

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE HOUSE BILL 1087**

Chapter 363, Laws of 2019

66th Legislature  
2019 Regular Session

LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM

EFFECTIVE DATE: July 28, 2019

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

FRANK CHOPP

**Speaker of the House of Representatives**

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

CYRUS HABIB

**President of the Senate**

Approved May 13, 2019 3:20 PM

JAY INSLEE

**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.

BERNARD DEAN

**Chief Clerk**

FILED

May 16, 2019

**Secretary of State  
State of Washington**

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**SECOND SUBSTITUTE HOUSE BILL 1087**

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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.

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

Passed by the House April 23, 2019.  
Passed by the Senate April 16, 2019.  
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--- **END** ---