth athletic facility account, the
40 self-insurance revolving fund, the children's trust fund, the

1 Washington horse racing commission Washington bred owners' bonus fund
2 and breeder awards account, the Washington horse racing commission
3 class C purse fund account, the individual development account
4 program account, the Washington horse racing commission operating
5 account, the life sciences discovery fund, the Washington state
6 heritage center account, the reduced cigarette ignition propensity
7 account, the center for childhood deafness and hearing loss account,
8 the school for the blind account, the Millersylvania park trust fund,
9 the public employees' and retirees' insurance reserve fund, the
10 school employees' benefits board insurance reserve fund, (~~{the}~~)
11 the public employees' and retirees' insurance account, (~~{the}~~) the
12 school employees' insurance account, the long-term services and
13 supports trust account, and the radiation perpetual maintenance fund.

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

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

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

31 **Sec. 22.** RCW 44.44.040 and 2011 1st sp.s. c 12 s 7 are each
32 amended to read as follows:

33 The office of the state actuary shall have the following powers
34 and duties:

35 (1) Perform all actuarial services for the department of
36 retirement systems, including all studies required by law.

37 (2) Advise the legislature and the governor regarding pension
38 benefit provisions, and funding policies and investment policies of
39 the state investment board.

1 (3) Consult with the legislature and the governor concerning
2 determination of actuarial assumptions used by the department of
3 retirement systems.

4 (4) Prepare a report, to be known as the actuarial fiscal note,
5 on each pension bill introduced in the legislature which briefly
6 explains the financial impact of the bill. The actuarial fiscal note
7 shall include: (a) The statutorily required contribution for the
8 biennium and the following twenty-five years; (b) the biennial cost
9 of the increased benefits if these exceed the required contribution;
10 and (c) any change in the present value of the unfunded accrued
11 benefits. An actuarial fiscal note shall also be prepared for all
12 amendments which are offered in committee or on the floor of the
13 house of representatives or the senate to any pension bill. However,
14 a majority of the members present may suspend the requirement for an
15 actuarial fiscal note for amendments offered on the floor of the
16 house of representatives or the senate.

17 (5) Provide such actuarial services to the legislature as may be
18 requested from time to time.

19 (6) Provide staff and assistance to the committee established
20 under RCW 41.04.276.

21 (7) Provide actuarial assistance to the law enforcement officers'
22 and firefighters' plan 2 retirement board as provided in chapter 2,
23 Laws of 2003. Reimbursement for services shall be made to the state
24 actuary under RCW 39.34.130 and section 5(5), chapter 2, Laws of
25 2003.

26 (8) Provide actuarial assistance to the committee on advanced
27 tuition payment pursuant to chapter 28B.95 RCW, including
28 recommending a tuition unit price to the committee on advanced
29 tuition payment to be used in the ensuing enrollment period.
30 Reimbursement for services shall be made to the state actuary under
31 RCW 39.34.130.

32 (9) Provide actuarial assistance to the long-term services and
33 supports trust commission pursuant to chapter 50B.--- RCW (the new
34 chapter created in section 23 of this act). Reimbursement for
35 services shall be made to the state actuary under RCW 39.34.130.

1 NEW SECTION. **Sec. 23.** Sections 1 through 17 of this act
2 constitute a new chapter in a new title to be codified as Title 50B
3 RCW.

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