
HOUSE BILL 2272

State of Washington

68th Legislature

2024 Regular Session

By Representatives Macri and Chopp

1 AN ACT Relating to addressing recommendations of the long-term
2 services and supports trust commission by increasing access to
3 benefits, establishing a voluntary private market supplemental long-
4 term care insurance option, creating a pilot project to assess the
5 long-term services and supports trust program, and making operational
6 changes to streamline and enhance fairness in the administration of
7 the long-term services and supports trust program; amending RCW
8 50B.04.010, 50B.04.020, 50B.04.030, 50B.04.055, 50B.04.060,
9 50B.04.070, 50B.04.085, and 50B.04.100; reenacting and amending RCW
10 50B.04.050; adding new sections to chapter 50B.04 RCW; adding a new
11 section to chapter 48.83 RCW; adding a new chapter to Title 48 RCW;
12 creating new sections; repealing RCW 50B.04.040; providing a
13 contingent effective date; and providing an expiration date.

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

15 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

16 (a) Seventy percent of Washingtonians will eventually need long-
17 term services and supports, including help with activities of daily
18 living such as bathing, eating, and taking medications;

19 (b) Long-term care can be expensive, most long-term care services
20 are not covered by medicare or private health insurance, and medicaid

1 only covers services after a person has spent their life savings down
2 to \$2,000; and

3 (c) The WA Cares fund is the result of years of research on how
4 to make long-term services and supports accessible for all workers in
5 Washington. As a public long-term care insurance program, WA Cares
6 guarantees coverage for all workers regardless of preexisting
7 conditions. Washington is the first state in the nation to create an
8 affordable way for the broad middle class to access long-term
9 services and supports without having to spend down their life
10 savings.

11 (2)(a) The legislature intends to improve the functionality of
12 the WA Cares fund for Washington workers by increasing access to the
13 benefits of the program by allowing anyone with at least three years
14 of qualifying contributions who leaves the state to elect portable
15 benefits coverage by choosing to continue contributing premiums to
16 the WA Cares fund, allowing individuals who have purchased private
17 long-term care insurance to rescind the exemption and elect to join
18 the program, and establishing private market long-term care insurance
19 options to enhance the benefits of the program; and

20 (b) The legislature further intends to streamline the
21 administration of the program by including technical changes related
22 to the implementation of the existing statutes.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 50B.04
24 RCW to read as follows:

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

28 (a) The employee or self-employed person has been assessed
29 premiums by the employment security department for at least three
30 years in which the employee or self-employed person has worked at
31 least 1,000 hours in each of those years in Washington; and

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

37 (2) Out-of-state participants under subsection (1) of this
38 section must report their wages or self-employment earnings to the
39 employment security department according to standards for manner and

1 timing of reporting and documentation submission, as adopted by rule
2 by the employment security department. An out-of-state participant
3 must submit documentation to the employment security department
4 whether or not the out-of-state participant earned wages or self-
5 employment earnings, as applicable, during the applicable reporting
6 period. When an out-of-state participant reaches the age of 67, the
7 participant is no longer required to provide the documentation of
8 their wages or self-employment earnings, but if the participant earns
9 wages or self-employment earnings, the participant must submit
10 reports of those wages or self-employment earnings and remit the
11 required premiums.

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

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

26 (5) The employment security department shall:

27 (a) Adopt standards by rule for the manner and timing of
28 reporting and documentation submission for out-of-state participants.
29 The employment security department must consider user experience with
30 the wage and self-employment earnings reporting process and the
31 document submission process and regularly update the standards to
32 minimize the procedural burden on out-of-state participants and
33 support the accurate reporting of wages and self-employment earnings
34 at the time of the payment of premiums;

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

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

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

4 **Sec. 3.** RCW 50B.04.010 and 2021 c 113 s 1 are each amended to
5 read as follows:

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

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

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

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

34 (3) "Benefit unit" means up to (~~one hundred dollars~~) \$100 paid
35 by the department of social and health services to a long-term
36 services and supports provider as reimbursement for approved services
37 provided to an eligible beneficiary on a specific date. The benefit
38 unit must be adjusted annually (~~at a rate no greater than the~~
39 ~~Washington state consumer price index, as determined solely by the~~

1 ~~council. Any changes adopted by the council shall be subject to~~
2 ~~revision by the legislature))~~ for inflation by the consumer price
3 index. The adjusted benefit unit must be calculated to the nearest
4 cent/dollar using the consumer price index for the Seattle,
5 Washington area for urban wage earners and clerical workers, all
6 items, CPI-W, or a successor index, for the 12 months before each
7 September 1st compiled by the United States department of labor's
8 bureau of labor statistics. Each adjusted benefit unit calculated
9 under this subsection takes effect on the following January 1st.

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

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

14 ~~(6))~~ "Eligible beneficiary" means a qualified individual who is
15 age ~~((eighteen))~~ 18 or older, ~~((residing in the state of~~
16 ~~Washington,))~~ has been determined to meet the minimum level of
17 assistance with activities of daily living necessary to receive
18 benefits through the trust program, as ~~((established in this~~
19 ~~chapter))~~ provided in RCW 50B.04.060, and has not exhausted the
20 lifetime limit of benefit units.

21 ~~((7))~~ (6) "Employee" has the meaning provided in RCW
22 50A.05.010.

23 ~~((8))~~ (7) "Employer" has the meaning provided in RCW
24 50A.05.010.

25 ~~((9))~~ (8) "Employment" has the meaning provided in RCW
26 50A.05.010.

27 ~~((10))~~ (9) "Exempt employee" means a person who has been
28 granted a premium assessment exemption by the employment security
29 department.

30 ~~((11))~~ (10) "Long-term services and supports provider" means:

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

39 (b) For entities providing services to an eligible beneficiary
40 outside Washington, an entity that meets minimum standards for care

1 provision and program administration, as established by the
2 department of social and health services, and that is appropriately
3 credentialed in the jurisdiction in which the services are being
4 provided as established by the department of social and health
5 services.

6 ((~~12~~)) (11) "Premium" or "premiums" means the payments required
7 by RCW 50B.04.080 and paid to the employment security department for
8 deposit in the account created in RCW 50B.04.100.

9 ((~~13~~)) (12) "Program" means the long-term services and supports
10 trust program established in this chapter.

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

17 ((~~15~~)) (14) "Qualified individual" means an individual who
18 meets the duration of payment requirements, as established in this
19 chapter.

20 ((~~16~~)) (15) "State actuary" means the office of the state
21 actuary created in RCW 44.44.010.

22 ((~~17~~)) (16) "Wage or wages" means all remuneration paid by an
23 employer to an employee. Remuneration has the meaning provided in RCW
24 50A.05.010. All wages are subject to a premium assessment and not
25 limited by the commissioner of the employment security department, as
26 provided under RCW 50A.10.030(4).

27 **Sec. 4.** RCW 50B.04.020 and 2022 c 1 s 1 are each amended to read
28 as follows:

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

36 (2) The health care authority shall:

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

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

5 (c) Establish criteria for the payment of benefits to
6 (~~registered~~) long-term services and supports providers under RCW
7 50B.04.070;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (4) The employment security department shall:

12 (a) Collect and assess employee premiums as provided in RCW
13 50B.04.080 and 50B.04.090 and section 2 of this act;

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

16 (c) Perform investigations to determine the compliance of premium
17 payments in RCW 50B.04.080 and 50B.04.090 and section 2 of this act
18 in coordination with the same activities conducted under the family
19 and medical leave act, Title 50A RCW, to the extent possible;

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

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

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

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

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

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

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

14 **Sec. 5.** RCW 50B.04.030 and 2022 c 1 s 2 are each amended to read
15 as follows:

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

20 (2) The commission includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 ~~((Providing a recommendation to the council for the annual
10 adjustment of the benefit unit in accordance with RCW 50B.04.010 and
11 50B.04.040;~~

12 ~~(f))~~ A refund of premiums for a deceased qualified individual
13 with a dependent who is an individual with a developmental disability
14 who is dependent for support from a qualified individual. The
15 qualified individual must not have been determined to be an eligible
16 beneficiary by the department of social and health services. The
17 refund shall be deposited into an individual trust account within the
18 developmental disabilities endowment trust fund for the benefit of
19 the dependent with a developmental disability. The commission shall
20 consider:

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

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

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

37 ~~(h) For the January 1, 2021, report only, recommendations on
38 whether and how to extend coverage to individuals who became disabled
39 before the age of eighteen, including the impact on the financial~~

1 ~~status and solvency of the trust. The commission shall engage~~
2 ~~affected stakeholders to develop this recommendation; and~~

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

9 (5) The commission shall monitor agency administrative expenses
10 over time. Beginning November 15, 2020, the commission must annually
11 report to the governor and the fiscal committees of the legislature
12 on agency spending for administrative expenses and anticipated
13 administrative expenses as the program shifts into different phases
14 of implementation and operation. The November 15, 2027, report must
15 include recommendations for a method of calculating future agency
16 administrative expenses to limit administrative expenses while
17 providing sufficient funds to adequately operate the program. The
18 agency heads identified in subsection (2) of this section may advise
19 the commission on the reports prepared under this subsection, but
20 must recuse themselves from the commission's process for review,
21 approval, and submission to the legislature.

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

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

33 **Sec. 6.** RCW 50B.04.050 and 2022 c 2 s 3 and 2022 c 1 s 3 are
34 each reenacted and amended to read as follows:

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

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

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

5 (2) A person born before January 1, 1968, who has not met the
6 duration requirements under subsection (1)(a) of this section may
7 become a qualified individual with fewer than the number of years
8 identified in subsection (1)(a) of this section if the person has
9 paid the long-term services and supports premiums required by RCW
10 50B.04.080 for at least one year. A person becoming a qualified
11 individual pursuant to this subsection (2) may receive one-tenth of
12 the maximum number of benefit units available under RCW
13 50B.04.060(3)(b) for each year of premium payments. In accordance
14 with RCW 50B.04.060, benefits for eligible beneficiaries in
15 Washington will not be available until July 1, 2026, and benefits for
16 out-of-state participants who become eligible beneficiaries will not
17 be available until July 1, 2030, and nothing in this section requires
18 the department of social and health services to accept applications
19 for determining an individual's status as an eligible beneficiary
20 prior to July 1, 2026. Nothing in this subsection (2) prohibits a
21 person born before January 1, 1968, who meets the conditions of
22 subsection (1)(b) of this section from receiving the maximum number
23 of benefit units available under RCW 50B.04.060(3)(b).

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

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

33 NEW SECTION. Sec. 7. A new section is added to chapter 50B.04
34 RCW to read as follows:

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

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

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

7 **Sec. 8.** RCW 50B.04.055 and 2022 c 2 s 2 are each amended to read
8 as follows:

9 (1) (~~Beginning January 1, 2023, the~~) The employment security
10 department shall accept and approve applications for voluntary
11 exemptions from the premium assessment under RCW 50B.04.080 for any
12 employee who meets criteria established by the employment security
13 department for an exemption based on the employee's status as:

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

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

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

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

26 (d) Beginning January 1, 2025, an active duty service member in
27 the United States armed forces, whether or not deployed or stationed
28 within or outside of Washington, who is concurrently engaged in off-
29 duty civilian employment as an employee of an employer.

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

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

1 (4) (a) An exemption granted in accordance with the conditions
2 under subsection (1)(b) of this section must be discontinued within
3 90 days of:

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

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

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

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

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

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

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

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

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

38 (~~(5)(a) An exemption granted in accordance with the conditions~~
39 ~~under subsection (1)(c) of this section must be discontinued within~~
40 ~~90 days of an employee changing the employee's nonimmigrant visa for~~

1 ~~temporary workers status to become a permanent resident or citizen~~
2 ~~employed in Washington.~~

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

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

11 ~~(ii) Notify the employee's employer that the employee no longer~~
12 ~~holds a nonimmigrant visa for temporary workers and is a permanent~~
13 ~~resident or citizen employed in Washington, and that the employer~~
14 ~~must begin collecting premiums from the employee in accordance with~~
15 ~~RCW 50B.04.080.~~

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

21 ~~(d) Failure to begin paying the premium established under RCW~~
22 ~~50B.04.080 within 90 days of an employee no longer holding a~~
23 ~~nonimmigrant visa for temporary workers and becoming a permanent~~
24 ~~resident or citizen employed in Washington shall result in the~~
25 ~~payment of any unpaid premiums from the employee, with interest at~~
26 ~~the rate of one percent per month or fraction thereof, by the~~
27 ~~employee to the employment security department from the date on which~~
28 ~~the payment should have begun.~~

29 ~~(6)(a) An exemption granted in accordance with the conditions~~
30 ~~under subsection (1)(d) of this section must be discontinued within~~
31 ~~90 days of an employee establishing a permanent address within~~
32 ~~Washington as the employee's primary location of residence.~~

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

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

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

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

9 ~~(d) Failure to begin paying the premium established under RCW~~
10 ~~50B.04.080 within 90 days of an employee establishing a permanent~~
11 ~~address within Washington as the employee's primary location of~~
12 ~~residence shall result in the payment of any unpaid premiums from the~~
13 ~~employee, with interest at the rate of one percent per month or~~
14 ~~fraction thereof, by the employee to the employment security~~
15 ~~department from the date on which the payment should have begun.~~

16 ~~(7))~~ (6) Exempt employees are not entitled to a refund of any
17 premium deductions made before the effective date of an approved
18 exemption, except for premiums collected prior to the effective date
19 of the premium assessment under RCW 50B.04.080.

20 ~~((8))~~ (7) An employee who has received an exemption pursuant to
21 this section shall provide written notification to all current and
22 future employers of an approved exemption.

23 ~~((9))~~ (8) If an exempt employee fails to notify an employer of
24 an exemption, the exempt employee is not entitled to a refund of any
25 premium deductions made before notification is provided, except for
26 premiums collected prior to the effective date of the premium
27 assessment under RCW 50B.04.080.

28 ~~((10))~~ (9) Employers may not deduct premiums after being
29 notified by an employee of an approved exemption issued under this
30 section.

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

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

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

39 ~~((11))~~ (10) The provisions of RCW 50B.04.085 do not apply to
40 the exemptions issued pursuant to this section.

1 (~~(12)~~) (11) The employment security department shall adopt
2 rules necessary to implement and administer the activities specified
3 in this section related to the program, including rules on the
4 submission and processing of applications under this section.

5 **Sec. 9.** RCW 50B.04.060 and 2022 c 1 s 4 are each amended to read
6 as follows:

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

11 (2) (~~Beginning~~) (a)(i) Except for qualified individuals
12 residing outside of Washington as provided in (a)(ii) of this
13 subsection, beginning July 1, 2026, a qualified individual may become
14 an eligible beneficiary by filing an application with the department
15 of social and health services and undergoing an eligibility
16 determination which includes an evaluation that the individual
17 requires assistance with at least three activities of daily
18 living(~~-~~), as defined by the department of social and health
19 services for long-term services and supports programs, which is
20 expected to last for at least 90 days.

21 (ii) For a qualified individual residing outside of Washington,
22 beginning January 1, 2030, the out-of-state qualified individual may
23 become an eligible beneficiary by filing an application with the
24 department of social and health services and undergoing an
25 eligibility determination. The eligibility determination must include
26 an evaluation that the individual either (A) is unable to perform,
27 without substantial assistance from another individual, at least two
28 of the following activities of daily living for a period of at least
29 90 days due to a loss of functional capacity: Eating, toileting,
30 transferring, bathing, dressing, or continence, or (B) requires
31 substantial supervision to protect such individual from threats to
32 health and safety due to severe cognitive impairments.

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

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

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

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

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

13 **Sec. 10.** RCW 50B.04.070 and 2019 c 363 s 8 are each amended to
14 read as follows:

15 (1) (a) Benefits provided under this chapter shall be paid
16 periodically and promptly to ~~((registered))~~ long-term services and
17 supports providers ~~((-~~

18 ~~-2-))~~ who provide approved services to:

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

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

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

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

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

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

3 (1) An employee who attests that the employee has long-term care
4 insurance purchased before November 1, 2021, may apply for an
5 exemption from the premium assessment under RCW 50B.04.080. (~~An
6 exempt employee may not become a qualified individual or eligible
7 beneficiary and is permanently ineligible for coverage under this
8 title.~~)

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) Prior to July 1, 2028, an employee who has received an
2 approved exemption pursuant to this section may rescind the exemption
3 and participate in the program. The employee must notify the
4 employment security department of the rescission according to
5 procedures established by the employment security department. The
6 employee will be subject to premium assessments under RCW 50B.04.080
7 or 50B.04.090 upon notification to the employment security department
8 of the rescission. The employee is not responsible for any premiums
9 that would have been assessed prior to the rescission. When deeming a
10 person to be a qualified individual under RCW 50B.04.050, the
11 employment security department may not consider any years in which
12 the rescinding employee had been in exempt status unless the employee
13 had been assessed the premium for a part of the year and the number
14 of hours worked while being assessed met the minimum hour
15 requirement.

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

21 **Sec. 12.** RCW 50B.04.100 and 2019 c 363 s 11 are each amended to
22 read as follows:

23 (1) The long-term services and supports trust account is created
24 in the custody of the state treasurer. All receipts from employers
25 under RCW 50B.04.080 and from out-of-state participants under section
26 2 of this act, and any funds attributable to savings derived through
27 a waiver with the federal centers for medicare and medicaid services
28 pursuant to RCW 50B.04.130 must be deposited in the account.
29 Expenditures from the account may be used for the administrative
30 activities of the department of social and health services, the
31 health care authority, and the employment security department.
32 Benefits associated with the program must be disbursed from the
33 account by the department of social and health services. Only the
34 secretary of the department of social and health services or the
35 secretary's designee may authorize disbursements from the account.
36 The account is subject to the allotment procedures under chapter
37 43.88 RCW. An appropriation is required for administrative expenses,
38 but not for benefit payments. The account must provide reimbursement

1 of any amounts from other sources that may have been used for the
2 initial establishment of the program.

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

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

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

19 (1) When a qualified individual applies for benefits as provided
20 in RCW 50B.040.060, the department of social and health services
21 must: (a) Ask whether the qualified individual has supplemental long-
22 term care insurance as provided in chapter 48.--- RCW (the new
23 chapter created in section 38 of this act); and (b) request written
24 consent and the policy issuer's contact information from the
25 qualified individual to share information with the policy issuer for
26 any potential care coordination.

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

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

36 NEW SECTION. **Sec. 14.** (1) The department of social and health
37 services, the employment security department, and the health care
38 authority may design and conduct a pilot project to assess the

1 administrative processes and system capabilities for managing
2 eligibility determinations for qualified individuals and distributing
3 payments to long-term services and supports providers. The pilot
4 project may identify persons who are eligible to be qualified
5 individuals, except that they do not meet the duration requirements
6 under RCW 50B.04.050, and offer them access to benefit units under
7 the program in return for their participation in the pilot project.
8 The pilot project may only be conducted between January 1, 2026, and
9 June 30, 2026. The pilot project may not have more than 500
10 participants.

11 (2) When designing and implementing the pilot project, the
12 agencies identified in subsection (1) of this section must provide
13 regular updates to and consider recommendations from the long-term
14 services and supports trust commission. Upon completion of the pilot
15 project, the agencies must provide a summary of the pilot project,
16 including key operational challenges, to the commission. The
17 commission may include any outstanding concerns identified by the
18 pilot project that require a legislative response in the commission's
19 2027 report.

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

22 (4) This section expires July 1, 2027.

23 NEW SECTION. **Sec. 15.** The intent of this chapter is to promote
24 the public interest, support the availability of supplemental long-
25 term care coverage, establish standards for supplemental long-term
26 care coverage, facilitate public understanding and comparison of
27 supplemental long-term care contract benefits, protect persons
28 insured under supplemental long-term care insurance policies and
29 certificates, protect applicants for supplemental long-term care
30 policies from unfair or deceptive sales or enrollment practices, and
31 provide for flexibility and innovation in the development of
32 supplemental long-term care insurance coverage.

33 NEW SECTION. **Sec. 16.** (1) This chapter applies to all
34 supplemental long-term care insurance policies, contracts, or riders
35 delivered or issued for delivery in this state on or after January 1,
36 2026. This chapter does not supersede the obligations of entities
37 subject to this chapter to comply with other applicable laws to the
38 extent that they do not conflict with this chapter, except that laws

1 and regulations designed and intended to apply to medicare supplement
2 insurance policies shall not be applied to supplemental long-term
3 care insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (6) "Policy" includes a document such as an insurance policy,
38 contract, subscriber agreement, rider, or endorsement delivered or
39 issued for delivery in this state by an insurer, fraternal benefit
40 society, health care service contractor, health maintenance

1 organization, or any similar entity authorized by the insurance
2 commissioner to transact the business of supplemental long-term care
3 insurance.

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

7 (a) An individual or group insurance contract that meets the
8 requirements of section 7702B(b) of the internal revenue code of
9 1986, as amended; or

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

14 (8) "Supplemental long-term care insurance" means an insurance
15 policy, contract, or rider that is advertised, marketed, offered, or
16 designed to provide coverage for at least 12 consecutive months for a
17 covered person after benefits provided under chapter 50B.04 RCW have
18 been exhausted. Supplemental long-term care insurance may be on an
19 expense incurred, indemnity, prepaid, or other basis, for one or more
20 necessary or medically necessary diagnostic, preventive, therapeutic,
21 rehabilitative, maintenance, or personal care services, provided in a
22 setting other than an acute care unit of a hospital. Supplemental
23 long-term care insurance includes any policy, contract, or rider that
24 provides for payment of benefits based upon cognitive impairment or
25 the loss of functional capacity that supplements benefits provided in
26 chapter 50B.04 RCW.

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

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

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

10 NEW SECTION. **Sec. 18.** A group supplemental long-term care
11 insurance policy may not be offered to a resident of this state under
12 a group policy issued in another state to a group described in
13 section 17(5)(d) of this act, unless this state or another state
14 having statutory and regulatory supplemental long-term care insurance
15 requirements substantially similar to those adopted in this state has
16 made a determination that such requirements have been met.

17 NEW SECTION. **Sec. 19.** (1) A supplemental long-term care
18 insurance policy or certificate may not define "preexisting
19 condition" more restrictively than as a condition for which medical
20 advice or treatment was recommended by or received from a provider of
21 health care services, within six months preceding the effective date
22 of coverage of an insured person, unless the policy or certificate
23 applies to group supplemental long-term care insurance under section
24 17(5) (a), (b), or (c) of this act.

25 (2) A supplemental long-term care insurance policy or certificate
26 may not exclude coverage for a loss or confinement that is the result
27 of a preexisting condition unless the loss or confinement begins
28 within six months following the effective date of coverage of an
29 insured person, unless the policy or certificate applies to a group
30 as defined in section 17(5)(a) of this act.

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

34 (4) An issuer may use an application form designed to elicit the
35 complete health history of an applicant and underwrite in accordance
36 with that issuer's established underwriting standards, based on the
37 answers on that application. Unless otherwise provided in the policy
38 or certificate and regardless of whether it is disclosed on the

1 application, a preexisting condition need not be covered until the
2 waiting period expires.

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

7 NEW SECTION. **Sec. 20.** (1) No supplemental long-term care
8 insurance policy may:

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

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

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

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

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

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

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

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

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

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

37 (i)(i) Provide for a deductible that is greater than the maximum
38 dollar equivalent provided in RCW 50B.04.060(3)(b), including
39 inflation adjustments provided in RCW 50B.04.010(3), without the

1 limitation provided in RCW 50B.04.050(2). The issuer may provide for
2 a deductible that is less than the maximum dollar equivalent provided
3 in RCW 50B.04.060(3)(b), especially for a policyholder born before
4 1968;

5 (ii) The issuer must accept notice from the department of social
6 and health services that the policyholder has exhausted the benefits
7 provided under chapter 50B.04 RCW as evidence of satisfying the
8 deductible. However, for a policyholder born before 1968, the
9 department must provide the amount of benefits paid under chapter
10 50B.04 RCW as evidence of payment toward the deductible;

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

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

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

30 NEW SECTION. **Sec. 21.** (1) Supplemental long-term care insurance
31 applicants may return a policy or certificate for any reason within
32 30 days after its delivery and to have the premium refunded.

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

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

1 (4) This section does not apply to certificates issued pursuant
2 to a policy issued to a group defined in section 17(5)(a) of this
3 act.

4 NEW SECTION. **Sec. 22.** (1) An outline of coverage must be
5 delivered to a prospective applicant for supplemental long-term care
6 insurance at the time of initial solicitation through means that
7 prominently direct the attention of the recipient to the document and
8 its purpose.

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

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

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

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

22 (iv) That premiums continue after retirement;

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

25 (vi) That the purchase of the policy does not qualify the
26 policyholder to apply to be exempt from premium assessments under RCW
27 50B.04.085.

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

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

35 (d) If a policy is issued to a group as defined in section
36 17(5)(a) of this act, an outline of coverage is not required to be
37 delivered, if the information that the commissioner requires to be
38 included in the outline of coverage is in other materials relating to

1 enrollment. Upon request, any such materials must be made available
2 to the commissioner.

3 (2) If an issuer approves an application for a supplemental long-
4 term care insurance contract or certificate, the issuer must deliver
5 the contract or certificate of insurance to the applicant within 30
6 days after the date of approval. A policy summary must be delivered
7 with an individual life insurance policy that provides supplemental
8 long-term care benefits within the policy or by rider. In a direct
9 response solicitation, the issuer must deliver the policy summary,
10 upon request, before delivery of the policy, if the applicant
11 requests a summary.

12 (a) The policy summary must include:

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

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

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

21 (iv) A statement that any supplemental long-term care inflation
22 protection option required by section 28 of this act is not available
23 under this policy; and

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

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

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

30 (C) Current and projected maximum lifetime benefits.

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

35 NEW SECTION. **Sec. 23.** A supplemental long-term care insurance
36 policy, contract, or rider must:

37 (1) Allow the policyholder options for reduction of benefits or
38 nonforfeiture of premiums as provided in section 29 of this act if
39 the premiums increase or the policyholder's circumstances change and

1 the policyholder is unable or unwilling to pay the increased
2 premiums;

3 (2) Allow for continuity of coverage of care settings and
4 providers, including family providers, that the policyholder was
5 receiving as benefits under the program provided in chapter 50B.04
6 RCW unless there is substantial clinical or other information showing
7 that the current care setting or provider cannot meet the care and
8 safety needs of the policyholder. If the issuer makes a determination
9 that the care setting or providers are not suited to meeting the care
10 and safety needs of the policyholder, the issuer may require a change
11 of care setting or provider under the policy, effective 90 days after
12 the transition from the benefits provided under chapter 50B.04 RCW.
13 The policyholder may appeal the determination through an independent
14 third-party review as tracked by the commissioner. The issuer may
15 audit for fraudulent claims where the care being claimed is not being
16 provided; and

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

19 NEW SECTION. **Sec. 24.** (1) When a policyholder purchases a
20 supplemental long-term care insurance policy, the issuer must request
21 written consent from the policyholder to share information with the
22 department of social and health services. If the policyholder
23 provides written consent, the issuer must inform the department of
24 social and health services that the policyholder has purchased a
25 supplemental long-term care insurance policy and share any
26 information with the department for the purposes of any potential
27 care coordination.

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

33 NEW SECTION. **Sec. 25.** If a supplemental long-term care benefit
34 funded through a life insurance policy by the acceleration of the
35 death benefit is in benefit payment status, a monthly report must be
36 provided to the policyholder. The report must include:

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

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

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

6 NEW SECTION. **Sec. 26.** All supplemental long-term care denials
7 must be made within 30 days after receipt of a written request made
8 by a policyholder or certificate holder, or the policyholder's
9 representative. All denials of supplemental long-term care claims by
10 the issuer must provide a written explanation of the reasons for the
11 denial and make available to the policyholder or certificate holder
12 all information directly related to the denial.

13 NEW SECTION. **Sec. 27.** (1) An issuer may rescind a supplemental
14 long-term care insurance policy or certificate or deny an otherwise
15 valid supplemental long-term care insurance claim if:

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

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

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

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

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

1 NEW SECTION. **Sec. 28.** (1) The commissioner must establish
2 minimum standards for inflation protection features.

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

6 (3) In addition to complying with the rules adopted under this
7 section, no issuer may offer a supplemental long-term care insurance
8 policy in this state unless the issuer also offers to the
9 policyholder, in addition to any other inflation protection, the
10 option to purchase a policy that provides for benefit levels to
11 increase by at least three percent annually.

12 NEW SECTION. **Sec. 29.** (1) Except as provided by this section, a
13 supplemental long-term care insurance policy may not be delivered or
14 issued for delivery in this state unless the policyholder or
15 certificate holder has been offered the option of purchasing a policy
16 or certificate that includes a nonforfeiture benefit. The offer of a
17 nonforfeiture benefit may be in the form of a rider that is attached
18 to the policy. If a policyholder or certificate holder declines the
19 nonforfeiture benefit, the issuer must provide a contingent benefit
20 upon lapse that is available for a specified period of time following
21 a substantial increase in premium rates.

22 (2) If a group supplemental long-term care insurance policy is
23 issued, the offer required in subsection (1) of this section must be
24 made to the group policyholder. However, if the policy is issued as
25 group supplemental long-term care insurance as defined in section
26 17(5)(d) of this act other than to a continuing care retirement
27 community or other similar entity, the offering must be made to each
28 proposed certificate holder.

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

37 NEW SECTION. **Sec. 30.** A person may not sell, solicit, or
38 negotiate supplemental long-term care insurance unless the person is

1 appropriately licensed as an insurance producer and has successfully
2 completed supplemental long-term care coverage education that meets
3 the requirements of this section.

4 (1) All supplemental long-term care education required by this
5 chapter must meet the requirements of chapter 48.17 RCW and rules
6 adopted by the commissioner.

7 (2)(a) Before soliciting, selling, or negotiating supplemental
8 long-term care insurance coverage, an insurance producer must
9 successfully complete a one-time education course consisting of no
10 fewer than eight hours on long-term care coverage, the provisions of
11 chapter 50B.04 RCW and any rules adopted to implement the program,
12 long-term care services, other state and federal regulations and
13 requirements for long-term care and qualified long-term care
14 insurance coverage, changes or improvements in long-term care
15 services or providers, alternatives to the purchase of long-term care
16 insurance coverage, the effect of inflation on benefits and the
17 importance of inflation protection, and consumer suitability
18 standards and guidelines.

19 (b) In addition to the one-time education and training
20 requirement set forth in (a) of this subsection, insurance producers
21 who engage in the solicitation, sale, or negotiation of supplemental
22 long-term care insurance coverage must successfully complete no fewer
23 than four hours every 24 months of continuing education specific to
24 supplemental long-term care insurance coverage and issues.
25 Supplemental long-term care insurance coverage continuing education
26 must consist of topics related to long-term care insurance, long-term
27 care services, and, if applicable, qualified state long-term care
28 insurance partnership programs, including, but not limited to, the
29 following:

30 (i) State and federal regulations and requirements and the
31 relationship between benefits offered under chapter 50B.04 RCW,
32 qualified state long-term care insurance partnership programs, and
33 other public and private coverage of long-term care services,
34 including medicaid;

35 (ii) Available long-term care services and providers;

36 (iii) Changes or improvements in long-term care services or
37 providers;

38 (iv) Alternatives to the purchase of private long-term care
39 insurance;

1 (v) The effect of inflation on benefits and the importance of
2 inflation protection;

3 (vi) This chapter and chapters 48.84 and 48.85 RCW; and

4 (vii) Consumer suitability standards and guidelines.

5 (3) The insurance producer education required by this section may
6 not include training that is issuer or company product-specific or
7 that includes any sales or marketing information, materials, or
8 training, other than those required by state or federal law.

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

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

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

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

30 NEW SECTION. **Sec. 31.** (1) Issuers and their agents, if any,
31 must determine whether issuing supplemental long-term care insurance
32 coverage to a particular person is appropriate, except in the case of
33 a life insurance policy that accelerates benefits for supplemental
34 long-term care.

35 (2) An issuer must:

36 (a) Develop and use suitability standards to determine whether
37 the purchase or replacement of supplemental long-term care coverage
38 is appropriate for the needs of the applicant or insured, using a
39 best interest standard. The issuers and their agents must act in the

1 best interests of the applicant or policyholder under the
2 circumstances known at the time the recommendation is made, without
3 putting the issuer or agent's financial interests ahead of the
4 interests of the applicant or policyholder;

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

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

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

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

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

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

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

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

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

30 NEW SECTION. **Sec. 32.** A person engaged in the issuance or
31 solicitation of supplemental long-term care coverage may not engage
32 in unfair methods of competition or unfair or deceptive acts or
33 practices, as such methods, acts, or practices are defined in chapter
34 48.30 RCW, or as defined by the commissioner.

35 NEW SECTION. **Sec. 33.** An issuer or an insurance producer who
36 violates a law or rule relating to the regulation of supplemental
37 long-term care insurance or its marketing is subject to a fine of up

1 to three times the amount of the commission paid for each policy
2 involved in the violation or up to \$10,000, whichever is greater.

3 NEW SECTION. **Sec. 34.** (1) The commissioner must adopt rules
4 that include standards for full and fair disclosure setting forth the
5 manner, content, and required disclosures for the sale of
6 supplemental long-term care insurance policies, terms of
7 renewability, initial and subsequent conditions of eligibility,
8 nonduplication of coverage provisions, coverage of dependents,
9 preexisting conditions, termination of insurance, continuation or
10 conversion, probationary periods, limitations, exceptions,
11 reductions, elimination periods, requirements for replacement,
12 recurrent conditions, and definitions of terms. The commissioner must
13 adopt rules establishing loss ratio standards for supplemental long-
14 term care insurance policies. The commissioner must adopt rules to
15 promote premium adequacy and to protect policyholders in the event of
16 proposed substantial rate increases, and to establish minimum
17 standards for producer education, marketing practices, producer
18 compensation, producer testing, penalties, and reporting practices
19 for supplemental long-term care insurance.

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

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

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

32 NEW SECTION. **Sec. 35.** (1) The commissioner must:

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

37 (b) Expand programs to educate consumers as to the supplemental
38 long-term care insurance policies provided under this chapter, with a

1 focus on the middle-income market. If allowable under federal law,
2 the commissioner must expand the statewide health insurance benefits
3 advisor program to provide the consumer education.

4 (2) The guide and programs should:

5 (a) Provide additional information and counseling for consumers
6 born before 1968. This information and counseling should educate
7 these consumers as to potential out-of-pocket costs they may be
8 subject to before supplemental long-term care insurance will begin
9 paying claims and strategies for managing the gap between benefits
10 payable under chapter 50B.04 RCW and coverage under supplemental
11 long-term care insurance.

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

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

18 NEW SECTION. **Sec. 36.** A new section is added to chapter 48.83
19 RCW to read as follows:

20 This chapter does not apply to supplemental long-term care
21 insurance as defined in section 17 of this act.

22 NEW SECTION. **Sec. 37.** RCW 50B.04.040 (Long-term services and
23 supports council—Benefit unit adjustment) and 2019 c 363 s 5 are each
24 repealed.

25 NEW SECTION. **Sec. 38.** Sections 15 through 35 of this act
26 constitute a new chapter in Title 48 RCW.

27 NEW SECTION. **Sec. 39.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 40.** This act is not a conflicting measure
32 dealing with the same subject as Initiative Measure No. 2124 within
33 the meaning of Article II, section 1 of the state Constitution, but
34 if a court of competent jurisdiction enters a final judgment that is
35 no longer subject to appeal directing the secretary of state to place

1 this act on the 2024 ballot as a conflicting measure to Initiative
2 Measure No. 2124, this act is null and void and may not be placed on
3 the 2024 ballot.

4 NEW SECTION. **Sec. 41.** This act takes effect January 1, 2025,
5 only if Initiative Measure No. 2124 is not approved by a vote of the
6 people in the 2024 general election. If Initiative Measure No. 2124
7 is approved by a vote of the people in the 2024 general election,
8 this act is null and void.

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