
SENATE BILL 6072

State of Washington

68th Legislature

2024 Regular Session

By Senators Keiser and Conway

1 AN ACT Relating to addressing recommendations of the long-term
2 services and supports trust commission; amending RCW 50B.04.010,
3 50B.04.020, 50B.04.030, 50B.04.055, 50B.04.060, 50B.04.070,
4 50B.04.085, and 50B.04.100; reenacting and amending RCW 50B.04.050
5 and 50B.04.080; adding new sections to chapter 50B.04 RCW; adding a
6 new section to chapter 48.83 RCW; adding a new chapter to Title 48
7 RCW; creating a new section; repealing RCW 50B.04.040; providing an
8 effective date; and providing an expiration date.

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

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 50B.04
11 RCW to read as follows:

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

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

19 (b) The employee or self-employed person notifies the employment
20 security department within one year of establishing a primary
21 residence outside of Washington that the employee or self-employed

1 person is no longer a resident of Washington and elects to continue
2 participation in the program.

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

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

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

31 (5) The employment security department shall:

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

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

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

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

8 **Sec. 2.** RCW 50B.04.010 and 2021 c 113 s 1 are each amended to
9 read as follows:

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

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

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

16 (a) Adult day services;

17 (b) Care transition coordination;

18 (c) Memory care;

19 (d) Adaptive equipment and technology;

20 (e) Environmental modification;

21 (f) Personal emergency response system;

22 (g) Home safety evaluation;

23 (h) Respite for family caregivers;

24 (i) Home delivered meals;

25 (j) Transportation;

26 (k) Dementia supports;

27 (l) Education and consultation;

28 (m) Eligible relative care;

29 (n) Professional services;

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

34 (p) In-home personal care;

35 (q) Assisted living services;

36 (r) Adult family home services; and

37 (s) Nursing home services.

38 (3) "Benefit unit" means up to (~~one hundred dollars~~) \$100 paid
39 by the department of social and health services to a long-term

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

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

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

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

25 (~~(7))~~ (6) "Employee" has the meaning provided in RCW
26 50A.05.010.

27 (~~(8))~~ (7) "Employer" has the meaning provided in RCW
28 50A.05.010.

29 (~~(9))~~ (8) "Employment" has the meaning provided in RCW
30 50A.05.010.

31 (~~(10))~~ (9) "Exempt employee" means a person who has been
32 granted a premium assessment exemption by the employment security
33 department.

34 (~~(11))~~ (10) "Long-term services and supports provider" means:

35 (a) For entities providing services to an eligible beneficiary in
36 Washington, an entity that meets the qualifications applicable in law
37 to the approved service they provide, including a qualified or
38 certified home care aide, licensed assisted living facility, licensed
39 adult family home, licensed nursing home, licensed in-home services
40 agency, adult day services program, vendor, instructor, qualified

1 family member, or other entities as registered by the department of
2 social and health services; and

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

10 ~~((12))~~ (11) "Premium" or "premiums" means the payments required
11 by RCW 50B.04.080 and paid to the employment security department for
12 deposit in the account created in RCW 50B.04.100.

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

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

21 ~~((15))~~ (14) "Qualified individual" means an individual who
22 meets the duration of payment requirements, as established in this
23 chapter.

24 ~~((16))~~ (15) "State actuary" means the office of the state
25 actuary created in RCW 44.44.010.

26 ~~((17))~~ (16) "Wage or wages" means all remuneration paid by an
27 employer to an employee. Remuneration has the meaning provided in RCW
28 50A.05.010. All wages are subject to a premium assessment and not
29 limited by the commissioner of the employment security department, as
30 provided under RCW 50A.10.030(4).

31 **Sec. 3.** RCW 50B.04.020 and 2022 c 1 s 1 are each amended to read
32 as follows:

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

1 (2) The health care authority shall:

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

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

9 (c) Establish criteria for the payment of benefits to
10 (~~registered~~) long-term services and supports providers under RCW
11 50B.04.070;

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

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

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

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

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

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

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

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

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

39 (f) Prepare and distribute written or electronic materials to
40 qualified individuals, eligible beneficiaries, and the public as

1 deemed necessary by the commission to inform them of program design
2 and updates;

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

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

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

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

13 (4) The employment security department shall:

14 (a) Collect and assess employee premiums as provided in RCW
15 50B.04.080 and 50B.04.090 and section 1 of this act;

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

18 (c) Perform investigations to determine the compliance of premium
19 payments in RCW 50B.04.080 and 50B.04.090 and section 1 of this act
20 in coordination with the same activities conducted under the family
21 and medical leave act, Title 50A RCW, to the extent possible;

22 (d) Make determinations regarding an individual's status as a
23 qualified individual under RCW 50B.04.050, including criteria to
24 determine the status of persons receiving partial benefit units under
25 RCW 50B.04.050(2) and out-of-state participants under section 1 of
26 this act; and

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

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

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

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

1 unfunded actuarially accrued liability in the trust or to maintain
2 solvency; and

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

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

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

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

22 (2) The commission includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 ~~((Providing a recommendation to the council for the annual
13 adjustment of the benefit unit in accordance with RCW 50B.04.010 and
14 50B.04.040;~~

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

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

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

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

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

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

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

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

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

36 **Sec. 5.** RCW 50B.04.050 and 2022 c 2 s 3 and 2022 c 1 s 3 are
37 each reenacted and amended to read as follows:

38 (1) Except as provided in subsection (2) of this section, the
39 employment security department shall deem a person to be a qualified

1 individual as provided in this chapter if the person has paid the
2 long-term services and supports premiums required by RCW 50B.04.080
3 for the equivalent of either:

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

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

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

27 (3) When deeming a person to be a qualified individual, the
28 employment security department shall require that the person have
29 worked at least (~~five hundred~~) 1,000 hours during each of the ten
30 years in subsection (1)(a) of this section, each of the three years
31 in subsection (1)(b) of this section, or each of the years identified
32 in subsection (2) of this section.

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

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

38 (1) An employee who holds a nonimmigrant visa for temporary
39 workers, as recognized by federal law, is not subject to the rights

1 and responsibilities of this title, unless the employee notifies the
2 employee's employer that the employee would like to participate.

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

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

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

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

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

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

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

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

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

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

35 (3) An employee who receives an exemption under subsection (1) of
36 this section may not become a qualified individual or eligible
37 beneficiary and is permanently ineligible for coverage under this
38 title, unless the exemption has been discontinued as provided in
39 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. 8.** 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. 9.** 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. 10.** RCW 50B.04.080 and 2022 c 2 s 1 and 2022 c 1 s 5 are
2 each reenacted and amended to read as follows:

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

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

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

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

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

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

36 ~~((5))~~ (4) The employment security department shall deposit all
37 premiums collected in this section in the long-term services and
38 supports trust account created in RCW 50B.04.100.

1 ~~((6))~~ (5) Premiums collected in this section are placed in the
2 trust account for the individuals who become eligible for the
3 program.

4 ~~((7))~~ (6) If the premiums established in this section are
5 increased, the legislature shall notify each qualified individual by
6 mail that the person's premiums have been increased, describe the
7 reason for increasing the premiums, and describe the plan for
8 restoring the funds so that premiums are returned to .58 percent of
9 the individual's wages.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (1) The long-term services and supports trust account is created
34 in the custody of the state treasurer. All receipts from employers
35 under RCW 50B.04.080 and from out-of-state participants under section
36 1 of this act, delinquent premiums, penalties, and interest received
37 pursuant to sections 13 and 14 of this act, and any funds
38 attributable to savings derived through a waiver with the federal
39 centers for medicare and medicaid services pursuant to RCW 50B.04.130

1 must be deposited in the account. Expenditures from the account may
2 be used for the administrative activities of the department of social
3 and health services, the health care authority, and the employment
4 security department. Benefits associated with the program must be
5 disbursed from the account by the department of social and health
6 services. Only the secretary of the department of social and health
7 services or the secretary's designee may authorize disbursements from
8 the account. The account is subject to the allotment procedures under
9 chapter 43.88 RCW. An appropriation is required for administrative
10 expenses, but not for benefit payments. The account must provide
11 reimbursement of any amounts from other sources that may have been
12 used for the initial establishment of the program.

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

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

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

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

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

1 open to the inspection of the commissioner of the employment security
2 department.

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

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

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

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

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

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

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

35 (b) An employer who willfully fails to remit the full amount of
36 the premiums when due is liable, in addition to the full amount of
37 premiums due and amounts assessed as interest under subsection (5) of
38 this section, to a penalty equal to the premiums and interest.

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

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

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

6 (5) Appeals of actions under this section are governed by RCW
7 50B.04.120.

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

10 (1) At any time after the commissioner of the employment security
11 department finds that any premiums, interest, or penalties have
12 become delinquent, the commissioner of the employment security
13 department may issue an order and notice of assessment specifying the
14 amount due. The order and notice of assessment shall be served upon
15 the delinquent employer in the manner prescribed for the service of a
16 summons in a civil action, or using a method by which the mailing can
17 be tracked or the delivery can be confirmed. Failure of the employer
18 to receive the notice or order, whether served or mailed, shall not
19 release the employer from any tax, or any interest or penalties.

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

28 (3) If premiums are not paid on the date on which they are due
29 and payable as prescribed by the commissioner of the employment
30 security department, the whole or part thereof remaining unpaid shall
31 bear interest at the rate of one percent per month or fraction
32 thereof from and after such date until payment plus accrued interest
33 is received by the commissioner of the employment security
34 department. The date as of which payment of premiums, if mailed, is
35 deemed to have been received may be determined by such regulations as
36 the commissioner of the employment security department may prescribe.
37 Interest collected pursuant to this section shall be paid into the
38 account. Interest shall not accrue on premiums from any estate in the
39 hands of a receiver, executor, administrator, trustee in bankruptcy,

1 common law assignee, or other liquidating officer subsequent to the
2 date when such receiver, executor, administrator, trustee in
3 bankruptcy, common law assignee, or other liquidating officer
4 qualifies as such, but premiums accruing with respect to employment
5 of persons by any receiver, executor, administrator, trustee in
6 bankruptcy, common law assignee, or other liquidating officer shall
7 become due and shall draw interest in the same manner as premiums due
8 from other employers. Where adequate information has been furnished
9 to the employment security department and the employment security
10 department has failed to act or has advised the employer of no
11 liability or inability to decide the issue, interest may be waived.

12 (4) (a) If the amount of premiums, interest, or penalties assessed
13 by the commissioner of the employment security department by order
14 and notice of assessment provided in this chapter is not paid within
15 10 days after the service or mailing of the order and notice of
16 assessment, the commissioner of the employment security department or
17 a duly authorized representative may collect the amount stated in the
18 assessment by the distraint, seizure, and sale of the property,
19 goods, chattels, and effects of the delinquent employer. Goods and
20 property that are exempt from execution under the laws of this state
21 are exempt from distraint and sale under this section.

22 (b) The commissioner of the employment security department, upon
23 making a distraint, shall seize the property and shall make an
24 inventory of the distrained property, a copy of which shall be mailed
25 to the owner of the property or personally delivered to the owner,
26 and shall specify the time and place when the property shall be sold.
27 A notice specifying the property to be sold and the time and place of
28 sale shall be posted in at least two public places in the county in
29 which the seizure has been made. The time of sale shall be not less
30 than 10 nor more than 20 days from the date of posting of the
31 notices. The sale may be adjourned from time to time at the
32 discretion of the commissioner of the employment security department,
33 but not for a time to exceed a total of 60 days. The sale shall be
34 conducted by the commissioner of the employment security department
35 or a representative who shall proceed to sell the property by parcel
36 or by lot at a public auction, and who may set a minimum price to
37 include the expenses of making a levy and of advertising the sale,
38 and if the amount bid for such property at the sale is not equal to
39 the minimum price so fixed, the commissioner of the employment
40 security department or a representative may declare the property to

1 be purchased by the employment security department for the minimum
2 price. In such event the delinquent account shall be credited with
3 the amount for which the property has been sold. Property acquired by
4 the employment security department as prescribed in this subsection
5 (4) may be sold by the commissioner of the employment security
6 department or a representative at public or private sale, and the
7 amount realized shall be placed in the account. In all cases of sale
8 under this subsection (4), the commissioner of the employment
9 security department shall issue a bill of sale or a deed to the
10 purchaser and the bill of sale or deed shall be prima facie evidence
11 of the right of the commissioner of the employment security
12 department to make the sale and conclusive evidence of the regularity
13 of the commissioner of the employment security department proceeding
14 in making the sale, and shall transfer to the purchaser all right,
15 title, and interest of the delinquent employer in the property. The
16 proceeds of any sale under this subsection (4), except in those cases
17 in which the property has been acquired by the employment security
18 department, shall be first applied by the commissioner of the
19 employment security department in satisfaction of the delinquent
20 account, and out of any sum received in excess of the amount of
21 delinquent premiums, interest, and penalties the account shall be
22 reimbursed for the costs of distraint and sale. Any excess amounts
23 held by the commissioner of the employment security department shall
24 be refunded to the delinquent employer. Amounts held by the
25 commissioner of the employment security department that are
26 refundable to a delinquent employer may be subject to seizure or
27 distraint by any other taxing authority of the state or its political
28 subdivisions.

29 (5) The commissioner of the employment security department may
30 issue to any person, firm, corporation, political subdivision, or
31 department of the state, a notice and order to withhold and deliver
32 property of any kind when the commissioner of the employment security
33 department has reason to believe that there is in the possession of
34 such person, firm, corporation, political subdivision, or department,
35 property which is due, owing, or belonging to any person, firm, or
36 corporation upon whom the employment security department has served a
37 notice and order of assessment for premiums, interest, or penalties.
38 The effect of a notice to withhold and deliver shall be continuous
39 from the date the notice and order to withhold and deliver is first
40 made until the liability is satisfied or becomes unenforceable

1 because of a lapse of time. The notice and order to withhold and
2 deliver shall be served by the sheriff or the sheriff's deputy of the
3 county in which the service is made, using a method by which the
4 mailing can be tracked or the delivery can be confirmed, or by any
5 duly authorized representative of the commissioner of the employment
6 security department. Any person, firm, corporation, political
7 subdivision, or department upon whom service has been made must
8 answer the notice within 20 days exclusive of the day of service,
9 under oath and in writing, and must truthfully answer the matters
10 inquired of in the notice. In the event there is in the possession of
11 any such person, firm, corporation, political subdivision, or
12 department, any property which may be subject to the claim of the
13 employment security department of the state, the property must be
14 delivered immediately to the commissioner of the employment security
15 department or a representative upon demand to be held in trust by the
16 commissioner of the employment security department for application on
17 the indebtedness involved or for return, without interest, in
18 accordance with final determination of liability or nonliability, or
19 in the alternative, a good and sufficient bond satisfactory to the
20 commissioner of the employment security department must be provided
21 conditioned upon final determination of liability. If any person,
22 firm, or corporation fails to answer an order to withhold and deliver
23 within the time prescribed in this subsection (5), it shall be lawful
24 for the court, after the time to answer the order has expired, to
25 render judgment by default against such person, firm, or corporation
26 for the full amount claimed by the commissioner in the notice to
27 withhold and deliver, together with costs.

28 (6) Whenever any order and notice of assessment or jeopardy
29 assessment has become final in accordance with the provisions of this
30 chapter the commissioner of the employment security department may
31 file with the clerk of any county within the state a warrant in the
32 amount of the notice of assessment plus interest, penalties, and a
33 filing fee under RCW 36.18.012(10). The clerk of the county in which
34 the warrant is filed shall immediately designate a superior court
35 cause number for the warrant, and the clerk shall cause to be entered
36 in the judgment docket under the superior court cause number assigned
37 to the warrant, the name of the employer mentioned in the warrant,
38 the amount of the tax, interest, penalties, and filing fee and the
39 date when such warrant was filed. The aggregate amount of the warrant
40 as docketed shall become a lien upon the title to, and interest in

1 all real and personal property of the employer against whom the
2 warrant is issued, the same as a judgment in a civil case duly
3 docketed in the office of such clerk. The warrant so docketed shall
4 be sufficient to support the issuance of writs of execution and writs
5 of garnishment in favor of the state in the manner provided by law in
6 the case of civil judgment, wholly or partially unsatisfied. The
7 clerk of the court shall be entitled to a filing fee under RCW
8 36.18.012(10), which shall be added to the amount of the warrant, and
9 charged by the commissioner of the employment security department to
10 the employer. A copy of the warrant shall be mailed to the employer
11 using a method by which the mailing can be tracked or the delivery
12 can be confirmed within five days of filing with the clerk.

13 (7) The claim of the employment security department for any
14 premiums, interest, or penalties not paid when due, shall be a lien
15 prior to all other liens or claims and on a parity with prior tax
16 liens against all property and rights to property, whether real or
17 personal, belonging to the employer. In order to avail itself of the
18 lien hereby created, the employment security department shall file
19 with any county auditor where property of the employer is located a
20 statement and claim of lien specifying the amount of delinquent
21 premiums, interest, and penalties claimed by the employment security
22 department. From the time of filing for record, the amount required
23 to be paid shall constitute a lien upon all property and rights to
24 property, whether real or personal, in the county, owned by the
25 employer or acquired by the employer. The lien shall not be valid
26 against any purchaser, holder of a security interest, mechanic's
27 lien, or judgment lien creditor until notice thereof has been filed
28 with the county auditor. This lien shall be separate and apart from,
29 and in addition to, any other lien or claim created by, or provided
30 for in, this chapter. When any such notice of lien has been so filed,
31 the commissioner of the employment security department may release
32 the lien by filing a certificate of release when it appears that the
33 amount of delinquent premiums, interest, and penalties have been
34 paid, or when the assurance of payment shall be made as the
35 commissioner of the employment security department may deem to be
36 adequate. Fees for filing and releasing the lien provided herein may
37 be charged to the employer and may be collected from the employer
38 utilizing the remedies provided in this chapter for the collection of
39 premiums.

1 (8) In the event of any distribution of an employer's assets
2 pursuant to an order of any court, including any receivership,
3 probate, legal dissolution, or similar proceeding, or in case of any
4 assignment for the benefit of creditors, composition, or similar
5 proceeding, premiums, interest, or penalties due shall be a lien upon
6 all the assets of such employer. The lien is prior to all other liens
7 or claims except prior tax liens, other liens provided by this
8 chapter, and claims for remuneration for services of not more than
9 \$250 to each claimant earned within six months of the commencement of
10 the proceeding. The mere existence of a condition of insolvency or
11 the institution of any judicial proceeding for legal dissolution or
12 of any proceeding for distribution of assets shall cause such a lien
13 to attach without action on behalf of the commissioner of the
14 employment security department or the state. In the event of an
15 employer's adjudication in bankruptcy, judicially confirmed extension
16 proposal, or composition, under the federal bankruptcy act of 1898,
17 as amended, premiums, interest, or penalties due shall be entitled to
18 such priority as provided in that act, as amended.

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

31 (b) Any employer that is not a resident of this state and that
32 exercises the privilege of having one or more individuals perform
33 service for it within this state, and any resident employer that
34 exercises that privilege and thereafter removes from this state,
35 shall be deemed thereby to appoint the secretary of state as its
36 agent and attorney for the acceptance of process in any action under
37 this chapter. In instituting such an action against any such employer
38 the commissioner of the employment security department shall cause
39 process or notice to be filed with the secretary of state and the
40 service shall be sufficient service upon the employer, and shall be

1 of the same force and validity as if served upon it personally within
2 this state: PROVIDED, That the commissioner of the employment
3 security department shall immediately send notice of the service of
4 the process or notice, together with a copy thereof, by registered
5 mail, return receipt requested, to such employer at its last known
6 address and the return receipt, the commissioner's affidavit of
7 compliance with the provisions of this section, and a copy of the
8 notice of service shall be appended to the original of the process
9 filed in the court in which such action is pending.

10 (10) Any employer who is delinquent in the payment of premiums,
11 interest, or penalties may be enjoined upon the suit of the state of
12 Washington from continuing in business in this state or employing
13 persons herein until the delinquent premiums, interest, and penalties
14 have been paid, or until the employer has furnished a good and
15 sufficient bond in a sum equal to double the amount of premiums,
16 interest, and penalties already delinquent, plus further sums as the
17 court deems adequate to protect the employment security department in
18 the collection of premiums, interest, and penalties which will become
19 due from the employer during the next ensuing calendar year, the bond
20 to be conditioned upon payment of all premiums, interest, and
21 penalties due and owing within thirty days after the expiration of
22 the next ensuing calendar year or at an earlier date as the court may
23 fix. Action under this section may be instituted in the superior
24 court of any county of the state in which the employer resides, has
25 its principal place of business, or where it has anyone performing
26 services for it, whether or not those services constitute employment.

27 (11) The commissioner of the employment security department may
28 compromise any claim for premiums, interest, or penalties due and
29 owing from an employer, and any amount owed by an individual because
30 of benefit overpayments existing or arising under this chapter in any
31 case in which collection of the full amount due and owing, whether
32 reduced to judgment or otherwise, would be against equity and good
33 conscience. Whenever a compromise is made by the commissioner of the
34 employment security department in the case of a claim for premiums,
35 interest, or penalties, whether reduced to judgment or otherwise, the
36 employment security department shall file a statement of the amount
37 of premiums, interest, and penalties imposed by law and claimed due,
38 attorneys' fees and costs, if any, a complete record of the
39 compromise agreement, and the amount actually paid in accordance with
40 the terms of the compromise agreement. If any such compromise is

1 accepted by the commissioner of the employment security department,
2 within the time stated in the compromise or agreed to, that
3 compromise shall be final and conclusive and except upon showing of
4 fraud or malfeasance or misrepresentation of a material fact the case
5 shall not be reopened as to the agreed upon matters. In any suit,
6 action, or proceeding, such agreement or any determination,
7 collection, payment, adjustment, refund, or credit made in accordance
8 therewith shall not be annulled, modified, set aside, or disregarded.

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

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

18 (1) When a qualified individual applies for benefits as provided
19 in RCW 50B.040.060, the department of social and health services
20 must: (a) Ask whether the qualified individual has supplemental long-
21 term care insurance as provided in chapter 48.--- RCW (the new
22 chapter created in section 40 of this act); and (b) request written
23 consent and the policy issuer's contact information from the
24 qualified individual to share information with the policy issuer for
25 any potential care coordination.

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

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

35 NEW SECTION. **Sec. 16.** (1) The department of social and health
36 services, the employment security department, and the health care
37 authority may design and conduct a pilot project to assess the
38 administrative processes and system capabilities for managing

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

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

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

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

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

32 NEW SECTION. **Sec. 18.** (1) This chapter applies to all
33 supplemental long-term care insurance policies, contracts, or riders
34 delivered or issued for delivery in this state on or after January 1,
35 2026. This chapter does not supersede the obligations of entities
36 subject to this chapter to comply with other applicable laws to the
37 extent that they do not conflict with this chapter, except that laws
38 and regulations designed and intended to apply to medicare supplement

1 insurance policies shall not be applied to supplemental long-term
2 care insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 commissioner to transact the business of supplemental long-term care
2 insurance.

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

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

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

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

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

38 (b) Supplemental long-term care insurance also includes qualified
39 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. 20.** 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 19(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. 21.** (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 19(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 19(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. 22.** (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. 23.** (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 19(5)(a) of this
3 act.

4 NEW SECTION. **Sec. 24.** (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 19(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 30 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. 25.** 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 31 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. 26.** (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. 27.** 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. 28.** 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. 29.** (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. 30.** (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. 31.** (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 19(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. 32.** 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. 33.** (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. 34.** 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. 35.** 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. 36.** (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. 37.** (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. 38.** 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 19 of this act.

22 NEW SECTION. **Sec. 39.** 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. 40.** Sections 17 through 37 of this act
26 constitute a new chapter in Title 48 RCW.

27 NEW SECTION. **Sec. 41.** 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. 42.** This act takes effect January 1, 2025.

--- END ---