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SENATE BILL 5701

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State of Washington

65th Legislature

2017 Regular Session

By Senators Frockt, Keiser, Chase, Hasegawa, Darneille, Ranker, McCoy, Kuderer, Saldaña, Conway, and Hunt

1 AN ACT Relating to creating the Washington apple care trust;  
2 adding a new chapter to Title 43 RCW; creating new sections;  
3 repealing RCW 82.04.260 and 48.14.0201; providing contingent  
4 effective dates; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The people of the state of Washington  
7 declare their intention to create a single health financing entity  
8 called the Washington apple care trust. Through public hearings,  
9 research, and consensus building, the trust will: (1) Provide fair,  
10 simple, and accountable health care financing for all Washington  
11 residents using a single health care financing entity; (2) cover a  
12 comprehensive package of effective and necessary personal health  
13 services; (3) make health care coverage independent from employment;  
14 (4) eliminate excessive administrative costs resulting from the  
15 current fragmented system of multiple insurers; (5) generate savings  
16 sufficient to ensure coverage for all Washington residents; (6)  
17 integrate current publicly sponsored health programs into the trust;  
18 (7) preserve choice of providers for Washington residents; (8)  
19 protect patient rights; (9) keep clinical decisions in the hands of  
20 health professionals and patients, rather than administrative

1 personnel; (10) promote health care quality; and (11) control  
2 excessive health care costs.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply  
4 throughout this chapter unless the context clearly requires  
5 otherwise.

6 (1) "Board" means the board of trustees of the Washington apple  
7 care trust, created in section 3 of this act.

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

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

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

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

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

22 (7) "Group practice" or "group" means a group of practitioners  
23 voluntarily joined into an organization for the purpose of sharing  
24 administrative costs, negotiating with payers and controlling the  
25 circumstances of their medical practice, and, in some cases, sharing  
26 revenues. The group may be of a single specialty or include more than  
27 one specialty.

28 (8) "Health care facility" or "facility" includes any of the  
29 following appropriately accredited entities: Hospices licensed  
30 pursuant to chapter 70.127 RCW; hospitals licensed pursuant to  
31 chapter 70.41 RCW; rural health care facilities as defined in RCW  
32 70.175.020; psychiatric hospitals licensed pursuant to chapter 71.12  
33 RCW; nursing homes licensed pursuant to chapter 18.51 RCW; community  
34 mental health centers licensed pursuant to chapter 71.05 or 71.24  
35 RCW; kidney disease treatment centers licensed pursuant to chapter  
36 70.41 RCW; ambulatory diagnostic, treatment, or surgical facilities  
37 licensed pursuant to chapter 70.41 RCW; approved drug and alcohol  
38 treatment facilities certified by the department of social and health  
39 services; home health agencies licensed pursuant to chapter 70.127

1 RCW; and such facilities if owned and operated by a political  
2 subdivision or instrumentality of the state and such other facilities  
3 as required by federal law and implementing regulations.

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

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

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

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

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

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

28 (15) "Resident" means an individual who presents evidence of  
29 established, permanent residency in the state of Washington, who did  
30 not enter the state for the primary purpose of obtaining health  
31 services. "Resident" also includes people and their accompanying  
32 family members who are residing in the state for the purpose of  
33 engaging in employment for at least one month. The confinement of a  
34 person in a nursing home, hospital, or other medical institution in  
35 the state may not by itself be sufficient to qualify such person as a  
36 resident.

37 (16) "Trust" means the Washington apple care trust created in  
38 section 3 of this act.

1        NEW SECTION.    **Sec. 3.**    An agency of state government known as the  
2 Washington apple care trust is created. The purpose of the trust is  
3 to provide coverage for a set of health services for all residents.

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

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

19        (b) By December 15th following the effective date of this  
20 section, the governor shall appoint the initial trustees. The  
21 governor shall appoint one trustee from each of the lists submitted  
22 by the house of representatives and the senate. If a caucus fails to  
23 submit a list as required in (a) of this subsection, or if the  
24 nominees on the list do not meet the qualifications specified in  
25 subsection (1) of this section, the governor shall appoint a  
26 substitute trustee meeting the qualifications specified in subsection  
27 (1) of this section at the governor's discretion. The governor shall  
28 appoint five additional trustees meeting the qualifications specified  
29 in subsection (1) of this section at his or her discretion.

30        (c) Of the initial trustees, three shall be appointed to terms of  
31 two years, three shall be appointed to terms of four years, and three  
32 shall be appointed to terms of six years. Thereafter, trustees shall  
33 be appointed to six-year terms. Trustees may be appointed to multiple  
34 terms.

35        (d) The governor shall appoint one of the initial trustees as the  
36 chair of the board. The board shall elect its own chair from its  
37 members upon the expiration of the term of the initial chair or his  
38 or her departure from the board. The term of a chair elected by the  
39 board expires upon the expiration of his or her term on the board.

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

5 (4) A trustee whose term has expired or who otherwise leaves the  
6 board must be replaced by gubernatorial appointment. When the person  
7 leaving was nominated by one of the caucuses of the house of  
8 representatives or the senate, his or her replacement must be  
9 appointed from a list of five nominees submitted by that caucus  
10 within thirty days after the vacancy occurs. If the caucus fails to  
11 submit the list of nominees, or if the nominees do not meet the  
12 qualifications specified in subsection (1) of this section, the  
13 governor shall appoint a trustee meeting the qualifications specified  
14 in subsection (1) of this section at the governor's discretion. A  
15 person appointed to replace a trustee who leaves the board prior to  
16 the expiration of his or her term shall serve only the duration of  
17 the unexpired term.

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

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

21 (7) The health care authority shall provide staff support to the  
22 board.

23 (8) The trustees occupy their positions according to the bylaws,  
24 rules, and relevant governing documents of the board and are exempt  
25 from chapter 41.06 RCW. The board and its professional staff are  
26 subject to the public disclosure provisions of chapter 42.17A RCW.  
27 Trustees shall be paid a salary to be fixed by the governor in  
28 accordance with RCW 43.03.040. Six trustees constitute a quorum for  
29 the conduct of business.

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

32 (a) A financial advisory committee consisting of financial  
33 experts from the office of financial management, the office of the  
34 state treasurer, and the office of the insurance commissioner. The  
35 financial advisory committee shall recommend specific details for  
36 major budget decisions and for appropriations, taxes, and other  
37 funding legislation necessary to conduct the operations of the  
38 Washington apple care trust;

1 (b) A citizens' advisory committee consisting of balanced  
2 representation from health experts, business, labor, and consumers.  
3 The citizens' advisory committee shall hold public hearings on  
4 priorities for inclusion in the set of health services, survey public  
5 satisfaction, investigate complaints, and identify and report on  
6 health care access and other priority issues for residents; and

7 (c) A technical advisory committee consisting of members with  
8 broad experience in and knowledge of health care delivery, research,  
9 and policy, as well as public and private funding of health care  
10 services. The technical advisory committee shall make recommendations  
11 to the board on technical issues related to covered benefits, quality  
12 assurance, utilization, and other issues as requested by the board.

13 (2) The board shall consult with the citizens' advisory committee  
14 at least quarterly, receive its reports and recommendations, and then  
15 report to the governor and legislature at least annually on board  
16 actions in response to citizens' advisory committee input. The board  
17 shall also seek financially sound recommendations from the financial  
18 advisory committee whenever the board requests funding legislation  
19 necessary to operate the Washington apple care trust and whenever the  
20 board considers major budget decisions.

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

23 (4) Members of committees shall serve without compensation for  
24 their services but shall be reimbursed for their expenses while  
25 attending meetings on behalf of the board in accordance with RCW  
26 43.03.050 and 43.03.060.

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

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

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

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

37 (4) Delegate administrative functions of the board to the  
38 executive director and staff of the trust as necessary to ensure  
39 efficient administration.

1        NEW SECTION.    **Sec. 7.**    (1) The board shall: (a) With advice from  
2 the citizens' advisory committee and the technical advisory  
3 committee, establish and keep current a set of health services to be  
4 financed by the trust, as provided in section 11 of this act; (b)  
5 subject to the funding mechanism established pursuant to the  
6 recommendations made under section 16 of this act, seek all necessary  
7 waivers so that current federal and state payments for health  
8 services to residents will be paid directly to the trust; (c) subject  
9 to the funding mechanism established pursuant to the recommendations  
10 made under section 16 of this act, request legislation authorizing  
11 the assessments and premiums necessary to operate the trust and make  
12 rules, policies, guidelines, and timetables needed for the trust to  
13 finance the set of health services for all residents starting the  
14 second May 15th following the effective date of this section; (d)  
15 develop or contract for development of a statewide, anonymous health  
16 care data system to use for quality assurance and cost containment;  
17 (e) with advice from the technical advisory committee, develop health  
18 care practice guidelines and quality standards; (f) develop policies  
19 to protect confidentiality of patient records throughout the health  
20 care delivery system and the claims payment system; (g) make  
21 eligibility rules, including eligibility for residents temporarily  
22 out-of-state; (h) develop or contract for development of a  
23 streamlined uniform claims processing system that must pay providers  
24 in a timely manner for covered health services; (i) develop appeals  
25 procedures for residents and providers; (j) integrate functions with  
26 other state agencies; (k) work with the citizens' advisory committee  
27 and the technical advisory committee to balance benefits and provider  
28 payments with revenues, and develop effective measures to control  
29 excessive and unnecessary health care costs; (l) address nonfinancial  
30 barriers to health care access; (m) monitor population migration into  
31 Washington state to detect any trends related to availability of  
32 universal health care coverage; and (n) develop an annual budget for  
33 the trust.

34        (2) To the extent that the exercise of any of the powers and  
35 duties specified in this section may be inconsistent with the powers  
36 and duties of other state agencies, offices, or commissions, the  
37 authority of the board supersedes that of such other state agency,  
38 office, or commission.

1        NEW SECTION.    **Sec. 8.**    Beginning the third May 15th following the  
2 effective date of this section, the board shall adopt, in  
3 consultation with the office of financial management, an annual  
4 Washington apple care trust budget. Except by legislative approval,  
5 each annual budget shall not exceed the budget for the preceding year  
6 by more than the Washington state consumer price index. If operations  
7 expenses exceed revenues generated in two consecutive years, the  
8 board shall recommend adjustments in either benefits or revenues, or  
9 both, to the legislature.

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

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

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

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

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

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

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

31       (3) Until federal waivers are accomplished, residents covered  
32 under federal health programs shall continue to use that coverage,  
33 and benefits provided by the trust shall extend only to costs not  
34 covered by the federal health programs unless: (a) The resident  
35 voluntarily elects to participate in the trust; (b) the resident's  
36 pay is considered in calculating the employer's assessment  
37 established pursuant to the recommendations made under section 16 of  
38 this act; and (c) either the employer or the employee pays the



1 premium established pursuant to the recommendations made under  
2 section 16 of this act.

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

6 (5) Pending integration of federally qualified trusts into the  
7 apple care trust, employees covered under the trusts are not eligible  
8 for coverage through the apple care trust unless: (a) The employee's  
9 pay is considered in calculating the employer's assessment  
10 established pursuant to the recommendations made under section 16 of  
11 this act; and (b) either the employer or the employee pays the  
12 premium established pursuant to the recommendations made under  
13 section 16 of this act.

14 (6) Pending integration of federally qualified trusts into the  
15 apple care trust, residents who are retirees covered under the trusts  
16 are not eligible for coverage through the apple care trust unless  
17 they pay the premium established pursuant to the recommendations made  
18 under section 16 of this act.

19 (7) Pending integration into the apple care trust of applicable  
20 federal programs described in section 18 of this act, Native American  
21 residents are not eligible for coverage through the apple care trust  
22 unless: (a) The resident's pay is considered in calculating the  
23 employer's assessment established pursuant to the recommendations  
24 made under section 16 of this act; and (b) either the employer or the  
25 resident pays any premium established pursuant to the recommendations  
26 made under section 16 of this act.

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

31 NEW SECTION. **Sec. 11.** (1) With advice from the citizens'  
32 advisory committee and the technical advisory committee, the board  
33 shall establish a single benefits package covering health services  
34 that are effective and necessary for the good health of residents and  
35 that emphasize preventive and primary health care. The board shall  
36 ensure that the benefits package constitutes minimum essential  
37 coverage for purposes of the federal patient protection and  
38 affordable care act.

1 (2) The benefits package shall include, but is not limited to:  
2 (a) Inpatient and outpatient hospital care, including twenty-four  
3 hour a day emergency services and emergency ambulance services; (b)  
4 outpatient, home-based, and office-based care; (c) rehabilitation  
5 services, including speech, occupational, and physical therapy; (d)  
6 inpatient and outpatient mental health services and substance abuse  
7 treatment; (e) hospice care; (f) prescription drugs and prescribed  
8 medical nutrition; (g) vision and hearing care; (h) diagnostic tests;  
9 (i) durable medical equipment; (j) preventive care; and (k) any other  
10 benefits defined as "essential health benefits" under the federal  
11 patient protection and affordable care act.

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

21 (4) The board, in coordination with the office of the insurance  
22 commissioner, shall examine by the third May 15th following the  
23 effective date of this section, possible remedies for residents who  
24 have made previous payments for long-term care insurance.

25 (5) The board shall submit to the legislature by the third July  
26 1st following the effective date of this section, a plan to  
27 incorporate dental care coverage in the benefits package, to be  
28 effective the following year.

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

33 (7) The board shall consider the extent to which medical research  
34 and health professions training activities should be included in the  
35 scope of covered activities set forth in this act. The board shall  
36 make a report to the governor and the legislature by the third July  
37 1st following the effective date of this section.

38 NEW SECTION. **Sec. 12.** (1) When consistent with existing federal  
39 law, the board shall require pharmaceutical and durable medical

1 equipment manufacturers to provide their products in Washington state  
2 at the lowest rate offered to federal and other government entities.

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

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

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

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

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

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

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

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

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

37 NEW SECTION. **Sec. 14.** (1) The intent of this section is to  
38 exempt activities approved under this act from state antitrust laws

1 and to provide immunity from federal antitrust laws through the state  
2 action doctrine.

3 (2) Activities that might otherwise be constrained by antitrust  
4 laws, including: (a) Containing the aggregate cost of health care  
5 services; (b) promoting cooperative activities among health care  
6 providers to develop cost-effective health care delivery systems; and  
7 (c) any other lawful actions taken under this act by any person or  
8 entity created or regulated by this act, are declared to be pursuant  
9 to state statute and for the public purposes of the state of  
10 Washington.

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

15 (2) The board shall work with providers to develop and apply  
16 scientifically based utilization standards, to use encounter and  
17 prescribing data to detect excessive utilization, to develop due  
18 processes for enforcing appropriate utilization standards, and to  
19 identify and prosecute fraud.

20 (3) The board may institute other cost-containment measures in  
21 order to maintain a balanced budget. The board shall pursue due  
22 diligence to ensure that cost-containment measures do not limit  
23 access to clinically necessary care, nor infringe upon legitimate  
24 clinical decision making by practitioners.

25 NEW SECTION. **Sec. 16.** (1) The joint select committee on health  
26 care oversight shall contract for an actuarial analysis of the  
27 funding needs of the Washington apple care trust created in section 3  
28 of this act and recommend a funding mechanism to the appropriate  
29 standing committees of the house of representatives, the senate, and  
30 the governor by October 1, 2018.

31 (2) The recommended funding mechanism may contain the following  
32 elements:

33 (a) An assessment to be paid by all employers in Washington  
34 state; and

35 (b) A monthly premium to be paid by Washington residents with  
36 incomes over two hundred percent of the federal poverty level,  
37 subject to exemptions such as for medicare and medicaid beneficiaries  
38 or for persons under the age of eighteen.

1 (3) The recommendations must also include recommended additional  
2 funding sources including, but not limited to, revenues collected  
3 under RCW 41.05.120, 41.05.130, 66.24.290, 82.24.020, 82.26.020,  
4 82.08.150, 43.79.480, and 41.05.220.

5 (4) The recommendations shall specify the amounts that must be  
6 deposited in the reserve account created in section 19 of this act,  
7 the displaced worker training account created in section 20 of this  
8 act, and the benefits account created in section 21 of this act.

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

13 (6) The legislature shall enact legislation implementing the  
14 recommendations of the joint select committee during the 2019 regular  
15 legislative session.

16 NEW SECTION. **Sec. 17.** Revenue derived from the assessment and  
17 the premium established pursuant to the recommendations made under  
18 section 16 of this act may not be used to pay for medical assistance  
19 currently provided under chapter 74.09 RCW or other existing federal  
20 and state health care programs. If existing federal and state sources  
21 of payment for health services are reduced or terminated after the  
22 effective date of this section, the legislature shall replace these  
23 appropriations from the general fund.

24 NEW SECTION. **Sec. 18.** (1) The board, in consultation with  
25 sovereign tribal governments as called for by the centennial accord,  
26 shall determine the state and federal laws that need to be repealed,  
27 amended, or waived to implement this act, and report its  
28 recommendations, with proposed revisions to the Revised Code of  
29 Washington, to the governor and the appropriate committees of the  
30 legislature by the first October 1st following the effective date of  
31 this section.

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

36 (a) Negotiate with the federal department of health and human  
37 services to obtain a statutory or regulatory waiver of provisions of

1 the medical assistance statute, Title XIX of the federal social  
2 security act and the children's health insurance program;

3 (b) Negotiate with the federal department of health and human  
4 services to obtain a statutory or regulatory waiver of provisions of  
5 the medicare statute, Title XVIII of the federal social security act,  
6 that currently constitute barriers to full implementation of this  
7 act;

8 (c) Negotiate with the federal department of health and human  
9 services to obtain any statutory or regulatory waivers of provisions  
10 of the United States public health services act necessary to ensure  
11 integration of federally funded community and migrant health clinics  
12 and other health services funded through the public health services  
13 act into the trust system under this act;

14 (d) Negotiate with the federal office of personnel management for  
15 the inclusion of federal employee health benefits in the trust under  
16 this act;

17 (e) Negotiate with the federal department of veterans' affairs  
18 for the inclusion of veterans' medical benefits in the trust under  
19 this act;

20 (f) Negotiate with the federal department of defense and other  
21 federal agencies for the inclusion of the civilian health and medical  
22 program of the uniformed services (CHAMPUS) in the trust under this  
23 act;

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

27 (h) Request that the United States congress amend the internal  
28 revenue code to treat the employer assessment and the individual  
29 premiums established pursuant to the recommendations made under  
30 section 16 of this act as fully deductible from adjusted gross  
31 income.

32 NEW SECTION. **Sec. 19.** (1) The reserve account is created in the  
33 custody of the state treasurer. The reserve account will accumulate  
34 moneys until its value equals ten percent of the total annual  
35 budgeted expenditures of the trust and then will be considered fully  
36 funded, unless the legislature determines that a different level of  
37 reserve is necessary and prudent. Whenever the reserve account is  
38 fully funded, additional moneys shall be transferred to the benefits  
39 account created in section 21 of this act.

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

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

14 (2) Any funds remaining in the account on the second December  
15 31st following the effective date of this section must be deposited  
16 into the benefits account created in section 21 of this act.

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

19 NEW SECTION. **Sec. 21.** The benefits account is created in the  
20 custody of the state treasurer. Expenditures from the account may be  
21 used only for health care services and maintenance of the trust. Only  
22 the board or the board's designee may authorize expenditures from the  
23 account. The account is subject to allotment procedures under chapter  
24 43.88 RCW, but an appropriation is not required for expenditures.

25 NEW SECTION. **Sec. 22.** Following the repeal, amendment, or  
26 waiver of existing state and federal laws delineated in section 18 of  
27 this act, all other revenues currently deposited in the health  
28 services account for personal health care services shall be deposited  
29 to the reserve account created in section 19 of this act and the  
30 benefits account created in section 21 of this act.

31 NEW SECTION. **Sec. 23.** Nothing in this act shall be construed to  
32 limit an employer's right to maintain employee benefit plans under  
33 the federal employee retirement income security act of 1974.

34 NEW SECTION. **Sec. 24.** No later than the third January 1st  
35 following the effective date of this section, the board shall submit

1 to the legislature a proposal to integrate those current and future  
2 federally qualified trusts that choose to participate in the trust.

3 NEW SECTION. **Sec. 25.** On or before the third January 1st  
4 following the effective date of this section, the board, in  
5 coordination with the department of labor and industries, shall study  
6 and make a report to the governor and appropriate committees of the  
7 legislature on the provision of medical benefits for injured workers  
8 under the trust.

9 NEW SECTION. **Sec. 26.** An appropriation by separate act of the  
10 legislature may be necessary for the fiscal year ending June 30th in  
11 the second year following the effective date of this section, from  
12 the general fund to the benefits account of the Washington apple care  
13 trust for start-up moneys for purposes of this act during the period  
14 of the first July 1st following the effective date of this section  
15 through the second June 30th following the effective date of this  
16 section.

17 NEW SECTION. **Sec. 27.** The following acts or parts of acts are  
18 each repealed:

19 (1) RCW 82.04.260 (Tax on manufacturers and processors of various  
20 foods and by-products—Research and development organizations—Travel  
21 agents—Certain international activities—Stevedoring and associated  
22 activities—Low-level waste disposers—Insurance producers, surplus  
23 line brokers, and title insurance agents—Hospitals—Commercial  
24 airplane activities—Timber product activities—Canned salmon  
25 processors) and 2015 3rd sp.s. c 6 s 602 & 2015 3rd sp.s. c 6 s 205;  
26 and

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

30 NEW SECTION. **Sec. 28.** Sections 1 through 15 and 17 through 25  
31 of this act constitute a new chapter in Title 43 RCW.

32 NEW SECTION. **Sec. 29.** (1) Sections 2 through 15, 17, 18, and 24  
33 through 26 of this act take effect upon receipt of the waiver  
34 requested under section 18 of this act.



1 (2) Sections 19 through 21 of this act take effect the second  
2 January 1st following receipt of the waiver requested under section  
3 18 of this act.

4 (3) Sections 22, 23, and 27 of this act take effect the second  
5 May 15th following receipt of the waiver requested under section 18  
6 of this act.

7 NEW SECTION. **Sec. 30.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 31.** If any part of this act is found to be in  
12 conflict with federal requirements that are a prescribed condition to  
13 the allocation of federal funds to the state, the conflicting part of  
14 this act is inoperative solely to the extent of the conflict and with  
15 respect to the agencies directly affected, and this finding does not  
16 affect the operation of the remainder of this act in its application  
17 to the agencies concerned. Rules adopted under this act must meet  
18 federal requirements that are a necessary condition to the receipt of  
19 federal funds by the state.

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