CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5291

Chapter 380, Laws of 2025

69th Legislature
2025 Regular Session

LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM—VARIOUS PROVISIONS

EFFECTIVE DATE: January 1, 2026—Except for sections 12 through 14, which take effect January 1, 2027; and sections 17 through 39, 47, and 48, which take effect May 1, 2026.

Passed by the Senate April 22, 2025
Yeas 35 Nays 13

DENNY HECK

President of the Senate

Passed by the House April 11, 2025
Yeas 78 Nays 16

LAURIE JINKINS

Speaker of the House of Representatives

Approved May 20, 2025 10:30 AM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5291** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 21, 2025

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE SENATE BILL 5291

AS AMENDED BY THE HOUSE

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Conway, Saldaña, Cleveland, Frame, Nobles, Stanford, Valdez, and C. Wilson)

READ FIRST TIME 02/03/25.

AN ACT Relating to strengthening the WACares program by implementing the recommendations of the long-term services and supports trust commission; amending RCW 50B.04.180, 50B.04.010, 50B.04.020, 50B.04.030, 50B.04.050, 50B.04.055, 50B.04.060, 50B.04.070, 50B.04.085, 50B.04.100, 50B.04.140, 74.39.007, 70.127.040, 48.85.010, and 48.85.030; reenacting and amending RCW 50B.04.080; adding new sections to chapter 50B.04 RCW; adding a new section to chapter 48.83 RCW; adding a new chapter to Title 48 RCW; creating a new section; repealing RCW 50B.04.040; providing effective dates; and providing an expiration date.

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

Sec. 1. RCW 50B.04.180 and 2024 c 120 s 2 are each amended to read as follows:

(1) Beginning July 1, 2026, an employee or self-employed person, who has elected coverage under RCW 50B.04.090, who relocates outside of Washington may elect to continue participation in the program if:

(a) The employee or self-employed person has been assessed premiums by the employment security department for at least three years in which the employee or self-employed person has worked at least 500 hours in each of those years in Washington; and

(b) The employee or self-employed person notifies the employment security department within one year of establishing a primary residence outside of Washington that the employee or self-employed person is no longer a resident of Washington and elects to continue participation in the program.

(2) Out-of-state participants under subsection (1) of this section must report their wages or self-employment earnings to the employment security department according to standards for manner and timing of reporting and documentation submission, as adopted by rule by the employment security department. An out-of-state participant must submit documentation to the employment security department whether or not the out-of-state participant earned wages or self-employment earnings, as applicable, during the applicable reporting period. When an out-of-state participant reaches the age of 67, the participant is no longer required to provide the documentation of their wages or self-employment earnings, but if the participant earns wages or self-employment earnings, the participant must submit reports of those wages or self-employment earnings and remit the required premiums.

(3) Out-of-state participants under subsection (1) of this section must provide documentation of wages and self-employment earnings earned at the time that they report their wages or self-employment earnings to the employment security department.

(4) An out-of-state participant who has elected to continue participation in the program under subsection (1) of this section may not withdraw from coverage under the program. The employment security department ((~~may~~)) shall cancel out-of-state elective coverage if the out-of-state participant fails to make required payments or submit reports. ((~~The employment security department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage.~~)) The cancellation must be effective no later than 30 days from the date of the notice in writing advising the out-of-state participant of the cancellation.

(5) The employment security department shall:

(a) Adopt standards by rule for the manner and timing of reporting and documentation submission for out-of-state participants. The employment security department must consider user experience with the wage and self-employment earnings reporting process and the document submission process and regularly update the standards to minimize the procedural burden on out-of-state participants and

support the accurate reporting of wages and self-employment earnings at the time of the payment of premiums;

(b) Collect premiums from out-of-state participants as provided in RCW 50B.04.080 and 50B.04.090, as relevant to out-of-state participants; and

(c) Verify the wages or self-employment earnings as reported by an out-of-state participant.

(6) For the purposes of this section, "wages" includes remuneration for services performed within or without or both within and without this state.

(7) Entities providing services to an eligible beneficiary outside Washington are subject to RCW 50B.04.200 and may not discriminate based upon race, gender, age, or preexisting condition.

(8) ((~~An employee or self-employed person who has elected coverage under RCW 50B.04.090 who relocates outside of Washington may elect to opt out of coverage by no longer reporting wages to the department, rather than become an out-of-state participant in the program.~~

~~(9)~~)) By extending the premium base to out-of-state participants under subsection (1) of this section, chapter 120, Laws of 2024 will increase the state's investment in long-term care services.

Sec. 2. RCW 50B.04.010 and 2024 c 120 s 3 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Account" means the long-term services and supports trust account created in RCW 50B.04.100.

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

(a) Adult day services;

(b) Care transition coordination;

(c) Memory care;

(d) Adaptive equipment and technology;

(e) Environmental modification;

(f) Personal emergency response system;

(g) Home safety evaluation;

(h) Respite for family caregivers;

(i) Home delivered meals;

(j) Transportation;

(k) Dementia supports;

(l) Education and consultation;

(m) Eligible relative care;

(n) Professional services;

(o) Services that assist paid and unpaid family members caring for eligible individuals, including training for individuals providing care who are not otherwise employed as long-term care workers under RCW 74.39A.074;

(p) In-home personal care;

(q) Assisted living services;

(r) Adult family home services; and

(s) ((~~Nursing home services~~)) Long-term services and supports provided in nursing homes.

(3) "Benefit unit" means up to $100 paid by the department of social and health services to a long-term services and supports provider as reimbursement for approved services provided to an eligible beneficiary on a specific date. The benefit unit must be adjusted annually ((~~at a rate no greater than the Washington state consumer price index, as determined solely by the council. Any changes adopted by the council shall be subject to revision by the legislature~~)) for inflation by the consumer price index. The adjusted benefit unit must be calculated to the nearest cent/dollar using the consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, CPI-W, or a successor index, for the 12 months before each September 1st compiled by the United States department of labor's bureau of labor statistics. Each adjusted benefit unit calculated under this subsection takes effect on the following January 1st.

(4) "Commission" means the long-term services and supports trust commission established in RCW 50B.04.030.

(5) ((~~"Council" means the long-term services and supports trust council established in RCW 50B.04.040.~~

~~(6)~~)) "Eligible beneficiary" means a qualified individual who is age 18 or older, resides in the state of Washington or has elected to keep coverage when they relocate out-of-state under RCW 50B.04.180, has been determined to meet the minimum level of assistance with activities of daily living necessary to receive benefits through the trust program, as ((~~established in this chapter~~)) provided in RCW 50B.04.060, and has not exhausted the lifetime limit of benefit units.

((~~(7)~~)) (6) "Employee" has the meaning provided in RCW 50A.05.010.

((~~(8)~~)) (7) "Employer" has the meaning provided in RCW 50A.05.010.

((~~(9)~~)) (8) "Employment" has the meaning provided in RCW 50A.05.010.

((~~(10)~~)) (9) "Exempt employee" means a person who has been granted a premium assessment exemption by the employment security department.

((~~(11)~~)) (10) "Long-term services and supports provider" means:

(a) For entities providing services to an eligible beneficiary in Washington, an entity that meets the qualifications applicable in law to the approved service they provide, including a qualified or certified home care aide, licensed assisted living facility, licensed adult family home, licensed nursing home, licensed in-home services agency, adult day services program, vendor, instructor, qualified family member, or other entities as registered by the department of social and health services; and

(b) For entities providing services to an eligible beneficiary outside Washington, an entity that meets minimum standards for care provision and program administration, as established by the department of social and health services, and that is appropriately credentialed in the jurisdiction in which the services are being provided as established by the department of social and health services.

((~~(12)~~)) (11) "Premium" or "premiums" means the payments required by RCW 50B.04.080 and paid to the employment security department for deposit in the account created in RCW 50B.04.100.

((~~(13)~~)) (12) "Program" means the long-term services and supports trust program established in this chapter.

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

((~~(15)~~)) (14) "Qualified individual" means an individual who meets the duration of payment requirements, as established in this chapter.

((~~(16)~~)) (15) "State actuary" means the office of the state actuary created in RCW 44.44.010.

((~~(17)~~)) (16) "Wage or wages" means all remuneration paid by an employer to an employee. Remuneration has the meaning provided in RCW 50A.05.010. All wages are subject to a premium assessment and not limited by the commissioner of the employment security department, as provided under RCW 50A.10.030(4).

Sec. 3. RCW 50B.04.020 and 2024 c 120 s 4 are each amended to read as follows:

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

(2) The health care authority shall:

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

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

(c) Establish criteria for the payment of benefits to ((~~registered~~)) long-term services and supports providers under RCW 50B.04.070;

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

(e) Assist the department of social and health services with the leveraging of existing payment systems for the provision of approved services to beneficiaries under RCW 50B.04.070; and

(f) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

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

(a) Make determinations regarding an individual's status as an eligible beneficiary under RCW 50B.04.060;

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

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

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

(e) Disburse payments of benefits to registered long-term services and supports providers, utilizing and leveraging existing payment systems for the provision of approved services to eligible beneficiaries under RCW 50B.04.070;

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

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

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

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

(j) Develop criteria to deem a family member as qualified when providing approved services outside of Washington; ((~~and~~))

(k) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program; and

(l) Establish, by rule, the scope of the long-term services and supports identified in RCW 50B.04.010(2) that may be an approved service and identify the types of goods and services that are and are not covered under each approved service in order to maximize usage of all available public and private benefits for eligible beneficiaries.

(4) The employment security department shall:

(a) Collect and assess employee premiums as provided in RCW 50B.04.080, 50B.04.090, and 50B.04.180;

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

(c) Perform investigations to determine the compliance of premium payments in RCW 50B.04.080, 50B.04.090, and 50B.04.180 in coordination with the same activities conducted under the family and medical leave act, Title 50A RCW, to the extent possible;

(d) Make determinations regarding an individual's status as a qualified individual under RCW 50B.04.050, including criteria to determine the status of persons receiving partial benefit units under RCW 50B.04.050(2) and out-of-state participants under RCW 50B.04.180; and

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

(5) The office of the state actuary shall:

(a) Beginning July 1, 2025, and biennially thereafter, perform an actuarial audit and valuation of the long-term services and supports trust fund. Additional or more frequent actuarial audits and valuations may be performed at the request of the ((~~council~~)) commission;

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

(c) Select and contract for such actuarial, research, technical, and other consultants as the actuary deems necessary to perform its duties under chapter 363, Laws of 2019.

(6) By October 1, 2021, the employment security department and the department of social and health services shall jointly conduct outreach to provide employers with educational materials to ensure employees are aware of the program and that the premium assessments will begin on July 1, 2023. In conducting the outreach, the employment security department and the department of social and health services shall provide on a public website information that explains the program and premium assessment in an easy to understand format. Outreach information must be available in English and other primary languages as defined in RCW 74.04.025.

Sec. 4. RCW 50B.04.030 and 2022 c 1 s 2 are each amended to read as follows:

(1) The long-term services and supports trust commission is established. The commission's recommendations and decisions must be guided by the joint goals of maintaining benefit adequacy and maintaining fund solvency and sustainability.

(2) The commission includes:

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

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

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

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

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

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

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

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

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

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

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

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

(m) One member who is a worker who is, or will likely be, paying the premium established in RCW 50B.04.080 and who is not employed by a long-term services and supports provider; and

(n) One representative of an organization of employers whose members collect, or will likely be collecting, the premium established in RCW 50B.04.080.

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

(b) The secretary of the department of social and health services, or the secretary's designee, shall serve as chair of the commission. Meetings of the commission are at the call of the chair. A majority of the voting members of the commission shall constitute a quorum for any votes of the commission. Approval of ((~~sixty~~)) 60 percent of those voting members of the commission who are in attendance is required for the passage of any vote.

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

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

(a) The establishment of criteria for determining that an individual has met the requirements to be a qualified individual as established in RCW 50B.04.050 or an eligible beneficiary as established in RCW 50B.04.060;

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

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

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

(e) ((~~Providing a recommendation to the council for the annual adjustment of the benefit unit in accordance with RCW 50B.04.010 and 50B.04.040;~~

~~(f)~~)) A refund of premiums for a deceased qualified individual with a dependent who is an individual with a developmental disability

who is dependent for support from a qualified individual. The qualified individual must not have been determined to be an eligible beneficiary by the department of social and health services. The refund shall be deposited into an individual trust account within the developmental disabilities endowment trust fund for the benefit of the dependent with a developmental disability. The commission shall consider:

(i) The value of the refund to be ((~~one hundred~~)) 100 percent of the current value of the qualified individual's lifetime premium payments at the time that certification of death of the qualified individual is submitted, less any administrative process fees; and

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

((~~(g)~~)) (f) Assisting the state actuary with the preparation of regular actuarial reports on the solvency and financial status of the program and advising the legislature on actions necessary to maintain trust solvency. The commission shall provide the office of the state actuary with all actuarial reports for review. The office of the state actuary shall provide any recommendations to the commission and the legislature on actions necessary to maintain trust solvency((~~:~~

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

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

(5) The commission shall monitor agency administrative expenses over time. Beginning November 15, 2020, the commission must annually report to the governor and the fiscal committees of the legislature on agency spending for administrative expenses and anticipated administrative expenses as the program shifts into different phases of implementation and operation. The November 15, 2027, report must

include recommendations for a method of calculating future agency administrative expenses to limit administrative expenses while providing sufficient funds to adequately operate the program. The agency heads identified in subsection (2) of this section may advise the commission on the reports prepared under this subsection, but must recuse themselves from the commission's process for review, approval, and submission to the legislature.

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

(7) The commission shall work with insurers to develop long-term care insurance products that supplement the program's benefit.

Sec. 5. RCW 50B.04.050 and 2024 c 120 s 5 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the employment security department shall deem a person to be a qualified individual as provided in this chapter if the person has paid the long-term services and supports premiums required by RCW 50B.04.080 for the equivalent of either:

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

(b) Three years within the last six years from the date of application for benefits.

(2) A person born before January 1, 1968, who has not met the duration requirements under subsection (1)(a) of this section may become a qualified individual with fewer than the number of years identified in subsection (1)(a) of this section if the person has paid the long-term services and supports premiums required by RCW 50B.04.080 for at least one year. A person becoming a qualified individual pursuant to this subsection (2) may receive one-tenth of the maximum number of benefit units available under RCW 50B.04.060(3)(b) for each year of premium payments. In accordance with RCW 50B.04.060, benefits for eligible beneficiaries in

Washington will not be available until July 1, 2026, and benefits for out-of-state participants who become eligible beneficiaries will not be available until July 1, 2030, and nothing in this section requires the department of social and health services to accept applications for determining an individual's status as an eligible beneficiary prior to July 1, 2026. Nothing in this subsection (2) prohibits a person born before January 1, 1968, who meets the conditions of subsection (1)(b) of this section from receiving the maximum number of benefit units available under RCW 50B.04.060(3)(b).

(3) When deeming a person to be a qualified individual, the employment security department shall require that the person have worked at least 500 hours during each of the ten years in subsection (1)(a) of this section, each of the three years in subsection (1)(b) of this section, or each of the years identified in subsection (2) of this section.

(4) An exempt employee may never be deemed to be a qualified individual, unless the employee's exemption was discontinued under RCW 50B.04.055 or rescinded under RCW 50B.04.085.

(5) An out-of-state resident whose elective coverage has been canceled by the employment security department under RCW 50B.04.180 may not be deemed to be a qualified individual.

NEW SECTION. **Sec. 6.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) An employee who holds a nonimmigrant visa for temporary workers, as recognized by federal law, is not subject to the rights and responsibilities of this chapter, unless the employee notifies the employee's employer that the employee would like to participate.

(2) If an employee who holds a nonimmigrant visa for temporary workers becomes a permanent resident or citizen employed in Washington, the employee becomes subject to the rights and responsibilities of this chapter.

(3) The employment security department may adopt rules necessary to implement this section.

Sec. 7. RCW 50B.04.055 and 2022 c 2 s 2 are each amended to read as follows:

(1) ((~~Beginning January 1, 2023, the~~)) The employment security department shall accept and approve applications for voluntary exemptions from the premium assessment under RCW 50B.04.080 for any

employee who meets criteria established by the employment security department for an exemption based on the employee's status as:

(a) A veteran of the United States military who has been rated by the United States department of veterans affairs as having a service-connected disability of 70 percent or greater;

(b) A spouse or registered domestic partner of an active duty service member in the United States armed forces whether or not deployed or stationed within or outside of Washington;

(c) ((~~An employee who holds a nonimmigrant visa for temporary workers, as recognized by federal law, and is employed by an employer in Washington; or~~

~~(d)~~)) An employee who is employed by an employer in Washington, but maintains a permanent address outside of Washington as the employee's primary location of residence; or

(d) An active duty service member in the United States armed forces, whether or not deployed or stationed within or outside of Washington, who is concurrently engaged in off-duty civilian employment as an employee of an employer.

(2) The employment security department shall adopt criteria, procedures, and rules for verifying the information submitted by the applicant for an exemption under subsection (1) of this section.

(3) An employee who receives an exemption under subsection (1) of this section may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title, unless the exemption has been discontinued as provided in subsection (4)((~~,~~)) or (5)((~~, or (6)~~)) of this section.

(4)(a) An exemption granted in accordance with the conditions under subsection (1)(b) of this section must be discontinued within 90 days of:

(i) The discharge or separation from military service of the employee's spouse or registered domestic partner; or

(ii) The dissolution of the employee's marriage or registered domestic partnership with the active duty service member.

(b) An exemption granted in accordance with the conditions under subsection (1)(c) of this section must be discontinued within 90 days of establishing a permanent address within Washington as the employee's primary location of residence.

(c) An exemption granted in accordance with the conditions under subsection (1)(d) of this section must be discontinued within 90 days of the discharge or separation from military service.

(5)(a) Within 90 days of the occurrence of ((~~either of~~)) the events described in ((~~(a) of this~~)) subsection (4) of this section, an employee who has received an exemption under subsection (1) of this section shall:

(i) Notify the employment security department that the exemption must be discontinued because of the occurrence of ((~~either of~~)) the events described in ((~~(a) of this~~)) subsection (4) of this section; and

(ii) Notify the employee's employer that the employee is no longer exempt and that the employer must begin collecting premiums from the employee in accordance with RCW 50B.04.080.

((~~(c)~~)) (b) Upon notification to the employment security department and the employer, premium assessments established under RCW 50B.04.080 must begin and the employee may become a qualified individual or eligible beneficiary upon meeting the requirements established in this chapter.

((~~(d)~~)) (c) Failure to begin paying the premium established under RCW 50B.04.080 within 90 days of the occurrence of ((~~either of~~)) the events described in ((~~(a) of this~~)) subsection (4) of this section shall result in the payment of any unpaid premiums from the employee, with interest at the rate of one percent per month or fraction thereof, by the employee to the employment security department from the date on which the payment should have begun.

((~~(5)(a) An exemption granted in accordance with the conditions under subsection (1)(c) of this section must be discontinued within 90 days of an employee changing the employee's nonimmigrant visa for temporary workers status to become a permanent resident or citizen employed in Washington.~~

~~(b) Within 90 days of the employee changing the employee's nonimmigrant visa for temporary workers status to become a permanent resident or citizen employed in Washington, the employee who has received an exemption under subsection (1)(c) of this section shall:~~

~~(i) Notify the employment security department that the employee no longer holds a nonimmigrant visa for temporary workers and is a permanent resident or citizen employed in Washington and the exemption must be discontinued; and~~

~~(ii) Notify the employee's employer that the employee no longer holds a nonimmigrant visa for temporary workers and is a permanent resident or citizen employed in Washington, and that the employer~~

~~must begin collecting premiums from the employee in accordance with RCW 50B.04.080.~~

~~(c) Upon notification to the employment security department and the employer, premium assessments established under RCW 50B.04.080 must begin and the employee may become a qualified individual or eligible beneficiary upon meeting the requirements established in this chapter.~~

~~(d) Failure to begin paying the premium established under RCW 50B.04.080 within 90 days of an employee no longer holding a nonimmigrant visa for temporary workers and becoming a permanent resident or citizen employed in Washington shall result in the payment of any unpaid premiums from the employee, with interest at the rate of one percent per month or fraction thereof, by the employee to the employment security department from the date on which the payment should have begun.~~

~~(6)(a) An exemption granted in accordance with the conditions under subsection (1)(d) of this section must be discontinued within 90 days of an employee establishing a permanent address within Washington as the employee's primary location of residence.~~

~~(b) Within 90 days of the employee establishing a permanent address within Washington as the employee's primary location of residence, the employee who has received an exemption under subsection (1)(d) of this section shall:~~

~~(i) Notify the employment security department that the employee is residing in Washington and the exemption must be discontinued; and~~

~~(ii) Notify the employee's employer that the employee is no longer exempt and that the employer must begin collecting premiums from the employee in accordance with RCW 50B.04.080.~~

~~(c) Upon notification to the employment security department and the employer, premium assessments established under RCW 50B.04.080 must begin and the employee may become a qualified individual or eligible beneficiary upon meeting the requirements established in this chapter.~~

~~(d) Failure to begin paying the premium established under RCW 50B.04.080 within 90 days of an employee establishing a permanent address within Washington as the employee's primary location of residence shall result in the payment of any unpaid premiums from the employee, with interest at the rate of one percent per month or fraction thereof, by the employee to the employment security department from the date on which the payment should have begun.~~

~~(7)~~)) (6) Exempt employees are not entitled to a refund of any premium deductions made before the effective date of an approved exemption, except for premiums collected prior to the effective date of the premium assessment under RCW 50B.04.080.

((~~(8)~~)) (7) An employee who has received an exemption pursuant to this section shall provide written notification to all current and future employers of an approved exemption.

((~~(9)~~)) (8) If an exempt employee fails to notify an employer of an exemption, the exempt employee is not entitled to a refund of any premium deductions made before notification is provided, except for premiums collected prior to the effective date of the premium assessment under RCW 50B.04.080.

((~~(10)~~)) (9) Employers may not deduct premiums after being notified by an employee of an approved exemption issued under this section.

(a) Employers shall retain written notifications of exemptions received from employees.

(b) An employer who deducts premiums after being notified by the employee of an exemption is solely responsible for refunding to the employee any premiums deducted after the notification.

(c) The employer is not entitled to a refund from the employment security department for any premiums remitted to the employment security department that were deducted from exempt employees.

((~~(11)~~)) (10) The provisions of RCW 50B.04.085 do not apply to the exemptions issued pursuant to this section.

((~~(12)~~)) (11) The employment security department shall adopt rules necessary to implement and administer the activities specified in this section related to the program, including rules on the submission and processing of applications under this section.

Sec. 8. RCW 50B.04.060 and 2024 c 120 s 6 are each amended to read as follows:

(1) Beginning July 1, 2026, approved services must be available and benefits payable to a ((~~registered~~)) long-term services and supports provider on behalf of an eligible beneficiary under this section.

(2)(a)(i) Except for qualified individuals residing outside of Washington as provided in (a)(ii) of this subsection, beginning July 1, 2026, a qualified individual may become an eligible beneficiary by filing an application with the department of social and health

services and undergoing an eligibility determination which includes an evaluation that the individual requires assistance with at least three activities of daily living, as defined by the department of social and health services for long-term services and supports programs, which is expected to last for at least 90 days.

(ii) For a qualified individual residing outside of Washington, beginning ((~~January~~)) July 1, 2030, the out-of-state qualified individual may become an eligible beneficiary by filing an application with the department of social and health services and undergoing an eligibility determination. The eligibility determination must include an evaluation that the individual either (A) is unable to perform, without substantial assistance from another individual, at least two of the following activities of daily living for a period of at least 90 days due to a loss of functional capacity: Eating, toileting, transferring, bathing, dressing, or continence, or (B) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairments.

(b) The department of social and health services must engage sufficient qualified assessor capacity, including via contract, so that the determination may be made within 45 days from receipt of a request by a beneficiary to use a benefit.

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

(b) Except as limited in RCW 50B.04.050(2), an eligible beneficiary may not receive more than the dollar equivalent of 365 benefit units over the course of the eligible beneficiary's lifetime.

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

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

Sec. 9. RCW 50B.04.070 and 2024 c 120 s 7 are each amended to read as follows:

(1)(a) Benefits provided under this chapter shall be paid periodically and promptly to long-term services and supports providers who provide approved services to:

((~~(a)~~)) (i) Eligible beneficiaries in Washington if the long-term services and supports provider is registered with the department of social and health services; and

((~~(b)~~)) (ii) Eligible beneficiaries outside Washington if the long-term services and supports providers meet minimum standards established by the department.

((~~(2)~~)) (b) The department of social and health services may contract with a third party to administer payments to long-term services and supports providers providing services to eligible beneficiaries whether inside or outside of Washington.

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

(2) The department of social and health services shall establish payment methods and procedures that are most appropriate and efficient for the different categories of service providers identified in subsection (1) of this section, including collaboration with other agencies and contracting with third parties, as necessary.

Sec. 10. RCW 50B.04.080 and 2022 c 2 s 1 and 2022 c 1 s 5 are each reenacted and amended to read as follows:

(1) Unless otherwise exempted pursuant to this chapter, beginning July 1, 2023, the employment security department shall assess for each individual in employment with an employer a premium based on the amount of the individual's wages. The initial premium rate is .58 percent of the individual's wages. Beginning January 1, 2026, and biennially thereafter, the premium rate shall be set by the pension funding council at a rate no greater than .58 percent. In addition, the pension funding council must set the premium rate at the lowest amount necessary to maintain the actuarial solvency of the long-term services and supports trust account created in RCW 50B.04.100 in accordance with recognized insurance principles and designed to attempt to limit fluctuations in the premium rate. To facilitate the premium rate setting the office of the state actuary must perform a

biennial actuarial audit and valuation of the fund and make recommendations to the pension funding council.

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

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

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

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

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

((~~(5)~~)) (4) The employment security department shall deposit all premiums collected in this section in the long-term services and supports trust account created in RCW 50B.04.100.

((~~(6)~~)) (5) Premiums collected in this section are placed in the trust account for the individuals who become eligible for the program.

((~~(7)~~)) (6) If the premiums established in this section are increased, the legislature shall notify each qualified individual by mail that the person's premiums have been increased, describe the reason for increasing the premiums, and describe the plan for restoring the funds so that premiums are returned to .58 percent of the individual's wages.

Sec. 11. RCW 50B.04.085 and 2021 c 113 s 5 are each amended to read as follows:

(1) An employee who attests that the employee has long-term care insurance purchased before November 1, 2021, may apply for an exemption from the premium assessment under RCW 50B.04.080. ((~~An exempt employee may not become a qualified individual or eligible~~

~~beneficiary and is permanently ineligible for coverage under this title.~~))

(2)(a) The employment security department must accept applications for exemptions only from October 1, 2021, through December 31, 2022.

(b) Only employees who are eighteen years of age or older may apply for an exemption.

(3) The employment security department is not required to verify the attestation of an employee that the employee has long-term care insurance.

(4) Approved exemptions will take effect on the first day of the quarter immediately following the approval of the exemption.

(5) Exempt employees are not entitled to a refund of any premium deductions made before the effective date of an approved exemption.

(6) An exempt employee must provide written notification to all current and future employers of an approved exemption.

(7) If an exempt employee fails to notify an employer of an exemption, the exempt employee is not entitled to a refund of any premium deductions made before notification is provided.

(8) Employers must not deduct premiums after being notified by an employee of an approved exemption.

(a) Employers must retain written notifications of exemptions received from employees.

(b) An employer who deducts premiums after being notified by the employee of an exemption is solely responsible for refunding to the employee any premiums deducted after the notification.

(c) The employer is not entitled to a refund from the employment security department for any premiums remitted to the employment security department that were deducted from exempt employees.

(9)(a) Except as provided in (b) of this subsection, an exempt employee may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title.

(b) Prior to July 1, 2028, an employee who has received an approved exemption pursuant to this section may rescind the exemption and participate in the program. The employee must notify the employment security department of the rescission according to procedures established by the employment security department. The employee will be subject to premium assessments under RCW 50B.04.080 or 50B.04.090 upon notification to the employment security department

of the rescission. The employee is not responsible for any premiums that would have been assessed prior to the rescission. When deeming a person to be a qualified individual under RCW 50B.04.050, the employment security department may not consider any years in which the rescinding employee had been in exempt status unless the employee had been assessed the premium for a part of the year and the number of hours worked while being assessed met the minimum hour requirement.

(10) The employment security department must adopt rules necessary to implement and administer the activities specified in this section related to the program, including rules on the submission and processing of applications and the rescission of an exemption under this section.

Sec. 12. RCW 50B.04.100 and 2024 c 120 s 8 are each amended to read as follows:

(1) The long-term services and supports trust account is created in the custody of the state treasurer. All receipts from employers under RCW 50B.04.080 and from out-of-state participants under RCW 50B.04.180, 50B.04.090, and 50B.04.095, delinquent premiums, penalties, and interest received pursuant to sections 13 and 14 of this act, and any funds attributable to savings derived through a waiver with the federal centers for medicare and medicaid services pursuant to RCW 50B.04.130 must be deposited in the account. Expenditures from the account may be used for the administrative activities of the department of social and health services, the health care authority, and the employment security department. Benefits associated with the program must be disbursed from the account by the department of social and health services. Only the secretary of the department of social and health services or the secretary's designee may authorize disbursements from the account. The account is subject to the allotment procedures under chapter 43.88 RCW. An appropriation is required for administrative expenses, but not for benefit payments. The account must provide reimbursement of any amounts from other sources that may have been used for the initial establishment of the program.

(2) The revenue generated pursuant to this chapter shall be utilized to expand long-term care in the state. These funds may not be used either in whole or in part to supplant existing state or

county funds for programs that meet the definition of approved services.

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

NEW SECTION. **Sec. 13.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) In the form and at the times specified in this chapter and by the commissioner of the employment security department, an employer shall make reports, furnish information, and collect and remit premiums as required by this chapter to the employment security department. If the employer is a temporary help company that provides employees on a temporary basis to its customers, the temporary help company is considered the employer for purposes of this section.

(2)(a) An employer must keep at the employer's place of business a record of employment, for a period of six years, from which the information needed by the employment security department for purposes of this chapter may be obtained. This record shall at all times be open to the inspection of the commissioner of the employment security department.

(b) Information obtained under this chapter from employer records is confidential and not open to public inspection, other than to public employees in the performance of their official duties. An interested party, however, shall be supplied with information from employer records to the extent necessary for the proper presentation of the case in question. An employer may authorize inspection of the employer's records by written consent.

(3) The requirements relating to the collection of long-term services and supports trust program premiums are as provided in this chapter. Before issuing a warning letter or collecting penalties, the employment security department shall enforce the collection of premiums through conference and conciliation. These requirements apply to:

(a) An employer that fails under this chapter to make the required reports, or fails to remit the full amount of the premiums when due;

(b) An employer that willfully makes a false statement or misrepresentation regarding a material fact, or willfully fails to report a material fact, to avoid making the required reports or remitting the full amount of the premiums when due under this chapter;

(c) A successor in the manner specified in employment security department rules; and

(d) An officer, member, or owner having control or supervision of payment or reporting of long-term services and supports trust program premiums, or who is charged with the responsibility for the filing of returns, in the manner specified in subsection (4) of this section.

(4)(a) An employer who willfully fails to make the required reports is subject to penalties as follows: (i) For the second occurrence, the penalty is $75; (ii) for the third occurrence, the penalty is $150; and (iii) for the fourth occurrence and for each occurrence thereafter, the penalty is $250.

(b) An employer who willfully fails to remit the full amount of the premiums when due is liable, in addition to the full amount of premiums due and amounts assessed as interest under section 14(3) of this act, to a penalty equal to the premiums and interest.

(c) Any penalties under this section shall be deposited into the account.

(d) For the purposes of this subsection, "willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

(e) The employment security department shall enforce the collection of penalties through conference and conciliation.

(5) Appeals of actions under this section are governed by RCW 50B.04.120.

NEW SECTION. **Sec. 14.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) At any time after the commissioner of the employment security department finds that any premiums, interest, or penalties have become delinquent, the commissioner of the employment security department may issue an order and notice of assessment specifying the amount due. The order and notice of assessment shall be served upon

the delinquent employer in the manner prescribed for the service of a summons in a civil action, or using a method by which the mailing can be tracked or the delivery can be confirmed. Failure of the employer to receive the notice or order, whether served or mailed, shall not release the employer from any tax, or any interest or penalties.

(2) If the commissioner of the employment security department has reason to believe that an employer is insolvent or if any reason exists why the collection of any premiums accrued will be jeopardized by delaying collection, the commissioner of the employment security department may make an immediate assessment of the premiums and may proceed to enforce collection immediately, but interest and penalties shall not begin to accrue upon any premiums until the date when such premiums would normally have become delinquent.

(3) If premiums are not paid on the date on which they are due and payable as prescribed by the commissioner of the employment security department, the whole or part thereof remaining unpaid shall bear interest at the rate of one percent per month or fraction thereof from and after such date until payment plus accrued interest is received by the commissioner of the employment security department. The date as of which payment of premiums, if mailed, is deemed to have been received may be determined by such regulations as the commissioner of the employment security department may prescribe. Interest collected pursuant to this section shall be paid into the account. Interest shall not accrue on premiums from any estate in the hands of a receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer subsequent to the date when such receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer qualifies as such, but premiums accruing with respect to employment of persons by any receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer shall become due and shall draw interest in the same manner as premiums due from other employers. Where adequate information has been furnished to the employment security department and the employment security department has failed to act or has advised the employer of no liability or inability to decide the issue, interest may be waived.

(4)(a) If the amount of premiums, interest, or penalties assessed by the commissioner of the employment security department by order and notice of assessment provided in this chapter is not paid within 10 days after the service or mailing of the order and notice of

assessment, the commissioner of the employment security department or a duly authorized representative may collect the amount stated in the assessment by the distraint, seizure, and sale of the property, goods, chattels, and effects of the delinquent employer. Goods and property that are exempt from execution under the laws of this state are exempt from distraint and sale under this section.

(b) The commissioner of the employment security department, upon making a distraint, shall seize the property and shall make an inventory of the distrained property, a copy of which shall be mailed to the owner of the property or personally delivered to the owner, and shall specify the time and place when the property shall be sold. A notice specifying the property to be sold and the time and place of sale shall be posted in at least two public places in the county in which the seizure has been made. The time of sale shall be not less than 10 nor more than 20 days from the date of posting of the notices. The sale may be adjourned from time to time at the discretion of the commissioner of the employment security department, but not for a time to exceed a total of 60 days. The sale shall be conducted by the commissioner of the employment security department or a representative who shall proceed to sell the property by parcel or by lot at a public auction, and who may set a minimum price to include the expenses of making a levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the minimum price so fixed, the commissioner of the employment security department or a representative may declare the property to be purchased by the employment security department for the minimum price. In such event the delinquent account shall be credited with the amount for which the property has been sold. Property acquired by the employment security department as prescribed in this subsection (4) may be sold by the commissioner of the employment security department or a representative at public or private sale, and the amount realized shall be placed in the account. In all cases of sale under this subsection (4), the commissioner of the employment security department shall issue a bill of sale or a deed to the purchaser and the bill of sale or deed shall be prima facie evidence of the right of the commissioner of the employment security department to make the sale and conclusive evidence of the regularity of the commissioner of the employment security department proceeding in making the sale, and shall transfer to the purchaser all right, title, and interest of the delinquent employer in the property. The

proceeds of any sale under this subsection (4), except in those cases in which the property has been acquired by the employment security department, shall be first applied by the commissioner of the employment security department in satisfaction of the delinquent account, and out of any sum received in excess of the amount of delinquent premiums, interest, and penalties the account shall be reimbursed for the costs of distraint and sale. Any excess amounts held by the commissioner of the employment security department shall be refunded to the delinquent employer. Amounts held by the commissioner of the employment security department that are refundable to a delinquent employer may be subject to seizure or distraint by any other taxing authority of the state or its political subdivisions.

(5) The commissioner of the employment security department may issue to any person, firm, corporation, political subdivision, or department of the state, a notice and order to withhold and deliver property of any kind when the commissioner of the employment security department has reason to believe that there is in the possession of such person, firm, corporation, political subdivision, or department, property which is due, owing, or belonging to any person, firm, or corporation upon whom the employment security department has served a notice and order of assessment for premiums, interest, or penalties. The effect of a notice to withhold and deliver shall be continuous from the date the notice and order to withhold and deliver is first made until the liability is satisfied or becomes unenforceable because of a lapse of time. The notice and order to withhold and deliver shall be served by the sheriff or the sheriff's deputy of the county in which the service is made, using a method by which the mailing can be tracked or the delivery can be confirmed, or by any duly authorized representative of the commissioner of the employment security department. Any person, firm, corporation, political subdivision, or department upon whom service has been made must answer the notice within 20 days exclusive of the day of service, under oath and in writing, and must truthfully answer the matters inquired of in the notice. In the event there is in the possession of any such person, firm, corporation, political subdivision, or department, any property which may be subject to the claim of the employment security department of the state, the property must be delivered immediately to the commissioner of the employment security department or a representative upon demand to be held in trust by the

commissioner of the employment security department for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability, or in the alternative, a good and sufficient bond satisfactory to the commissioner of the employment security department must be provided conditioned upon final determination of liability. If any person, firm, or corporation fails to answer an order to withhold and deliver within the time prescribed in this subsection (5), it shall be lawful for the court, after the time to answer the order has expired, to render judgment by default against such person, firm, or corporation for the full amount claimed by the commissioner in the notice to withhold and deliver, together with costs.

(6) Whenever any order and notice of assessment or jeopardy assessment has become final in accordance with the provisions of this chapter the commissioner of the employment security department may file with the clerk of any county within the state a warrant in the amount of the notice of assessment plus interest, penalties, and a filing fee under RCW 36.18.012(10). The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the employer mentioned in the warrant, the amount of the tax, interest, penalties, and filing fee and the date when such warrant was filed. The aggregate amount of the warrant as docketed shall become a lien upon the title to, and interest in all real and personal property of the employer against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. The warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law in the case of civil judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant, and charged by the commissioner of the employment security department to the employer. A copy of the warrant shall be mailed to the employer using a method by which the mailing can be tracked or the delivery can be confirmed within five days of filing with the clerk.

(7) The claim of the employment security department for any premiums, interest, or penalties not paid when due, shall be a lien prior to all other liens or claims and on a parity with prior tax

liens against all property and rights to property, whether real or personal, belonging to the employer. In order to avail itself of the lien hereby created, the employment security department shall file with any county auditor where property of the employer is located a statement and claim of lien specifying the amount of delinquent premiums, interest, and penalties claimed by the employment security department. From the time of filing for record, the amount required to be paid shall constitute a lien upon all property and rights to property, whether real or personal, in the county, owned by the employer or acquired by the employer. The lien shall not be valid against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof has been filed with the county auditor. This lien shall be separate and apart from, and in addition to, any other lien or claim created by, or provided for in, this chapter. When any such notice of lien has been so filed, the commissioner of the employment security department may release the lien by filing a certificate of release when it appears that the amount of delinquent premiums, interest, and penalties have been paid, or when the assurance of payment shall be made as the commissioner of the employment security department may deem to be adequate. Fees for filing and releasing the lien provided herein may be charged to the employer and may be collected from the employer utilizing the remedies provided in this chapter for the collection of premiums.

(8) In the event of any distribution of an employer's assets pursuant to an order of any court, including any receivership, probate, legal dissolution, or similar proceeding, or in case of any assignment for the benefit of creditors, composition, or similar proceeding, premiums, interest, or penalties due shall be a lien upon all the assets of such employer. The lien is prior to all other liens or claims except prior tax liens, other liens provided by this chapter, and claims for remuneration for services of not more than $250 to each claimant earned within six months of the commencement of the proceeding. The mere existence of a condition of insolvency or the institution of any judicial proceeding for legal dissolution or of any proceeding for distribution of assets shall cause such a lien to attach without action on behalf of the commissioner of the employment security department or the state. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898,

as amended, premiums, interest, or penalties due shall be entitled to such priority as provided in that act, as amended.

(9)(a) If after due notice, any employer defaults in any payment of premiums, interest, or penalties, the amount due may be collected by civil action in the name of the state, and the employer adjudged in default shall pay the cost of such action. Any lien created by this chapter may be foreclosed by decree of the court in any such action. Civil actions brought under this chapter to collect premiums, interest, or penalties from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter, cases arising under the unemployment compensation laws of this state, and cases arising under the industrial insurance laws of this state.

(b) Any employer that is not a resident of this state and that exercises the privilege of having one or more individuals perform service for it within this state, and any resident employer that exercises that privilege and thereafter removes from this state, shall be deemed thereby to appoint the secretary of state as its agent and attorney for the acceptance of process in any action under this chapter. In instituting such an action against any such employer the commissioner of the employment security department shall cause process or notice to be filed with the secretary of state and the service shall be sufficient service upon the employer, and shall be of the same force and validity as if served upon it personally within this state: PROVIDED, That the commissioner of the employment security department shall immediately send notice of the service of the process or notice, together with a copy thereof, by registered mail, return receipt requested, to such employer at its last known address and the return receipt, the commissioner's affidavit of compliance with the provisions of this section, and a copy of the notice of service shall be appended to the original of the process filed in the court in which such action is pending.

(10) Any employer who is delinquent in the payment of premiums, interest, or penalties may be enjoined upon the suit of the state of Washington from continuing in business in this state or employing persons herein until the delinquent premiums, interest, and penalties have been paid, or until the employer has furnished a good and sufficient bond in a sum equal to double the amount of premiums, interest, and penalties already delinquent, plus further sums as the

court deems adequate to protect the employment security department in the collection of premiums, interest, and penalties which will become due from the employer during the next ensuing calendar year, the bond to be conditioned upon payment of all premiums, interest, and penalties due and owing within thirty days after the expiration of the next ensuing calendar year or at an earlier date as the court may fix. Action under this section may be instituted in the superior court of any county of the state in which the employer resides, has its principal place of business, or where it has anyone performing services for it, whether or not those services constitute employment.

(11) The commissioner of the employment security department may compromise any claim for premiums, interest, or penalties due and owing from an employer in any case in which collection of the full amount due and owing, whether reduced to judgment or otherwise, would be against equity and good conscience. Whenever a compromise is made by the commissioner of the employment security department in the case of a claim for premiums, interest, or penalties, whether reduced to judgment or otherwise, the employment security department shall file a statement of the amount of premiums, interest, and penalties imposed by law and claimed due, attorneys' fees and costs, if any, a complete record of the compromise agreement, and the amount actually paid in accordance with the terms of the compromise agreement. If any such compromise is accepted by the commissioner of the employment security department, within the time stated in the compromise or agreed to, that compromise shall be final and conclusive and except upon showing of fraud or malfeasance or misrepresentation of a material fact the case shall not be reopened as to the agreed upon matters. In any suit, action, or proceeding, such agreement or any determination, collection, payment, adjustment, refund, or credit made in accordance therewith shall not be annulled, modified, set aside, or disregarded.

(12) The commissioner of the employment security department may charge off as uncollectible and no longer an asset of the account, any delinquent premiums, interest, penalties, or credits, if the commissioner of the employment security department is satisfied that there are no cost-effective means of collecting the premiums, interest, penalties, or credits.

NEW SECTION. **Sec. 15.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) When a qualified individual applies for benefits as provided in RCW 50B.04.060, the department of social and health services must: (a) Ask whether the qualified individual has supplemental long-term care insurance as provided in chapter 48.--- RCW (the new chapter created in section 41 of this act); and (b) request written consent and the policy issuer's contact information from the qualified individual to share information with the policy issuer for any potential care coordination.

(2) If the individual provides written consent and the policy issuer's contact information, the department of social and health services must notify the policy issuer that the qualified individual has applied for benefits under this chapter and may share information for any potential care coordination.

(3) Only basic demographic information that would allow a person to be identified in the program may be shared if the qualified individual consents to sharing information. No health information or data on claims may be shared.

NEW SECTION. **Sec. 16.** (1) The department of social and health services, the employment security department, and the health care authority may design and conduct a pilot project to assess the administrative processes and system capabilities for managing eligibility determinations for qualified individuals and distributing payments to long-term services and supports providers. The pilot project may identify persons who are eligible to be qualified individuals and offer them access to benefit units under the program in return for their participation in the pilot project. The pilot project may only be conducted between January 1, 2026, and June 30, 2026. The pilot project may not have more than 500 participants.

(2) When designing and implementing the pilot project, the agencies identified in subsection (1) of this section must provide regular updates to and consider recommendations from the long-term services and supports trust commission. Upon completion of the pilot project, the agencies must provide a summary of the pilot project, including key operational challenges, to the commission. The commission may include any outstanding concerns identified by the pilot project that require a legislative response in the commission's 2027 report.

(3) The employment security department, the department of social and health services, and the health care authority may adopt rules necessary to implement this section.

(4) This section expires July 1, 2027.

NEW SECTION. **Sec. 17.** The intent of this chapter is to promote the public interest, support the availability of supplemental long-term care coverage, establish standards for supplemental long-term care coverage, facilitate public understanding and comparison of supplemental long-term care contract benefits, protect persons insured under supplemental long-term care insurance policies and certificates, protect applicants for supplemental long-term care policies from unfair or deceptive sales or enrollment practices, and provide for flexibility and innovation in the development of supplemental long-term care insurance coverage.

NEW SECTION. **Sec. 18.** (1) This chapter applies to all supplemental long-term care insurance policies, contracts, or riders delivered or issued for delivery in this state on or after May 1, 2026. This chapter does not supersede the obligations of entities subject to this chapter to comply with other applicable laws to the extent that they do not conflict with this chapter, except that laws and regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to supplemental long-term care insurance.

(2) Coverage advertised, marketed, or offered as supplemental long-term care insurance must comply with this chapter. Any coverage, policy, or rider advertised, marketed, or offered as supplemental long-term care or nursing home insurance shall comply with this chapter.

(3) This chapter is not intended to prohibit approval of supplemental long-term care funded through life insurance policies, contracts, or riders, provided the policy meets the definition of supplemental long-term care insurance and provides all required benefits of this chapter.

NEW SECTION. **Sec. 19.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means: (a) In the case of an individual supplemental long-term care insurance policy, the person who seeks to contract for benefits; and (b) in the case of a group supplemental long-term care insurance policy, the proposed certificate holder.

(2) "Certificate" includes any certificate issued under a group supplemental long-term care insurance policy that has been delivered or issued for delivery in this state.

(3) "Commissioner" means the insurance commissioner of Washington state.

(4) "Issuer" includes insurance companies, fraternal benefit societies, health care service contractors, health maintenance organizations, or other entity delivering or issuing for delivery any supplemental long-term care insurance policy, contract, or rider.

(5) "Group supplemental long-term care insurance" means a supplemental long-term care insurance policy or contract that is delivered or issued for delivery in this state and is issued to:

(a) One or more employers; one or more labor organizations; or a trust or the trustees of a fund established by one or more employers or labor organizations for current or former employees, current or former members of the labor organizations, or a combination of current and former employees or members, or a combination of such employers, labor organizations, trusts, or trustees; or

(b) A professional, trade, or occupational association for its members or former or retired members, if the association:

(i) Is composed of persons who are or were all actively engaged in the same profession, trade, or occupation; and

(ii) Has been maintained in good faith for purposes other than obtaining insurance; or

(c)(i) An association, trust, or the trustees of a fund established, created, or maintained for the benefit of members of one or more associations. Before advertising, marketing, or offering supplemental long-term care coverage in this state, the association or associations, or the insurer of the association or associations, must file evidence with the commissioner that the association or associations have at the time of such filing at least 100 persons who are members and that the association or associations have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and bylaws that provide that:

(A) The association or associations hold regular meetings at least annually to further the purposes of the members;

(B) Except for credit unions, the association or associations collect dues or solicit contributions from members; and

(C) The members have voting privileges and representation on the governing board and committees of the association.

(ii) Thirty days after filing the evidence in accordance with this section, the association or associations will be deemed to have satisfied the organizational requirements, unless the commissioner makes a finding that the association or associations do not satisfy those organizational requirements; or

(d) A group other than as described in (a), (b), or (c) of this subsection subject to a finding by the commissioner that:

(i) The issuance of the group policy is not contrary to the best interest of the public;

(ii) The issuance of the group policy would result in economies of acquisition or administration; and

(iii) The benefits are reasonable in relation to the premiums charged.

(6) "Policy" includes a document such as an insurance policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, health care service contractor, health maintenance organization, or any similar entity authorized by the insurance commissioner to transact the business of supplemental long-term care insurance.

(7) "Qualified supplemental long-term care insurance contract" or "federally tax-qualified supplemental long-term care insurance contract" means:

(a) An individual or group insurance contract that meets the requirements of section 7702B(b) of the internal revenue code of 1986, as amended; or

(b) The portion of a life insurance contract that provides supplemental long-term care insurance coverage by rider or as part of the contract and that satisfies the requirements of sections 7702B(b) and (e) of the internal revenue code of 1986, as amended.

(8) "Supplemental long-term care insurance" means an insurance policy, contract, or rider that is advertised, marketed, offered, or designed to provide coverage for at least 12 consecutive months for a covered person after benefits provided under chapter 50B.04 RCW have

been exhausted. Supplemental long-term care insurance may be on an expense incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. Supplemental long-term care insurance includes any policy, contract, or rider that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity that supplements benefits provided in chapter 50B.04 RCW.

(a) Supplemental long-term care insurance includes group and individual life insurance policies or riders that provide directly or supplement long-term care insurance and that supplements benefits provided in chapter 50B.04 RCW. However, supplemental long-term care insurance does not include life insurance policies that: (i) Accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement; (ii) provide the option of a lump sum payment for those benefits; and (iii) do not condition the benefits or the eligibility for the benefits upon the receipt of long-term care.

(b) Supplemental long-term care insurance also includes qualified supplemental long-term care insurance contracts.

(c) Supplemental long-term care insurance does not include any insurance policy, contract, or rider that is offered primarily to provide coverage for basic medicare supplement, basic hospital expense, basic medical-surgical expense, hospital confinement indemnity, major medical expense, disability income, related income, asset protection, accident only, specified disease, specified accident, or limited benefit health. These may not be marketed to consumers as providing coverage that is supplemental to the long-term care benefits provided in chapter 50B.04 RCW.

NEW SECTION. **Sec. 20.** (1) A supplemental long-term care insurance policy, contract, rider, or certificate form or application form shall not be issued, delivered, or used unless it has been filed with and approved by the commissioner.

(2) Rates, or modification of rates, for supplemental long-term care policies or certificates shall not be used until filed with and approved by the commissioner.

(3) A form or rate shall not knowingly be issued, delivered, or used if the commissioner's approval does not then exist.

NEW SECTION. **Sec. 21.** A group supplemental long-term care insurance policy may not be offered to a resident of this state under a group policy issued in another state to a group described in section 19(5)(d) of this act, unless this state or another state having statutory and regulatory supplemental long-term care insurance requirements substantially similar to those adopted in this state has made a determination that such requirements have been met.

NEW SECTION. **Sec. 22.** (1) A supplemental long-term care insurance policy or certificate may not define "preexisting condition" more restrictively than as a condition for which medical advice or treatment was recommended by or received from a provider of health care services, within six months preceding the effective date of coverage of an insured person, unless the policy or certificate applies to group supplemental long-term care insurance under section 19(5) (a), (b), or (c) of this act.

(2) A supplemental long-term care insurance policy or certificate may not exclude coverage for a loss or confinement that is the result of a preexisting condition unless the loss or confinement begins within six months following the effective date of coverage of an insured person, unless the policy or certificate applies to a group as defined in section 19(5)(a) of this act.

(3) The commissioner may extend the limitation periods for specific age group categories in specific policy forms upon finding that the extension is in the best interest of the public.

(4) An issuer may use an application form designed to elicit the complete health history of an applicant and underwrite in accordance with that issuer's established underwriting standards, based on the answers on that application. Unless otherwise provided in the policy or certificate and regardless of whether it is disclosed on the application, a preexisting condition need not be covered until the waiting period expires.

(5) A supplemental long-term care insurance policy or certificate may not exclude or use waivers or riders to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period.

NEW SECTION. **Sec. 23.** (1) No supplemental long-term care insurance policy may:

(a) Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder;

(b) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder;

(c) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care;

(d) Condition eligibility for any benefits on a prior hospitalization requirement;

(e) Condition eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care;

(f) Condition eligibility for any benefits other than waiver of premium, postconfinement, postacute care, or recuperative benefits on a prior institutionalization requirement;

(g) Include a postconfinement, postacute care, or recuperative benefit unless:

(i) Such requirement is clearly labeled in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits"; and

(ii) Such limitations or conditions specify any required number of days of preconfinement or postconfinement;

(h) Condition eligibility for noninstitutional benefits on the prior receipt of institutional care;

(i)(i) Provide for a deductible that is greater than the maximum dollar equivalent provided in RCW 50B.04.060(3)(b), including inflation adjustments provided in RCW 50B.04.010(3), without the limitation provided in RCW 50B.04.050(2). The issuer may provide for a deductible that is less than the maximum dollar equivalent provided in RCW 50B.04.060(3)(b), especially for a policyholder born before 1968;

(ii) The issuer must accept notice from the department of social and health services that the policyholder has exhausted the benefits provided under chapter 50B.04 RCW as evidence of satisfying the

deductible. However, for a policyholder born before 1968, the department must provide the amount of benefits paid under chapter 50B.04 RCW as evidence of payment toward the deductible;

(j) Include an elimination period of greater than 12 months. Any period of time the policyholder is considered an eligible beneficiary as defined in RCW 50B.04.010 must count toward any elimination period in a supplemental long-term care insurance policy. If the policy includes a deductible and an elimination period, the policy may provide that the elimination period is satisfied after the later of when the deductible or the elimination period has been met; and

(k) Require a policyholder to undergo a functional assessment to satisfy a benefit trigger to determine that the elimination period has begun or ended. However, the issuer may require the policyholder to undergo a functional assessment and apply a benefit trigger for purposes of approving a claim and authorizing benefits.

(2) A supplemental long-term care insurance policy or certificate may be field-issued if the compensation to the field issuer is not based on the number of policies or certificates issued. For purposes of this section, "field-issued" means a policy or certificate issued by a producer or a third-party administrator of the policy pursuant to the underwriting authority by an issuer and using the issuer's underwriting guidelines.

NEW SECTION. **Sec. 24.** (1) Supplemental long-term care insurance applicants may return a policy or certificate for any reason within 30 days after its delivery and to have the premium refunded.

(2) All supplemental long-term care insurance policies and certificates must have a notice prominently printed on or attached to the first page of the policy stating that the applicant may return the policy or certificate within 30 days after its delivery and to have the premium refunded.

(3) Refunds or denials of applications must be made within 30 days of the return or denial.

(4) This section does not apply to certificates issued pursuant to a policy issued to a group defined in section 19(5)(a) of this act.

NEW SECTION. **Sec. 25.** (1) An outline of coverage must be delivered to a prospective applicant for supplemental long-term care insurance at the time of initial solicitation through means that

prominently direct the attention of the recipient to the document and its purpose.

(a) The commissioner must prescribe a standard format, including style, arrangement, overall appearance, and the content of an outline of coverage. The outline of coverage must also include a disclosure:

(i) Of how the supplemental long-term care insurance interacts with benefits provided in chapter 50B.04 RCW and any potential gaps in coverage or discontinuities of care between benefits provided under chapter 50B.04 RCW and the policy;

(ii) That the premiums may increase over time and an explanation of the conditions that may result in an increase in premiums;

(iii) If the policyholder's circumstances change or premiums increase and the policyholder is unable or unwilling to pay the increased premiums, the options available to the consumer, including a reduction in benefits and nonforfeiture of premiums;

(iv) That premiums continue after retirement;

(v) When premium payments are no longer required under the policy, known as a waiver of premiums; and

(vi) That the purchase of the policy does not qualify the policyholder to apply to be exempt from premium assessments under RCW 50B.04.085.

(b) When an insurance producer makes a solicitation in person, the insurance producer must deliver an outline of coverage before presenting an application or enrollment form.

(c) In a direct response solicitation, the outline of coverage must be presented with an application or enrollment form. The disclosures required under (a) of this subsection are required in any marketing materials.

(d) If a policy is issued to a group as defined in section 19(5)(a) of this act, an outline of coverage is not required to be delivered, if the information that the commissioner requires to be included in the outline of coverage is in other materials relating to enrollment. Upon request, any such materials must be made available to the commissioner.

(2) If an issuer approves an application for a supplemental long-term care insurance contract or certificate, the issuer must deliver the contract or certificate of insurance to the applicant within 30 days after the date of approval. A policy summary must be delivered with an individual life insurance policy that provides supplemental long-term care benefits within the policy or by rider. In a direct

response solicitation, the issuer must deliver the policy summary, upon request, before delivery of the policy, if the applicant requests a summary.

(a) The policy summary must include:

(i) An explanation of how the supplemental long-term care benefit interacts with other components of the policy, including deductions from any applicable death benefits;

(ii) An illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits if any, for each covered person;

(iii) Any exclusions, reductions, and limitations on benefits of supplemental long-term care;

(iv) A statement that any supplemental long-term care inflation protection option required by section 31 of this act is not available under this policy; and

(v) If applicable to the policy type, the summary must also include:

(A) A disclosure of the effects of exercising other rights under the policy;

(B) A disclosure of guarantees related to long-term care costs of insurance charges; and

(C) Current and projected maximum lifetime benefits.

(b) The provisions of the policy summary may be incorporated into a basic illustration required under chapter 48.23A RCW, or into the policy summary which is required under rules adopted by the commissioner.

NEW SECTION. **Sec. 26.** A supplemental long-term care insurance policy, contract, or rider must:

(1) Allow the policyholder options for reduction of benefits or nonforfeiture of premiums as provided in section 32 of this act if the premiums increase or the policyholder's circumstances change and the policyholder is unable or unwilling to pay the increased premiums;

(2) Allow for continuity of coverage of care settings and providers, including family providers, that the policyholder was receiving as benefits under the program provided in chapter 50B.04 RCW unless there is substantial clinical or other information showing that the current care setting or provider cannot meet the care and safety needs of the policyholder. If the issuer makes a determination

that the care setting or providers are not suited to meeting the care and safety needs of the policyholder, the issuer may require a change of care setting or provider under the policy, effective 90 days after the transition from the benefits provided under chapter 50B.04 RCW. The policyholder may appeal the determination through an independent third-party review as tracked by the commissioner. The issuer may audit for fraudulent claims where the care being claimed is not being provided; and

(3) Cover family providers, provided they are suited to meet the care and safety needs of the policyholder.

NEW SECTION. **Sec. 27.** (1) When a policyholder purchases a supplemental long-term care insurance policy, the issuer must request written consent from the policyholder to share information with the department of social and health services. If the policyholder provides written consent, the issuer must inform the department of social and health services that the policyholder has purchased a supplemental long-term care insurance policy and share any information with the department for the purposes of any potential care coordination.

(2) Only basic demographic information that would allow a person to be identified in the program provided in chapter 50B.04 RCW may be shared if the individual consents to sharing information. No health care information as defined in RCW 70.02.010 or data on claims may be shared.

NEW SECTION. **Sec. 28.** If a supplemental long-term care benefit funded through a life insurance policy by the acceleration of the death benefit is in benefit payment status, a monthly report must be provided to the policyholder. The report must include:

(1) A record of all supplemental long-term care benefits paid out during the month;

(2) An explanation of any changes in the policy resulting from paying the supplemental long-term care benefits, such as a change in the death benefit or cash values; and

(3) The amount of supplemental long-term care benefits that remain to be paid.

NEW SECTION. **Sec. 29.** Within 30 business days after receipt of all the requested additional information, an insurer must pay a claim

for benefits under a supplemental long-term care insurance policy or certificate if it is a clean claim, or send a written notice that the insurer is declining to pay all or part of the claim and the specific reason or reasons for denial.

NEW SECTION. **Sec. 30.** (1) An issuer may rescind a supplemental long-term care insurance policy or certificate or deny an otherwise valid supplemental long-term care insurance claim if:

(a) A policy or certificate has been in force for less than six months and upon a showing of misrepresentation that is material to the acceptance for coverage; or

(b) A policy or certificate has been in force for at least six months but less than two years, upon a showing of misrepresentation that is both material to the acceptance for coverage and that pertains to the condition for which benefits are sought.

(2) After a policy or certificate has been in force for two years it is not contestable upon the grounds of misrepresentation alone. Such a policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

(3) An issuer's payments for benefits under a supplemental long-term care insurance policy or certificate may not be recovered by the issuer if the policy or certificate is rescinded.

(4) This section does not apply to the remaining death benefit of a life insurance policy that accelerates benefits for supplemental long-term care that are governed by RCW 48.23.050 the state's life insurance incontestability clause. In all other situations, this section applies to life insurance policies that accelerate benefits for supplemental long-term care.

NEW SECTION. **Sec. 31.** (1) The commissioner must establish minimum standards for inflation protection features.

(2) An issuer must comply with the rules adopted by the commissioner that establish minimum standards for inflation protection features.

NEW SECTION. **Sec. 32.** (1) Except as provided by this section, a supplemental long-term care insurance policy may not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy

or certificate that includes a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. If a policyholder or certificate holder declines the nonforfeiture benefit, the issuer must provide a contingent benefit upon lapse that is available for a specified period of time following a substantial increase in premium rates.

(2) If a group supplemental long-term care insurance policy is issued, the offer required in subsection (1) of this section must be made to the group policyholder. However, if the policy is issued as group supplemental long-term care insurance as defined in section 19(5)(d) of this act other than to a continuing care retirement community or other similar entity, the offering must be made to each proposed certificate holder.

(3) The commissioner must adopt rules specifying the type or types of nonforfeiture benefits to be offered as part of supplemental long-term care insurance policies and certificates, the standards for nonforfeiture benefits, and the rules regarding contingent benefit upon lapse, including a determination of the specified period of time during which a contingent benefit upon lapse will be available and the substantial premium rate increase that triggers a contingent benefit upon lapse.

NEW SECTION. **Sec. 33.** (1) A person may not sell, solicit, or negotiate supplemental long-term care insurance unless the person is appropriately licensed as an insurance producer and has successfully completed supplemental long-term care coverage education that meets the requirements of this section and:

(a) Has successfully completed long-term care coverage education that meets the requirements of RCW 48.83.130; and

(b) Has completed an approved one-hour course on supplemental long-term care insurance that includes education on:

(i) The provisions of chapter 50B.04 RCW and any rules adopted to implement the long-term services and supports trust program;

(ii) The relationship between benefits offered under chapter 50B.04 RCW, qualified state long-term care insurance partnership programs, and other public and private coverage of long-term care services, including medicaid; and

(iii) This chapter.

(2) The insurance producer education required by this section may not include training that is issuer or company product-specific or

that includes any sales or marketing information, materials, or training, other than those required by state or federal law.

(3) Issuers must obtain verification that an insurance producer receives training required by this section before that producer is permitted to sell, solicit, or otherwise negotiate the issuer's supplemental long-term care insurance products.

(4) Issuers must maintain records subject to the state's record retention requirements and make evidence of that verification available to the commissioner upon request.

(5)(a) Issuers must maintain records with respect to the training of its producers concerning the distribution of its long-term care partnership policies that will allow the commissioner to provide assurance to the state department of social and health services, medicaid division, that insurance producers engaged in the sale of supplemental long-term care insurance contracts have received the training required by this section and any rules adopted by the commissioner, and that producers have demonstrated an understanding of the partnership policies and their relationship to benefits offered under chapter 50B.04 RCW and public and private coverage of long-term care, including medicaid, in this state.

(b) These records must be maintained in accordance with the state's record retention requirements and be made available to the commissioner upon request.

NEW SECTION. **Sec. 34.** (1) Issuers and their agents, if any, must determine whether issuing supplemental long-term care insurance coverage to a particular person is appropriate, except in the case of a life insurance policy that accelerates benefits for supplemental long-term care.

(2) An issuer must:

(a) Develop and use suitability standards to determine whether the purchase or replacement of supplemental long-term care coverage is appropriate for the needs of the applicant or insured, using a best interest standard. The issuers and their agents must act in the best interests of the applicant or policyholder under the circumstances known at the time the recommendation is made, without putting the issuer or agent's financial interests ahead of the interests of the applicant or policyholder;

(b) Train its agents in the use of the issuer's suitability standards; and

(c) Maintain a copy of its suitability standards and make the standards available for inspection, upon request.

(3) The following must be considered when determining whether the applicant meets the issuer's suitability standards:

(a) The ability of the applicant to pay for the proposed coverage and any other relevant financial information related to the purchase of or payment for coverage;

(b) The applicant's goals and needs with respect to supplemental long-term care and the advantages and disadvantages of supplemental long-term care coverage to meet those goals or needs; and

(c) The values, benefits, and costs of the applicant's existing health or long-term care coverage, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(4) The sale or transfer of any suitability information provided to the issuer or agent by the applicant to any other person or business entity is prohibited.

(5)(a) The commissioner must adopt rules on forms of consumer-friendly personal worksheets that issuers and their agents must use for applications for supplemental long-term care coverage.

(b) The commissioner may require each issuer to file its current forms of suitability standards and personal worksheets with the commissioner.

NEW SECTION. **Sec. 35.** A person engaged in the issuance or solicitation of supplemental long-term care coverage may not engage in unfair methods of competition or unfair or deceptive acts or practices, as such methods, acts, or practices are defined in chapter 48.30 RCW, or as defined by the commissioner.

NEW SECTION. **Sec. 36.** An issuer or an insurance producer who violates a law or rule relating to the regulation of supplemental long-term care insurance or its marketing is subject to a fine of up to three times the amount of the commission paid for each policy involved in the violation or $10,000, whichever is greater.

NEW SECTION. **Sec. 37.** (1) The commissioner must adopt rules that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of supplemental long-term care insurance policies, terms of

renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms. The commissioner must adopt rules establishing loss ratio standards for supplemental long-term care insurance policies. The commissioner must adopt rules to promote premium adequacy and to protect policyholders in the event of proposed substantial rate increases, and to establish minimum standards for producer education, marketing practices, producer compensation, producer testing, penalties, and reporting practices for supplemental long-term care insurance.

(2) The commissioner must adopt rules establishing standards protecting patient privacy rights, rights to receive confidential health care services, and standards for an issuer's timely review of a claim denial upon request of a covered person.

(3) The commissioner must adopt by rule prompt payment requirements for supplemental long-term care insurance. The rules must include a definition of a "claim" and a definition of "clean claim." In adopting the rules, the commissioner must consider the prompt payment requirements in long-term care insurance model acts developed by the national association of insurance commissioners.

(4) The commissioner may adopt reasonable rules to carry out this chapter.

NEW SECTION. **Sec. 38.** (1) The commissioner must:

(a) Develop a consumer education guide designed to educate consumers and help them make informed decisions as to the purchase of supplemental long-term care insurance policies provided under this chapter; and

(b) Expand programs to educate consumers as to the supplemental long-term care insurance policies provided under this chapter, with a focus on the middle-income market. If allowable under federal law, the commissioner must expand the statewide health insurance benefits advisor program to provide the consumer education.

(2) The guide and programs should:

(a) Provide additional information and counseling for consumers born before 1968. This information and counseling should educate these consumers as to potential out-of-pocket costs they may be

subject to before supplemental long-term care insurance will begin paying claims and strategies for managing the gap between benefits payable under chapter 50B.04 RCW and coverage under supplemental long-term care insurance.

(b) Support consumers in assessing the tradeoffs between various elimination period options and premium rates.

(c) Educate consumers on budgeting any benefits available under chapter 50B.04 RCW carefully to reduce the likelihood and size of any potential gap between those benefits and the supplemental long-term care insurance.

NEW SECTION. **Sec. 39.** A new section is added to chapter 48.83 RCW to read as follows:

This chapter does not apply to supplemental long-term care insurance as defined in section 19 of this act.

NEW SECTION. **Sec. 40.** RCW 50B.04.040 (Long-term services and supports council—Benefit unit adjustment) and 2019 c 363 s 5 are each repealed.

NEW SECTION. **Sec. 41.** Sections 17 through 38 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. **Sec. 42.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Sec. 43. RCW 50B.04.140 and 2022 c 1 s 7 are each amended to read as follows:

Beginning December 1, 2028, and annually thereafter, and in compliance with RCW 43.01.036, the commission must report to the legislature on the program, including:

(1) Projected and actual program participation;

(2) Adequacy of premium rates;

(3) Fund balances;

(4) Benefits paid;

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

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

NEW SECTION. **Sec. 44.** A new section is added to chapter 50B.04 RCW to read as follows:

If Washington is successful in obtaining a waiver from the federal centers for medicare and medicaid services that results in shared savings because of long-term services and supports spending, the amount of shared savings shall be deposited into the long-term services and supports trust account created in RCW 50B.04.100.

Sec. 45. RCW 74.39.007 and 2022 c 86 s 1 are each amended to read as follows:

The definitions in this section apply throughout this section, RCW ((~~74.39.007,~~)) 74.39.050, 74.39.070, 43.190.060, and section 1, chapter 336, Laws of 1999 unless the context clearly requires otherwise.

(1) "Self-directed care" means the process in which an adult person, who is prevented by a functional disability from performing a manual function related to health care that an individual would otherwise perform for himself or herself, chooses to direct and supervise a paid personal aide to perform those tasks.

(2) "Personal aide" means an individual, working privately ((~~or~~)), as an individual provider as defined in RCW 74.39A.240, or as a qualified family member paid through the long-term services and supports trust as described in RCW 50B.04.010, who acts at the direction of an adult person with a functional disability living in his or her own home to assist with the physical performance of a health care task, as described in RCW 74.39.050, that persons without a functional disability can perform themselves.

Sec. 46. RCW 70.127.040 and 2024 c 259 s 4 are each amended to read as follows:

The following are not subject to regulation for the purposes of this chapter:

(1) A family member providing home health, hospice, or home care services;

(2) A person who provides only meal services in an individual's permanent or temporary residence;

(3) An individual providing home care through a direct agreement with a recipient of care in an individual's permanent or temporary residence;

(4) A person furnishing or delivering home medical supplies or equipment that does not involve the provision of services beyond those necessary to deliver, set up, and monitor the proper functioning of the equipment and educate the user on its proper use;

(5) A person who provides services through a contract with a licensed agency;

(6) An employee or volunteer of a licensed agency who provides services only as an employee or volunteer;

(7) Facilities and institutions, including but not limited to nursing homes under chapter 18.51 RCW, hospitals under chapter 70.41 RCW, adult family homes under chapter 70.128 RCW, assisted living facilities under chapter 18.20 RCW, developmental disability residential programs under chapter 71A.12 RCW, other entities licensed under chapter 71.12 RCW, or other licensed facilities and institutions, only when providing services to persons residing within the facility or institution;

(8) Local and combined city-county health departments providing services under chapters 70.05 and 70.08 RCW;

(9) An individual providing care to ill individuals, individuals with disabilities, or vulnerable individuals through a contract with the department of social and health services;

(10) Nursing homes, hospitals, or other institutions, agencies, organizations, or persons that contract with licensed home health, hospice, or home care agencies for the delivery of services;

(11) In-home assessments of an ill individual, an individual with a disability, or a vulnerable individual that does not result in regular ongoing care at home;

(12) Services conducted by and for the adherents of a church or religious denomination that rely upon spiritual means alone through prayer for healing in accordance with the tenets and practices of such church or religious denomination and the bona fide religious beliefs genuinely held by such adherents;

(13) A medicare-approved dialysis center operating a medicare-approved home dialysis program;

(14) A person providing case management services. For the purposes of this subsection, "case management" means the assessment, coordination, authorization, planning, training, and monitoring of

home health, hospice, and home care, and does not include the direct provision of care to an individual;

(15) Pharmacies licensed under RCW 18.64.043 that deliver prescription drugs and durable medical equipment that does not involve the use of professional services beyond those authorized to be performed by licensed pharmacists pursuant to chapter 18.64 RCW and those necessary to set up and monitor the proper functioning of the equipment and educate the person on its proper use;

(16) A volunteer hospice complying with the requirements of RCW 70.127.050;

(17) A person who provides home care services without compensation;

(18) Nursing homes that provide telephone or web-based transitional care management services;

(19) A rural health clinic providing health services in a home health shortage area as declared by the department pursuant to 42 C.F.R. Sec. 405.2416; ((~~and~~))

(20) Hospital at-home services provided by a hospital pursuant to RCW 70.41.550;

(21) A consumer directed employer as described in RCW 74.39A.500; and

(22) An entity contracted with the department of social and health services as a financial services agency and who only serves clients of in-home long-term care workers who are qualified family members as described in RCW 50B.04.010.

Sec. 47. RCW 48.85.010 and 2012 c 211 s 9 are each amended to read as follows:

The department of social and health services shall, in conjunction with the office of the insurance commissioner, coordinate a long-term care insurance program entitled the Washington long-term care partnership, whereby private insurance and medicaid funds shall be used to finance long-term care. For individuals purchasing a long-term care insurance policy or contract governed by chapter 48.84 ((~~or~~)), 48.83, or 48.--- (the new chapter created in section 41 of this act) RCW and meeting the criteria prescribed in this chapter, and any other terms as specified by the office of the insurance commissioner and the department of social and health services, this program shall allow for the exclusion of some or all of the

individual's assets in determination of medicaid eligibility as approved by the centers for medicare and medicaid services.

Sec. 48. RCW 48.85.030 and 2011 c 47 s 12 are each amended to read as follows:

(1) The insurance commissioner shall adopt rules defining the criteria that qualified long-term care partnership insurance policies must meet to satisfy the requirements of this chapter. The rules shall incorporate any requirements set forth by chapters 48.83 and 48.--- (the new chapter created in section 41 of this act) RCW and the deficit reduction act of 2005 for qualified long-term care partnership insurance policies purchased for the purposes of this chapter.

(2) Insurers offering long-term care policies for the purposes of this chapter shall demonstrate to the satisfaction of the insurance commissioner that they:

(a) Have procedures to provide notice to each purchaser of the long-term care consumer education program;

(b) Have procedures that provide for the keeping of individual policy records and procedures for the explanation of coverage and benefits identifying those payments or services available under the policy that meet the purposes of this chapter;

(c) Agree to provide the insurance commissioner any required annual report containing information derived from the long-term care partnership long-term care insurance uniform data set as specified by the office of the insurance commissioner.

NEW SECTION. **Sec. 49.** Sections 17 through 39, 47, and 48 of this act take effect May 1, 2026.

NEW SECTION. **Sec. 50.** Sections 12 through 14 of this act take effect January 1, 2027.

NEW SECTION. **Sec. 51.** Sections 1 through 11, 15, 16, and 40 through 46 of this act take effect January 1, 2026.

Passed by the Senate April 22, 2025.
Passed by the House April 11, 2025.
Approved by the Governor May 20, 2025.
Filed in Office of Secretary of State May 21, 2025.

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