
SENATE BILL 5335

State of Washington

68th Legislature

2023 Regular Session

By Senator Hasegawa

1 AN ACT Relating to health care financing and development of the
2 Washington health trust to ensure that all Washington residents can
3 enroll in nonprofit health insurance coverage providing an essential
4 set of health benefits, including medical, dental, vision, and
5 prescription drug benefits; adding a new section to chapter 82.32
6 RCW; adding a new section to chapter 82.04 RCW; adding a new chapter
7 to Title 43 RCW; adding a new chapter to Title 82 RCW; adding a new
8 title to the Revised Code of Washington to be codified as Title 50C
9 RCW; prescribing penalties; providing effective dates; providing a
10 contingent effective date; and providing contingent expiration dates.

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

12 **Part I**
13 **Universal Health Care for Washington State**

14 NEW SECTION. **Sec. 101.** WASHINGTON HEALTH TRUST PROTECTIONS.
15 During this time of deep racial and socioeconomic inequity,
16 Washingtonians have watched as loved ones and neighbors slipped
17 through the widening gaps in our health care system. According to the
18 Washington state department of health, the COVID-19 pandemic has
19 worsened these structural disparities, showing in their recent
20 COVID-19 morbidity report that the death and burden of this pandemic

1 has disproportionately affected those already marginalized and
2 underserved communities. With the intent to start healing the wounds
3 of generations of inequality and to ensure a future where health care
4 is recognized as a basic right afforded to each resident, the people
5 of the state of Washington declare their intention to create a
6 single, primary nonprofit health financing entity called the
7 Washington health trust. The trust will simplify health care
8 financing, eliminate administrative waste, respond to the health
9 needs of each regional health district, and guarantee all residents
10 coverage of a comprehensive set of essential health benefits without
11 the burden of premiums, deductibles, copayments, or medical bills.

12 (1) All residents of the state of Washington are eligible for
13 coverage through this chapter.

14 (2) Individuals enrolled for essential health benefits under this
15 chapter may obtain health services from any participating
16 institution, agency, or individual qualified to provide the service
17 including participating providers outside the state.

18 (3) Residents may obtain coverage for health care benefits in
19 excess of those available under the trust, including additional
20 benefits that an employer may provide to employees and their
21 dependents and spouses or to former employees and their dependents
22 and spouses.

23 (4) No person shall, on the basis of race, color, national
24 origin, age, disability, immigration status, or sex, including sex
25 stereotyping, gender identity, sexual orientation, and pregnancy and
26 related medical conditions, be excluded from participation in, be
27 denied the benefits of, or be subjected to discrimination by any
28 participating provider or any entity conducting, administering, or
29 funding a health program or activity, including contracts of
30 insurance, under this chapter.

31 (5) Participating providers may not be denied reimbursement by
32 the Washington health trust for any essential health benefit that is
33 within the scope of their practice, consistent with the accepted
34 standard of care as described in RCW 7.70.040.

35 (6) A participating health care provider is not required to
36 furnish any health care service that is outside the scope of their
37 practice or, in the health care provider's reasonable clinical
38 judgment, not consistent with the accepted standard of care as
39 described in RCW 7.70.040.

1 (7) Participating providers may receive payments from sources
2 other than the trust. However, any provider who does accept payment
3 from the trust for a service must accept that payment, along with
4 applicable copayments, as payment in full.

5 (8) Any provider, institution, agency, or individual that is
6 qualified to provide a health care service covered under this
7 chapter, is entitled to participate and receive reimbursement as
8 described in section 109 of this act.

9 (9) Nothing in this chapter is intended to interfere with tribal
10 sovereignty over any federal or state funding set aside for tribal
11 health or Indian health services, including those provided by chapter
12 43.71B RCW.

13 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

16 (1) "Board" means the Washington health trust board of trustees
17 created in section 104 of this act.

18 (2) "Chair" means the presiding officer of the board.

19 (3) "Community health access" means a reimbursement system
20 managed by the health care authority for eligible residents to
21 receive essential health services free to the individual at the point
22 of service through community health providers.

23 (4) "Community health provider" means a qualified provider
24 electing participation in the trust as a coordinating nonprofit
25 health care provider to negotiate reimbursements based on quality and
26 availability of services for residents in each regional health
27 district as described in section 109 of this act.

28 (5) "Department" means the Washington state department of health.

29 (6) "Eligible nonresident" shall be defined by the board of
30 trustees created in section 104 of this act, and includes nonresident
31 students attending college within the state, nonresidents employed
32 within the state, and the spouses or domestic partners and dependents
33 of eligible nonresidents.

34 (7) (a) "Employee" means an individual who is in the employment of
35 an employer.

36 (b) "Employee" does not include employees of the federal
37 government.

38 (8) "Employer" has the meaning provided in section 201 of this
39 act.

1 (9) "Employment investment" means a cost paid by or on behalf of
2 employed individuals for enrollment in the Washington health trust.

3 (10) "Essential benefits package" means a single comprehensive
4 health insurance that covers essential health benefits.

5 (11) "Essential health benefits" means any of the following items
6 and services provided on an inpatient or outpatient basis when
7 medically necessary or appropriate for the maintenance of health or
8 for the diagnosis, treatment, or rehabilitation of a health
9 condition:

10 (a) Hospital services, including inpatient and hospital-based
11 outpatient care and 24-hour emergency services;

12 (b) Ambulatory primary and specialty services, including
13 preventative care and chronic disease management;

14 (c) Prescription drugs, medical devices, and biological products;

15 (d) Mental health and substance use disorder treatment services;

16 (e) Laboratory and other diagnostic services, including
17 diagnostic imaging services;

18 (f) Reproductive, maternity, and newborn care;

19 (g) Pediatric primary and specialty care;

20 (h) Palliative care and end-of-life care services;

21 (i) Oral health, audiology, and vision services;

22 (j) Short-term rehabilitative and habilitative services and
23 devices; and

24 (k) Licensed naturopathic, acupuncture, and massage therapies.

25 (12) "Essential health benefits-benchmark plan" means the set of
26 benefits that an issuer must include in nongrandfathered plans
27 offered in the individual or small group market in Washington state,
28 as defined in section 1302 of the affordable care act, 124 Stat. 119,
29 P.L. 111-148 (2010), and 45 C.F.R. 156.100.

30 (13) "Federal poverty level" means the federal poverty guidelines
31 determined annually by the United States department of health and
32 human services or its successor agency.

33 (14) "Global annual budget" means the specific amount of money
34 required for health care facilities participating for reimbursement
35 as a community health provider to operate as negotiated by the board.

36 (15) "Health care facility" or "facility" includes any of the
37 following appropriately accredited entities: Hospices and home health
38 agencies licensed pursuant to chapter 70.127 RCW; hospitals licensed
39 pursuant to chapter 70.41 RCW; rural health care facilities as
40 defined in RCW 70.175.020; psychiatric hospitals licensed pursuant to

1 chapter 71.12 RCW; nursing homes licensed pursuant to chapter 18.51
2 RCW; community mental health centers licensed pursuant to chapter
3 71.05 or 71.24 RCW; kidney disease treatment centers; ambulatory
4 surgical facilities licensed under chapter 70.230 RCW; approved drug
5 and alcohol treatment facilities certified by the department of
6 social and health services; such other facilities owned and operated
7 by a political subdivision or instrumentality of the state; a
8 tribally operated facility as defined in RCW 43.71B.010; and such
9 other facilities as required by federal law and implementing
10 regulations.

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

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

21 (18) "Native American" means an American Indian or Alaska Native
22 as defined under 25 U.S.C. Sec. 1603.

23 (19) "Participating provider" means a person, health care
24 provider, practitioner, health care facility, or entity acting within
25 their scope of practice that has negotiated a written contract to
26 participate and receive reimbursement as described in section 109 of
27 this act.

28 (20) "Qualified provider" means a person, health care provider,
29 practitioner, health care facility, or entity acting within their
30 scope of practice who is licensed or certified and meets: (a) All the
31 requirements of state law to provide such services in the state where
32 the services are provided; and (b) applicable requirements of federal
33 law to provide such services. "Qualified provider" includes a
34 licensed or certified hospital, clinic, health maintenance
35 organization, or nursing home or an officer, director, employee, or
36 agent thereof acting in the course and scope of their employment.

37 (21) "Reimbursement accounts" means health care accounts with
38 funds that can be used for essential health benefits incurred by
39 residents and eligible nonresidents with health insurance coverage
40 other than the trust for copayments and out-of-pocket costs.

1 (22) "Resident" means an individual who presents evidence of
2 established permanent residency in the state of Washington and meets
3 residency requirements consistent with RCW 46.16A.140. "Resident"
4 also includes people and their accompanying family members who are
5 residing in the state for the purpose of engaging in employment for
6 at least one month. The confinement of a person in a nursing home,
7 hospital, or other medical institution in the state may not by itself
8 be sufficient to qualify such person as a resident.

9 (23) "Revocable expenditure" means a health care expenditure that
10 an employer allocated for use by a covered employee but not actually
11 paid to the employee, or any amount actually paid to a third-party
12 administrator that could revert to the employer at any point. Funds
13 do not have to revert to the employer for the health care expenditure
14 to be revocable. Rather, the entire expenditure is considered
15 revocable if there is the possibility that any or all of it could be
16 returned to the employer, such as flexible spending accounts.

17 (24) "Trust" means the Washington health trust created in section
18 103 of this act.

19 NEW SECTION. **Sec. 103.** WASHINGTON HEALTH TRUST. The Washington
20 health trust is created within the department. The purpose of the
21 trust is to provide coverage for a set of essential health benefits
22 to all Washington residents.

23 NEW SECTION. **Sec. 104.** THE BOARD OF TRUSTEES. (1) The trust
24 must be governed by a board of trustees consisting of 15 members with
25 expertise in health care financing and delivery and representing
26 Washington citizens, business, labor, and health professions.
27 Trustees must include individuals with knowledge of the health care
28 needs of diverse populations, including low-income, Native American,
29 undocumented, non-English speaking, disabled, rural, incarcerated,
30 and other minority populations. Members of the board must have no
31 pecuniary interest in any business subject to regulation by the
32 board.

33 (2) The universal health care commission established under RCW
34 41.05.840 shall assume the responsibility of the board.

35 (3) If the universal health care commission is disbanded or
36 unable to assume the responsibilities of the board, the board shall
37 be formed using the same process defined in RCW 41.05.840 for full
38 formation no later than May 15, 2024.

1 (4) A trustee whose term has expired or who otherwise leaves the
2 board must be replaced by gubernatorial appointment. When the person
3 leaving was nominated by one of the caucuses of the house of
4 representatives or the senate, their replacement must be appointed
5 from a list of five nominees submitted by that caucus within 30 days
6 after the vacancy occurs. If the caucus or the insurance commissioner
7 fails to submit the list of nominees or if the nominees do not meet
8 the qualifications specified in subsection (1) of this section, the
9 governor shall appoint a trustee meeting the qualifications specified
10 in subsection (1) of this section at the governor's discretion. A
11 person appointed to replace a trustee who leaves the board before the
12 expiration of their term shall serve only the duration of the
13 unexpired term.

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

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

19 (7) The trustees occupy their positions according to the bylaws,
20 rules, and relevant governing documents of the board and are exempt
21 from chapter 41.06 RCW. The board and its professional staff are
22 subject to the public disclosure provisions of chapter 42.17A RCW.
23 Trustees shall be paid a salary to be fixed by the governor in
24 accordance with RCW 43.03.040. A majority of the board constitutes a
25 quorum for the conduct of business.

26 NEW SECTION. **Sec. 105.** ADVISORY COMMITTEES. (1) Subject to the
27 approval of the board, the chair shall appoint three standing
28 advisory committees:

29 (a) A finance committee consisting of financial experts from the
30 office of financial management, the office of the state treasurer,
31 the employment security department, and the office of the insurance
32 commissioner. The finance committee shall recommend specific details
33 for major budget decisions and for appropriations, taxes, and other
34 funding legislation necessary to conduct the operations of the trust;

35 (b) A citizen committee consisting of balanced representation
36 from health experts, business, labor, and consumers, specifically
37 including representation from populations where health care
38 disparities are known to exist as described in section 107 of this
39 act. The citizen committee shall hold public hearings on priorities

1 for inclusion in the set of health services to be offered through the
2 trust, survey public satisfaction, investigate complaints, and
3 identify and report on health care access and other priority issues
4 for residents; and

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

12 (2) The board shall consult with the citizen committee at least
13 quarterly, receive its reports and recommendations, and then report
14 to the governor and legislature at least annually regarding board
15 actions in response to citizen committee recommendations. The board
16 shall regularly seek financial recommendations from the finance
17 committee to establish and maintain the trust solvency. The board
18 shall consult with the provider committee to promote development of
19 policy and procedures for administration of reimbursements,
20 negotiations for reimbursements, and related documentation.

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

23 (4) Members of committees shall receive compensation for their
24 services and shall be reimbursed for their expenses while attending
25 meetings on behalf of the board in accordance with RCW 43.03.250.

26 NEW SECTION. **Sec. 106.** AUTHORITIES OF THE BOARD CHAIR. The
27 chair is the presiding officer of the board and has the following
28 powers and duties:

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

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

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

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

1 NEW SECTION. **Sec. 107.** RESPONSIBILITIES OF THE BOARD. (1) With
2 advice from the citizen committee and the provider committee, the
3 board shall:

4 (a) Establish a single comprehensive benefits package covering
5 essential health benefits to be financed by the trust, as provided in
6 section 108 of this act;

7 (b) Subject to the funding mechanisms established under this
8 chapter, seek all applicable waivers or demonstration project
9 approvals, or both, so that current federal and state payments for
10 health services to residents will be paid directly or are made
11 otherwise available to the trust;

12 (c) Prior to full integration of federally qualified trust funds
13 into the trust, establish at their discretion any premiums necessary
14 to operate the trust and make rules, policies, guidelines, and
15 timetables needed for the trust to finance the essential benefits
16 package for residents starting November 1, 2024;

17 (d) Develop or contract for development of a statewide, anonymous
18 health care data system;

19 (e) Develop health care practice guidelines and quality standards
20 for the trust;

21 (f) Develop policies to protect confidentiality of patient's
22 records throughout the health care delivery system and the claims
23 payment system;

24 (g) Make rules for eligible nonresidents;

25 (h) Develop or contract for development of an efficient
26 enrollment mechanism for all who are eligible;

27 (i) Develop or contract for development of a streamlined uniform
28 claims processing system that must pay providers in a timely manner
29 for covered health services;

30 (j) Develop appeals procedures for residents and providers;

31 (k) Integrate functions with other state agencies;

32 (l) Work to balance benefits and provider payments with revenues,
33 and develop effective measures to control excessive and unnecessary
34 health care costs;

35 (m) Implement policies to ensure that all Washingtonians receive
36 culturally, linguistically, and structurally competent care and
37 address nonfinancial barriers to health care access including
38 developing specific goals and plans and identifying and addressing
39 the needs of vulnerable populations that are most susceptible to
40 health care disparities, particularly targeting disease prevention

1 and health promotion and medical, mental/behavioral health, and
2 public health issues that disproportionately affect the diverse
3 populations where disparities are known to exist, in order to ensure
4 equitable, appropriate, effective, safe, and high quality care for
5 all, with no gaps in services based on any medically irrelevant
6 factor; and

7 (n) Develop an annual trust budget.

8 (2) To the extent that the exercise of any of the powers and
9 duties specified in this section may be inconsistent with the powers
10 and duties of other state agencies, offices, or commissions, the
11 authority of the board supersedes that of such other state agency,
12 office, or commission.

13 NEW SECTION. **Sec. 108.** COMPREHENSIVE ESSENTIAL HEALTH BENEFITS
14 PACKAGE. (1) The board shall establish a single comprehensive
15 essential benefits package covering essential health benefits that
16 are effective and necessary for the good health of residents and that
17 emphasize preventive, primary, and integrated health care. The board
18 shall ensure that the essential benefits package constitutes coverage
19 at least as comprehensive as the minimum essential coverage for
20 purposes of the federal patient protection and affordable care act.

21 (2) The board and the department shall, on an ongoing and regular
22 basis, evaluate whether the essential health benefits should be
23 improved or adjusted to promote the health of beneficiaries, account
24 for changes in medical practice or new information from medical
25 research, or respond to other relevant developments in health
26 science, and shall make recommendations to the legislature regarding
27 any such improvements or adjustments.

28 (3) Subject to a financial analysis demonstrating ongoing
29 sufficient funds in the trust, long-term care shall be a covered
30 benefit on January 1, 2027. Long-term care coverage shall include a
31 uniform initial assessment and coordination between home health,
32 adult day care, and nursing home services, and other treatment
33 alternatives. The board may establish a copayment for long-term
34 nursing home care, to cover some costs of room and board, for
35 residents with household incomes above 150 percent of the federal
36 poverty level.

37 (4) The board must establish:

38 (a) A long-term care benefits package; and

1 (b) Eligibility requirements at least as inclusive as the
2 medicaid standards for Washington on the effective date of this
3 section.

4 (5) When the board establishes a long-term care benefits package
5 beyond what is described in subsection (4) of this section, the
6 board, in coordination with the office of the insurance commissioner,
7 shall examine possible remedies for residents who have made previous
8 payments for long-term care insurance.

9 (6) The board shall submit to the governor and legislature by
10 December 1, 2024, and by December 1st of the following years:

11 (a) The essential benefits package; and

12 (b) An actuarial analysis of the cost of the package.

13 NEW SECTION. **Sec. 109.** PARTICIPATING PROVIDERS. (1) The board,
14 in coordination with the health care authority, shall adopt rules and
15 mechanisms permitting qualified providers to collectively negotiate
16 budgets, payment schedules, and other terms and conditions of trust
17 participation.

18 (2) The board, in coordination with the health care authority and
19 on an annual basis, shall collectively negotiate reimbursement rates
20 with qualified providers not participating as community health
21 providers on a fee-for-service basis.

22 (3) Any qualified provider operating as a public hospital or
23 health care facility or public or private nonprofit 501(c)
24 organization with three or more individual practitioners coordinating
25 to deliver essential health benefits may elect to participate as a
26 community health provider.

27 (4) The board, in coordination with the health care authority,
28 shall annually negotiate with each community health provider a
29 prospective global budget for operational and other costs to be
30 covered by the trust. Hospitals and other health care facilities
31 shall be paid on a fee-for-service basis, within the limits of their
32 prospective global annual budget. Individual practitioners who are
33 employed by a community health provider may be paid by salary.

34 (5) The board shall make appropriate considerations and
35 recommendations during annual negotiations with community health
36 providers including:

37 (a) Health needs of residents in each regional health district in
38 the state;

39 (b) The scope of services offered by the provider;

1 (c) Quality and effectiveness of care standards and safety
2 policies utilized by the provider;

3 (d) Quality of employment for those employed by the provider; and

4 (e) Provider coordination with the department of social and
5 health services on delivery of needs-based assistance for which
6 residents in the regional health district are eligible.

7 (6) The board shall adopt rules ensuring that payment schedules
8 and procedures for mental health services are comparable to other
9 health care services included in the essential benefits package.

10 (7) The board shall adopt rules ensuring that payment schedules
11 for care provided via telemedicine, as defined in RCW 70.41.020, are
12 at parity levels with equivalent care provided in person.

13 (8) The board shall study and develop provider payment methods
14 that:

15 (a) Encourage an integrated multispecialty approach to disease
16 management;

17 (b) Reward education time spent with patients; and

18 (c) Include all categories of providers pursuant to rule and RCW
19 48.43.715.

20 NEW SECTION. **Sec. 110.** PHARMACEUTICALS, MEDICAL EQUIPMENT, AND
21 BIOLOGICALS. (1) When consistent with federal law, the prices to be
22 paid for covered pharmaceuticals, medical supplies including
23 biological products, and medically necessary assistive equipment
24 shall be negotiated annually by the board for all residents and
25 eligible nonresidents enrolled in the trust.

26 (2)(a) The board shall establish a prescription drug formulary
27 system, which:

28 (i) Encourages best practices in prescribing;

29 (ii) Discourages the use of ineffective, dangerous, or
30 excessively costly medications when better alternatives are
31 available;

32 (iii) Promotes the use of generic medications to the greatest
33 extent possible; and

34 (iv) Does not interfere with treatments necessary for appropriate
35 standards of care.

36 (b) The formulary shall be updated frequently, with advice from
37 clinicians and patients, to add new pharmaceuticals or remove
38 ineffective or dangerous medications from the formulary.

1 (3) The board shall develop rules for off-formulary medications
2 which allow for patient access without compromising the formulary.

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

6 (5) The board may set a cost-sharing schedule for prescription
7 drugs and biological products for enrolled individuals that: (a) Is
8 evidence-based and encourages the use of generic drugs; (b) does not
9 apply to preventive drugs; and (c) does not exceed \$250 annually,
10 adjusted annually for inflation.

11 NEW SECTION. **Sec. 111.** ENROLLMENT ELIGIBILITY. (1) Residents:

12 (a) Under the age of 19; or

13 (b) With dual eligibility for medicare and medicaid;

14 are exempt from the employment investment established under
15 subsection (2) of this section for enrollment in the Washington
16 health trust and the self-employment investment for enrollment in the
17 trust.

18 (2) When a resident is employed, an employment investment must be
19 paid by the resident or their employer for enrollment in the trust
20 except as provided in subsection (1) of this section. The employment
21 investment is equal to total required health care expenditures
22 employers must pay to or on behalf of the employee as established in
23 section 202 of this act.

24 (3) Until full integration of federally qualified trust funds is
25 accomplished, residents, including but not limited to Native American
26 residents, who are covered under federal health programs shall
27 continue to use that coverage, and additional benefits provided by
28 the trust shall extend only to costs not covered by the federal
29 health programs when, subject to subsection (1) of this section:

30 (a) The resident voluntarily elects to enroll in the trust; and

31 (b) The resident's wages and net earnings are considered in
32 calculating either the employment or self-employment investment
33 established under this section.

34 (4) Pending full integration of federally qualified trust funds
35 into the trust, residents who are retirees are eligible for coverage
36 through the trust when they elect the trust coverage as their
37 medicare advantage plan. The board shall make rules and adopt
38 mechanisms to reimburse residents with household incomes below 200
39 percent of the federal poverty level and all residents who elect to

1 enroll in the trust for medicare premiums the individual pays while
2 enrolled in the trust until a federal waiver or demonstration project
3 approval as applicable is granted integrating the federally qualified
4 trust funds into the trust.

5 NEW SECTION. **Sec. 112.** COVERAGE USE AND AVAILABILITY. (1) If an
6 enrolled individual has other health insurance coverage for any
7 essential health benefits provided in the state, the trust benefits
8 provided in this chapter are secondary to that insurance coverage.
9 Nonresidents are covered for emergency services and emergency
10 transportation only, except when the individual is an eligible
11 nonresident and enrolled in the trust for coverage as provided in
12 section 102(6) of this act.

13 (2) The board shall make provisions for determining
14 reimbursements for covered medical expenses for residents while they
15 are out of the state.

16 (3) No cost sharing, including deductibles, coinsurance,
17 copayments, or similar charges, may be imposed on an enrolled
18 individual for any benefits provided under this chapter, except:

19 (a) Cost sharing may be contingent on the inclusion of long-term
20 care coverage beyond what is provided under medicaid; and

21 (b) As provided in section 110 of this act.

22 (4) No cost sharing, including deductibles, coinsurance,
23 copayments, or similar charges, may be imposed on enrolled:

24 (a) Persons under the age of 19;

25 (b) Residents who are dual eligible medicare and medicaid
26 beneficiaries; or

27 (c) Adults whose household income is under 200 percent of the
28 federal poverty level.

29 (5) By October 1, 2024, the board must take all steps necessary,
30 including seeking appropriate approvals from federal entities, to
31 ensure the essential benefits package qualifies as an essential
32 health benefits-benchmark plan for the purposes of contracting to
33 administer all essential health benefits with the following entities
34 as a managed health care system:

35 (a) The health care authority;

36 (b) The public employees' benefits board;

37 (c) Indian health services;

38 (d) Center for medicare and medicaid services;

39 (e) The department of social and health services; and

1 (f) Any other director, entity, or agency with authority to
2 contract administration of essential health benefits to a managed
3 health care system operating in Washington state.

4 (6) By October 1, 2024, the board shall establish necessary
5 premiums and cost-sharing requirements for eligible individuals
6 enrolled in the program through the Washington health benefits
7 exchange, collect premium and assessment payments from all enrolled
8 eligible individuals, and deposit premium payments in the benefits
9 account created in section 123 of this act. If the eligible
10 individual qualifies for premium subsidies or cost-sharing reductions
11 under the patient protection and affordable care act, the premium or
12 cost-sharing amounts established under this subsection may not exceed
13 the amounts the eligible individual would have paid if they had
14 enrolled in a silver level qualified health plan through the
15 Washington health benefit exchange. The portion of premiums, copays,
16 and out-of-pocket costs enrollees are responsible for after eligible
17 premium subsidies or cost-sharing reductions are applied must be
18 consistent with this section.

19 (7) On or before November 1, 2025, the board shall:

20 (a) Begin offering coverage to all residents and eligible
21 nonresidents;

22 (b) Contract with all entities in subsection (5) of this section
23 for enrollment of residents who are eligible for essential health
24 benefits coverage through a federal or federally funded state health
25 program, except when contingent on approval for full integration of
26 federally qualified trust funds into the trust;

27 (c) Ensure the operation of the trust is consistent with this
28 chapter; and

29 (d) Enable the state to provide equitable coverage for all
30 enrolled, including those covered through medicaid and medicare, and
31 maximize the use of appropriate federal funding in the trust.

32 (8) The board shall not contract the administration of covered
33 benefits for an individual enrolled in the trust to a managed health
34 care system operating for-profit except when the enrolled individual:

35 (a) Is enrolled in supplemental health insurance coverage through
36 the managed health care system; and

37 (b) Has elected the benefits administration through the managed
38 health care system.

1 NEW SECTION. **Sec. 113.** INTEGRATION OF FEDERAL HEALTH COVERAGE

2 PROGRAMS. (1) The health care authority shall determine which state
3 and federal laws affect full integration of federally qualified trust
4 funds into the trust, and report its recommendations for
5 accomplishing such full integration, with any proposed revisions to
6 the Revised Code of Washington, to the governor and the appropriate
7 committees of the legislature by the first date following the
8 effective date of this section.

9 (2) The governor, in consultation with the board and the health
10 care authority, shall take the following steps in an effort to
11 receive applicable waivers, exemptions, or approval for demonstration
12 projects from federal agencies in order to fully integrate coverage
13 and funding available through federally qualified trust funds into
14 the trust under this chapter:

15 (a) Negotiate with the federal department of health and human
16 services' health care financing administration to obtain a statutory
17 or regulatory waiver of provisions of the medical assistance statute,
18 Title XIX of the federal social security act and the children's
19 health insurance program including, but not limited to, application
20 for an applicable demonstration project;

21 (b) Negotiate with the federal department of health and human
22 services to obtain a statutory or regulatory waiver of provisions of
23 the medicare statute, Title XVIII of the federal social security act,
24 that currently constitute barriers to full integration of this
25 chapter or to obtain approval for the trust to operate as a medicare
26 advantage plan or other demonstration project allowing relevant
27 federal funds to flow into the trust;

28 (c) Negotiate with the federal department of health and human
29 services to obtain any statutory or regulatory waivers of provisions
30 of the United States public health services act, or applicable
31 demonstration project, necessary to ensure integration of federally
32 funded community and migrant health clinics and other health services
33 funded through the public health services act into the trust system
34 under this chapter;

35 (d) Negotiate with the federal office of personnel management for
36 the inclusion of federal employee health benefits in the trust under
37 this chapter;

38 (e) Negotiate with the federal department of defense and other
39 federal agencies for the inclusion of the civilian health and medical

1 program of the uniformed services in the trust under this chapter;
2 and

3 (f) Request that the United States congress amend the internal
4 revenue code to treat the assessments and any premiums established
5 under this chapter as fully deductible from adjusted gross income.

6 (3) Beginning November 15, 2024, the health care authority shall
7 submit annual progress reports to the appropriate legislative
8 committees regarding the development of the waiver or demonstration
9 project applications, or other integration measures, and on
10 enrollment of residents into health coverage managed by the health
11 care authority, an entity within the health care authority, or the
12 trust. The report submitted on November 15, 2025, must include a list
13 of any statutory changes necessary to implement full integration of
14 federally qualified trust funds into the trust.

15 (4) Upon receipt of any waiver or approval for other integration
16 measures under this chapter, the health care authority shall promptly
17 notify in writing the office of the code reviser, the governor, and
18 the appropriate committees of the legislature.

19 (5) Beginning no later than four years after the effective date
20 of this section, the health care authority, including entities or
21 agencies within the health care authority, shall not contract
22 administration of essential health benefits available through the
23 trust to a managed health care system operating for-profit except
24 when the enrolled individual:

25 (a) Is also enrolled only in supplemental health insurance
26 coverage through the managed health care system; and

27 (b) Has elected the benefits administration through the managed
28 health care system.

29 (6) The health care authority, in coordination with the board and
30 all other agencies within the state, shall take all steps necessary
31 to align reimbursement rates for essential health benefits provided
32 through a program managed by the health care authority or an agency
33 within the state.

34 NEW SECTION. **Sec. 114.** TRANSITIONAL EMPLOYMENT PROVISIONS. (1)
35 Employers with employees represented by a union and with established
36 health benefit plans negotiated before the effective date of this
37 section:

1 (a) Shall maintain health benefits at least as comprehensive and
2 affordable to covered employees and retired employees after the
3 effective date of this section; and

4 (b) Are exempt from owing the required health care expenditures
5 established in section 202 of this act, including the employee share,
6 for each employee offered affordable minimum essential coverage,
7 defined by the patient protection and affordable care act, through
8 the existing employee health benefit plan until a supplemental health
9 benefit plan is negotiated and becomes effective.

10 (2) Resident employees of Washington employers and enrolled in a
11 health benefit plan described in subsection (1) of this section may:

12 (a) Participate in the Washington health trust by paying the
13 employment investment, subject to the exclusions in section 111 of
14 this act, to enroll in the trust's essential benefits package as a
15 primary health insurance. Any amount paid to the employment security
16 department on behalf of an employee and not used to reimburse medical
17 expenses for the employee may be applied to the employment investment
18 for enrollment in the Washington health trust at the time the
19 resident employee elects enrollment; or

20 (b) Participate in the health options program defined in section
21 127 of this act.

22 (3) All sole proprietors operating in the state may apply for an
23 exemption from the self-employment contribution established in
24 section 203 of this act if the individual is enrolled in minimal
25 essential coverage, as defined by the patient protection and
26 affordable care act.

27 (4) This section is subject to section 126 of this act and
28 expires on the first January 1st following the effective date of
29 section 115 of this act.

30 NEW SECTION. **Sec. 115.** ENROLLMENT CONDITIONAL PROVISIONS.

31 Within one year of the effective date of this section:

32 (1) Subject to ongoing sufficient funding, the board shall work
33 to reduce deductibles and out-of-pocket costs for all enrolled adults
34 to the fullest extent possible; and

35 (2) The Washington state health care authority shall apply for a
36 waiver from the provisions of the federal patient protection and
37 affordable care act, P.L. 111-148, as amended by the federal health
38 care and education reconciliation act, P.L. 111-152, to:

1 (a) Suspend the operation of the Washington health benefit
2 exchange established in chapter 43.71 RCW; and

3 (b) Enable the state to receive appropriate federal funding in
4 lieu of the federal premium tax credits, federal cost-sharing
5 subsidies, and other federal payments and tax credits that will no
6 longer be necessary due to the suspension of the operations of the
7 Washington health benefit exchange. The health care authority may use
8 existing health benefit exchange resources to facilitate residents'
9 ability to compare and purchase supplemental health insurance.

10 NEW SECTION. **Sec. 116.** ADMINISTRATIVE COST CONTROLS. (1)

11 Administrative expenses to operate and maintain the trust shall not
12 exceed seven percent of the trust's annual budget. The board shall
13 not shift administrative costs or duties of the trust to providers or
14 to resident beneficiaries.

15 (2) The board shall work with providers to develop and apply
16 scientifically based utilization standards, to use encounter and
17 prescribing data to detect excessive utilization.

18 (3) The department shall develop due processes for enforcing
19 appropriate utilization standards, and to identify and prosecute
20 fraud that includes:

21 (a) Anonymous reporting of any suspected waste, fraud, and abuse;
22 and

23 (b) An appeals process.

24 (4) The board may institute other cost-containment measures in
25 order to maintain a balanced budget. The board shall pursue due
26 diligence to ensure that cost-containment measures neither limit
27 access to clinically necessary care or infringe upon legitimate
28 clinical decision making by practitioners or the legitimate decisions
29 of an enrolled individual to receive prescribed essential health
30 benefits.

31 (5) Administrative expenses must include reasonable funding for
32 the employment security department to carry out its obligations
33 regarding enforcement of required health care expenditures and
34 collection of the employment contributions established in section 202
35 of this act, the contribution paid by sole proprietors established in
36 section 203 of this act, and the capital gains tax established in
37 section 302 of this act that are among the trust's funding sources.

1 NEW SECTION. **Sec. 117.** ACTUARIAL ANALYSIS AND REPORTING.

2 Beginning December 15, 2024, the board shall contract annually for an
3 actuarial analysis of the trust's funding needs. The board shall
4 report annually on all the funding mechanisms to the appropriate
5 standing committees of the house of representatives, the senate, and
6 the governor, starting May 15, 2025. The funding mechanisms must
7 contain the following elements:

8 (1) The employment investment to be paid by or on behalf of
9 employed residents and eligible nonresidents, established in section
10 111 of this act and under the exemption provided in section 114 of
11 this act;

12 (2) The long-term capital gains tax established in section 302 of
13 this act;

14 (3) The self-employment excise tax established in section 203 of
15 this act and under the exemption provided in section 114 of this act;

16 (4) Any premiums necessary, as established in section 107 of this
17 act and pursuant to sections 111 and 112 of this act, to be paid by
18 enrolled adults, their spouse, or an employer prior to full
19 integration of federally qualified trusts;

20 (5) A cost-sharing schedule, established in section 110 of this
21 act and pursuant to section 112 of this act, paid by enrolled adults
22 with household incomes exceeding 199 percent of the federal poverty
23 level, their spouse, or an employer; and

24 (6) Available federal health program funding either pursuant to
25 waivers or other integration measures taken as described in sections
26 113 and 115 of this act, or by contracting for administration of
27 those benefits as described in section 112 of this act.

28 NEW SECTION. **Sec. 118.** ALLOCATION OF EXISTING FUNDING.

29 Following the repeal, amendment, or waiver of existing state and
30 federal laws delineated in sections 113 and 115 of this act, all
31 other revenues currently deposited in the public health services
32 account pursuant to RCW 43.72.902 shall be deposited to the reserve
33 account created in section 121 of this act and the benefits account
34 created in section 123 of this act.

35 NEW SECTION. **Sec. 119.** ALLOCATION OF NEW REVENUES. Revenue

36 derived from the contributions established in sections 202, 203, and
37 302 of this act and any premiums established under section 107 of
38 this act shall be deposited to the reserve account created in section

1 121 of this act and the benefits account created in section 123 of
2 this act, and may not be used to pay for medical assistance currently
3 provided under chapter 74.09 RCW or other existing federal and state
4 health care programs. If existing federal and state sources of
5 payment for health services are reduced or terminated after the
6 effective date of this section, the legislature shall replace these
7 appropriations from the general fund.

8 NEW SECTION. **Sec. 120.** START-UP APPROPRIATIONS. An
9 appropriation by separate act of the legislature may be necessary for
10 the fiscal year ending June 30, 2024, from the general fund to the
11 benefits account for start-up moneys for purposes of this chapter
12 during the period of July 1, 2024, through the second June 30th
13 following the effective date of section 115 of this act.

14 NEW SECTION. **Sec. 121.** RESERVE ACCOUNT. (1) The reserve account
15 is created in the custody of the state treasurer. The reserve account
16 will accumulate moneys until its value equals 10 percent of the total
17 annual budgeted trust expenditures and then will be considered fully
18 funded, unless the legislature determines that a different level of
19 reserve is necessary and prudent. Whenever the reserve account is
20 fully funded, additional moneys shall be transferred to the benefits
21 account created in section 123 of this act.

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

28 NEW SECTION. **Sec. 122.** DISPLACED WORKER TRAINING ACCOUNT. (1)
29 The displaced worker training account is created in the custody of
30 the state treasurer. Expenditures from the account may be used only
31 for retraining and job placement of workers displaced by the
32 transition to the trust. Only the board or the board's designee may
33 authorize expenditures from the account. The account is subject to
34 allotment procedures under chapter 43.88 RCW, but an appropriation is
35 not required for expenditures.

36 (2) Any funds remaining in the account on the second December
37 31st following the effective date of section 115 of this act must be

1 deposited into the benefits account created in section 123 of this
2 act.

3 (3) This section expires the third January 1st following the
4 effective date of section 115 of this act.

5 NEW SECTION. **Sec. 123.** BENEFITS ACCOUNT. The benefits account
6 is created in the custody of the state treasurer. Expenditures from
7 the account may be used only for health care services and maintenance
8 of the trust. Only the board or the board's designee may authorize
9 expenditures from the account. The account is subject to allotment
10 procedures under chapter 43.88 RCW, but an appropriation is not
11 required for expenditures.

12 NEW SECTION. **Sec. 124.** ANNUAL BUDGET. (1) Beginning May 15,
13 2025, the board shall adopt, in consultation with the office of
14 financial management, an annual Washington health trust budget. If
15 operation expenses exceed revenues generated in two consecutive
16 years, the board shall recommend adjustments in revenues to the
17 legislature.

18 (2) The recommended adjustments must also include recommended
19 additional funding sources including, but not limited to, revenues
20 collected under RCW 41.05.120, 41.05.130, 66.24.290, 82.24.020,
21 82.26.020, 82.08.150, 43.79.480, and 41.05.220.

22 (3) The recommendations shall specify the amounts that must be
23 deposited in the reserve account created in section 121 of this act,
24 the displaced worker training account created in section 122 of this
25 act, and the benefits account created in section 123 of this act.

26 (4) Prior to making its recommendations, the board shall conduct
27 at least six public hearings in different geographic regions of the
28 state seeking public input or comment on the recommended funding
29 mechanism.

30 (5) The legislature shall enact legislation implementing the
31 recommendations of the board during the regular legislative session
32 following the recommendations.

33 NEW SECTION. **Sec. 125.** COST REPORTING. The board shall:

34 (1) Report annual changes in total Washington health care costs,
35 along with the financial position and the status of the trust, to the
36 governor, the legislature, and the employment security department at
37 least once a year;

- 1 (2) Seek audits annually from the state auditor;
- 2 (3) Contract with the state auditor for a performance audit every
3 two years;
- 4 (4) Adopt bylaws, rules, and other appropriate governance
5 documents to assure accountability, as well as the open, fair, and
6 effective operation of the trust, including criteria under which
7 reserve funds may be prudently invested subject to advice from the
8 state treasurer and the director of the department of financial
9 management;
- 10 (5) Submit any internal rules or policies it adopts to the
11 secretary of state. Internal rules or policies must be made available
12 by the secretary of state for public inspection; and
- 13 (6) Collaborate with the health care authority to recommend
14 adjustments to the percent of an employee's wages an employer must
15 pay to or on behalf of an employee for required health care
16 expenditures established in section 202 of this act to the employment
17 security department, including the self-employment contribution and
18 employee deduction. Recommendations must ensure the employment-based
19 contribution percentage rates:
- 20 (a) Do not exceed 10.5 percent of an employee's aggregate
21 adjusted quarterly payroll;
- 22 (b) Are not higher than is necessary to provide adequate funding
23 for the trust and the health options program as described in section
24 127 of this act;
- 25 (c) Are equal for the self-employment contribution and the
26 employee deduction; and
- 27 (d) Do not reduce any individual's access to health care services
28 or enrollment in the trust.

29 NEW SECTION. **Sec. 126.** CONFORMING EMPLOYER BENEFITS PLANS. (1)
30 Employers may maintain employee benefits plans under the federal
31 employee retirement income security act of 1974.

32 (2) Irrevocable expenditures.

33 (a) At least 50 percent of each required health care expenditure
34 for calendar year 2024 must consist of irrevocable expenditures.
35 Revocable expenditures that exceed 40 percent of required health care
36 expenditures shall not be counted toward the employer spending
37 requirement.

38 (b) At least 80 percent of each required health care expenditure
39 for calendar year 2025 must consist of irrevocable expenditures.

1 Revocable expenditures that exceed 20 percent of required health care
2 expenditures shall not be counted toward the employer spending
3 requirement.

4 (c) On and after January 1, 2026, only irrevocable health care
5 expenditures shall be counted toward the employer spending
6 requirement.

7 (d) Health care expenditures paid to the employment security
8 department or the trust on behalf of an employee are not revocable.

9 (3) Revocable expenditures. Subject to the limitations in
10 subsection (2) of this section, revocable health care expenditures
11 shall be counted toward the employer spending requirement, provided
12 that:

13 (a) The expenditure is reasonably calculated to benefit the
14 employee;

15 (b) No portion of the expenditure is revoked prior to the
16 earliest of: (i) Twenty-four months from the date of the expenditure;
17 (ii) ninety days after separation from employment; or (iii) for
18 revocable expenditures made prior to January 1, 2026, the date that
19 the employee knowingly, voluntarily, and permanently waives in
20 writing the unused portion of such expenditure;

21 (c) The employee receives from the employer or its agent a
22 written summary within 15 calendar days of the date of the
23 expenditure that includes: (i) The name, address, email address, and
24 telephone number of any third party to whom the expenditure was made;
25 (ii) the date and amount of the expenditure; (iii) a summary of how
26 the benefit may be used, including types of health care services
27 available; (iv) restrictions on the use of this benefit, including
28 maximum dollar value of benefits or account balances; and (v) the
29 date on which any portion of this benefit will be revoked; and

30 (d) An employee who separates from employment with any amount of
31 unused revocable expenditures receives, within three business days
32 following the separation: (i) A written notice with a summary of how
33 the benefit may be used, including types of health care services
34 available; (ii) restrictions on the use of this benefit, including
35 maximum dollar value of benefits or account balances; and (iii) the
36 date on which the benefit will be revoked.

37 (4) Effect of court order. If the attorney general certifies to
38 the governor and the legislature that a court of competent
39 jurisdiction has struck down any provision of subsection (3) of this
40 section, or permanently enjoined its enforcement, then only

1 irrevocable expenditures shall count toward the employer spending
2 requirement as of the first day of the next calendar quarter
3 following the attorney general's certification.

4 (5) All employers operating in the state may pay the employment
5 contribution for an employee directly to the trust for the purpose of
6 establishing the employee's eligibility to enroll in the trust.

7 (6) Residents employed in the state and enrolled in minimum
8 essential coverage, as defined by the patient protection and
9 affordable care act, may:

10 (a) Participate in the medical reimbursement accounts as
11 described in section 127 of this act; or

12 (b) Elect to apply any unused required health care expenditures
13 an employer paid to the employment security department towards any
14 employment investment required for enrollment in the trust
15 established in section 103 of this act, subject to exclusions defined
16 in section 111 of this act, to enroll in the trust as a primary
17 health insurance.

18 NEW SECTION. **Sec. 127.** HEALTH OPTIONS PROGRAM. (1) The health
19 care authority shall administer the health options program for
20 residents not enrolled in the trust, which comprises community health
21 access and medical reimbursement accounts. The health care authority
22 shall determine eligibility and benefits under the program component
23 to maximize participants' overall access to health care services.

24 (2) Under community health access, eligible uninsured Washington
25 residents may obtain essential health benefits from any providers
26 participating in the trust as community health providers. Community
27 health access is not an insurance plan.

28 (3) Health options program access shall be open to eligible,
29 uninsured Washington residents except when they are eligible to
30 receive benefits under medicare or medicaid. Additional eligibility
31 criteria shall be established by the health care authority, but no
32 person may be excluded from community health access based on
33 employment or immigration status or a preexisting condition.

34 (4) The health options program may be funded from a variety of
35 sources, including required health care expenditures paid by
36 employers and sole proprietors pursuant to section 202 of this act
37 and from the trust.

1 (5) Community health access shall use the rates established
2 through annual negotiations by community health providers under the
3 trust as described in section 109 of this act.

4 (6) Community health access shall provide payment for essential
5 health benefits as defined in section 102 of this act to providers
6 participating in the trust as community health providers as described
7 in section 109 of this act.

8 (7) The employment security department shall be authorized to
9 transfer payments made by employers to satisfy their health care
10 expenditure requirements as set forth in section 202 of this act to
11 the health care authority. The health care authority shall establish
12 and maintain the medical reimbursement accounts from which employees
13 may obtain reimbursement of health care expenditures in the amount of
14 and under the terms set by the board in annual negotiations with
15 community health providers as established in section 109 of this act.

16 (8) The health care authority may coordinate with a third-party
17 vendor to administer program operations, including enrollment,
18 tracking service utilization, billing, and communication with the
19 participants.

20 (9) The health care authority shall develop a plan to more
21 directly integrate employer coverage for essential health benefits
22 and to ensure that employer health care expenditures made to the
23 employment security department pursuant to section 202 of this act
24 can be used to maximize enrollment in health insurance through the
25 trust or medicaid. This plan may include possible options for
26 incenting employers to provide quality, affordable health insurance
27 directly to employees. This plan shall be presented to the
28 legislature annually beginning no later than December 1, 2027, so
29 that it may be considered and approved for full implementation to
30 begin during a marketplace open enrollment period no more than 20
31 months following approval. Until a plan to integrate employer
32 essential health coverage directly into the trust is approved by the
33 legislature, the health care authority shall continue to administer
34 the health options program, which includes community health access
35 and medical reimbursement accounts, in a manner that is consistent
36 with section 101 of this act.

37 NEW SECTION. **Sec. 128.** CONFORMING FEDERALLY QUALIFIED TRUST
38 FUNDS. By January 1, 2027, the board shall submit to the legislature

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

3 NEW SECTION. **Sec. 129.** CONFORMING LABOR AND INDUSTRIES. By
4 January 1, 2027, the board, in coordination with the department of
5 labor and industries, shall study and make a report to the governor
6 and appropriate committees of the legislature on the coordination of
7 essential health benefits for injured workers under the trust.

8 **Part II**

9 **Employment-Based Contributions**

10 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
11 section apply throughout this chapter unless the context clearly
12 requires otherwise.

13 (1) "Adjusted net earnings from self-employment of sole
14 proprietors" means "net earnings from self-employment of sole
15 proprietors" as defined in section 1402 of the internal revenue code
16 less a number equal to 15,000 reduced by 25 percent of an
17 individual's total net earnings from self-employment of sole
18 proprietors and allocated to the state as provided in section 203 of
19 this act. All numbers less than zero equal zero.

20 (2) "Adjusted quarterly payroll" means aggregate gross payroll
21 paid to a Washington state resident less the healthy Washington
22 payroll exemption.

23 (3) "Commissioner" means the commissioner of the department or
24 the commissioner's designee.

25 (4) "Department" means the employment security department.

26 (5) "Employee deduction" means the portion of the employer
27 contribution that can be deducted from an employee's paycheck.

28 (6) "Employer" has the meaning provided in RCW 50A.05.010.

29 (7) "Employer contribution" means the assessment required by
30 section 202 of this act.

31 (8) "Employer spending requirement" means the sum total of
32 required health care expenditures that an employer must make for all
33 of its employees.

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

35 (10) "Health care expenditure" means an amount paid by an
36 employer to an employee or a trustee or a third party on behalf of
37 the employee for the purpose of providing or reimbursing the cost of

1 health care services for employees, their spouses, or both, domestic
2 partners, children, or other dependents. "Health care expenditure"
3 also means an amount paid by an employer to the Washington health
4 trust on behalf of the employee to establish their enrollment in the
5 Washington health trust in the manner and according to the terms set
6 by the health care authority. "Health care expenditure" does not
7 include any amount otherwise required to be paid by federal, state,
8 or local law.

9 (11) "Health care services" means medical care, services, or
10 goods that may qualify as tax deductible medical care expenses under
11 section 213 of the internal revenue code, or medical care, services,
12 or goods having substantially the same purpose or effect as such
13 deductible expenses.

14 (12) "Healthy Washington payroll exemption" means a number equal
15 to 3,750 reduced by 25 percent of the total quarterly aggregate gross
16 payroll paid to the employee allocated to the state as provided in
17 section 202 of this act. However, a number less than zero equals
18 zero.

19 (13) "Individual" means a natural person.

20 (14) "Internal revenue code" means the United States internal
21 revenue code of 1986, as amended, as of the effective date of this
22 section, or such subsequent date as the department of revenue may
23 provide by rule consistent with the purpose of this chapter.

24 (15) "Partnership" means an association of two or more persons to
25 carry on as co-owners a business for profit formed under RCW
26 25.05.055, predecessor law, or comparable law of another
27 jurisdiction.

28 (16) "Payroll" means any amount paid to Washington state
29 residents and defined as "wages" under section 3121 of the internal
30 revenue code.

31 (17) "Remuneration" has the meaning provided in RCW 50A.05.010.

32 (18) "Required health care expenditure" means the health care
33 expenditure that an employer is required to make to, or on behalf of,
34 an employee.

35 (19) "Resident" means an individual who meets residency
36 requirements consistent with RCW 46.16A.140. "Resident" also includes
37 an individual and the individual's accompanying family members who
38 are residing in the state for the purpose of engaging in employment
39 for at least one month. The confinement of a person in a nursing

1 home, hospital, or other medical institution in the state may not by
2 itself be sufficient to qualify such person as a resident.

3 (20) "Service is localized in this state" has the meaning
4 described in RCW 50.04.120.

5 (21) "Sole proprietor" means:

6 (a) Any self-employed person, including a sole proprietor or
7 independent contractor; or

8 (b) A qualified joint venturer as described in Title 26 U.S.C.
9 Sec. 761 of the internal revenue code.

10 (22) "Taxable year" means the taxpayer's taxable year as
11 determined under the internal revenue code.

12 (23) "Taxpayer" means an individual subject to tax under this
13 chapter.

14 (24) "Wage" or "wages" means:

15 (a) For the purpose of the employer contributions, the
16 remuneration paid by an employer to an employee. The maximum wages
17 subject to an assessment are those wages as set by the commissioner
18 under section 202 of this act;

19 (b) For the purpose of payment of benefits, the remuneration paid
20 by one or more employers to an employee for employment during the
21 employee's qualifying period. At the request of an employee, wages
22 may be calculated on the basis of remuneration payable. The
23 department shall notify each employee that wages are calculated on
24 the basis of remuneration paid, but at the employee's request a
25 redetermination may be performed and based on remuneration payable;

26 (c) Adjusted net earnings from self-employment of sole
27 proprietors.

28 NEW SECTION. **Sec. 202.** EMPLOYER REQUIRED HEALTH CARE
29 EXPENDITURE AND EMPLOYER CONTRIBUTION PROCEDURE. (1)(a) Beginning
30 January 1, 2027, employers shall make required health care
31 expenditures to or on behalf of each employee each quarter. The
32 department shall assess for each individual in employment with an
33 employer and for each sole proprietor an employment contribution
34 based on the amount of the individual's wages subject to section 203
35 of this act.

36 (b) The assessment rate shall be equal to 10.5 percent of an
37 employee's aggregate adjusted quarterly payroll or wages and less the
38 employer's health care expenditures for that employee during the same
39 reporting period.

1 (c) An employer may deduct up to two percent of the required
2 health care expenditure from an employee's wages.

3 (d) An employer may elect to pay all or any portion of the
4 employee deduction.

5 (2) The employer must collect from the employees the required
6 health care expenditure provided under this section through payroll
7 deductions and remit the amounts collected to the department or make
8 a health care expenditure to or on behalf of the employee.

9 (3) Contributions from employers and sole proprietors shall be
10 collected in the manner and at such intervals as provided in this
11 title and directed by the department.

12 (4) Health care expenditures paid to or on behalf of an employee
13 exceeding the required health care expenditure for the employee must
14 not be counted toward the employer spending requirement except as
15 expressly permitted by the department.

16 (5) When an employer pays the entire required health care
17 expenditure for an employee to the department the employee is
18 eligible for enrollment in the Washington health trust and the
19 employment contribution required must be deposited in the benefits
20 account created in section 123 of this act.

21 (6) Beginning January 1, 2025, until May 15, 2028, employers with
22 fewer than 50 employees and that face financial hardship in paying
23 the required health care expenditure may, upon application to the
24 department, be eligible for waivers or reductions in the assessment.
25 The department shall establish rules and procedures governing all
26 aspects of the business assistance program, including application
27 procedures, wages, profits, age of firm, and duration of assistance.

28 (7) Pending integration of any federally qualified trust funds,
29 such as medicare or medicaid, the payroll of employees covered under
30 these trust funds is exempt from the employer contribution, although
31 the employer may pay health care expenditures to the department on
32 behalf of the employee voluntarily.

33 (8) Unless repeal, amendment, waiver, or other integration
34 measure for applicable state and federal laws described in section
35 111 of this act, payroll of Native American residents who do not
36 elect to enroll in the Washington health trust is exempt from the
37 employer contribution.

38 (9) The department must deposit revenue collected under this
39 section into the medical reimbursement accounts created in section

1 127 of this act or the Washington health trust benefits account
2 created in section 123 of this act.

3 (10) To the extent feasible and not inconsistent with the
4 provisions in this chapter, the department shall use the premium
5 assessment, collection, and reporting procedures in Title 50A RCW for
6 the employment contribution assessment, collection, and reporting.

7 (11) Beginning January 2028 and on a biennial basis, the
8 department shall adjust the required health care expenditures and the
9 employer contribution assessment rate for the following year based on
10 recommendations from the health care authority and the board of the
11 Washington health trust.

12 NEW SECTION. **Sec. 203.** EMPLOYEE HEALTH EXPENDITURES AND
13 EMPLOYEE DEDUCTION—APPLICABILITY. (1) Beginning January 1, 2027, an
14 employee deduction is imposed on the receipt of wages by residents
15 employed in Washington state. All employers in Washington state must
16 collect the employee deduction on aggregate gross payroll paid to
17 Washington state residents from employee wages and make required
18 health care expenditures, pay the employee deduction to the
19 department in quarterly installments, or pay the employee deduction
20 on behalf of an employee. Except as provided in sections 114 and
21 202(11) of this act, the employee deduction shall be two percent of
22 the employee's aggregate adjusted quarterly payroll.

23 (2) The pay or wages from employees who are exempt from the
24 required health care expenditure established in section 202 of this
25 act are exempt from owing the employee deduction on those wages.

26 (3) Beginning January 1, 2026, residents operating as sole
27 proprietors must pay a self-employment contribution in annual
28 installments to the department of two percent on adjusted net
29 earnings from self-employment.

30 (4) Partnerships are subject to the employment contribution
31 established in section 202 of this act and are responsible for
32 collecting the employee deduction on behalf of employees as provided
33 in this section.

34 (5) S corporations are not subject to the employment contribution
35 under this chapter.

36 NEW SECTION. **Sec. 204.** EMPLOYER WITHHOLDING ESTIMATED EMPLOYEE
37 DEDUCTION. Every employer making a payment of wages or salaries
38 earned in this state by Washington residents, regardless of the place

1 where the payment is made, and who is required by the internal
2 revenue code to withhold taxes, must deduct and withhold an employee
3 deduction as prescribed by the department by rule. The rules
4 prescribed must reasonably reflect the quarterly tax liability of the
5 employee under this chapter. Every employer making such a deduction
6 and withholding must furnish to the employee a record of the amount
7 of tax deducted and withheld from the employee on forms provided by
8 the department.

9 NEW SECTION. **Sec. 205.** EMPLOYER IS LIABLE FOR TAX WITHHELD. Any
10 employer required to deduct and withhold the employee deduction
11 imposed by this chapter is liable under section 204 of this act to
12 the department for the payment of the amount deducted and withheld,
13 and is not liable to any other person for the amount of tax deducted
14 and withheld under this chapter or for the act of withholding.

15 NEW SECTION. **Sec. 206.** CREDITS FOR WITHHELD EMPLOYEE HEALTH
16 CONTRIBUTIONS. The amount deducted and withheld as tax under sections
17 204 through 221 of this act during any taxable year is allowed as a
18 credit against the employer contribution imposed for the taxable year
19 by this chapter. If the liability of any individual for taxes,
20 interest, penalties, or other amounts due the state of Washington is
21 less than the total amount of the credit which the individual is
22 entitled to claim under this section, the individual is entitled to a
23 refund from the department in the amount of the excess of the credit
24 over the tax otherwise due. If any individual entitled to claim a
25 credit under this section is not otherwise required by this chapter
26 to file a return with the department, a refund may be obtained in the
27 amount of the credit by filing a return with the department, with
28 applicable sections completed, to claim the refund. No credit or
29 refund is allowed under this section unless the credit or refund is
30 claimed on a return filed for the taxable year for which the amount
31 was deducted and withheld.

32 NEW SECTION. **Sec. 207.** EMPLOYER RESPONSIBILITIES. (1) An
33 employer shall:

34 (a) Maintain accurate records of health care expenditures,
35 required health care expenditures, and proof of such expenditures
36 made each quarter and each year, and allow the department reasonable

1 access to such records, provided, however, that employers are not
2 required to maintain such records in any particular form; and

3 (b) Provide information to the department, or the department
4 designee, on an annual basis containing additional information as the
5 department requires, including information on the employer's
6 compliance with this chapter. The department may not require an
7 employer to provide information in violation of state or federal
8 privacy laws. In the event the information required by the department
9 is comingled with information protected by privacy laws, the employer
10 shall redact the private information. If an employer uses a revocable
11 expenditure to satisfy its obligation to make required health care
12 expenditures for any of its employees, the employer shall also report
13 to the department any conditions or restrictions on the employee's
14 use of the expenditure, and the condition or conditions that permit
15 any portion of the expenditure to be revoked by or returned to the
16 employer.

17 (2) Where an employer does not maintain or retain adequate
18 records documenting the health care expenditures made, or does not
19 allow the department reasonable access to such records, it shall be
20 presumed that the employer did not make the required health care
21 expenditures for the quarter for which records are lacking, absent
22 clear and convincing evidence otherwise. The department of revenue
23 and the health care authority have the authority to provide any and
24 all nonfinancial information to the department necessary to fulfill
25 the department responsibilities as the enforcing agency under this
26 chapter. With regard to all such information provided by the
27 department of revenue and the health care authority, the department
28 shall be subject to the confidentiality provisions in RCW 82.32.330.

29 NEW SECTION. **Sec. 208.** PENALTIES FOR FAILURE TO PAY OR COLLECT
30 WITHHOLDINGS. (1) The employee deduction required by this chapter to
31 be collected by the employer is deemed to be held in trust by the
32 employer until the required health care expenditure is made or the
33 assessment is paid to the department.

34 (2) In case any employer, or a responsible person within the
35 meaning of internal revenue code section 6672, collected the tax and
36 fails to pay it to the department, the employer or responsible person
37 is personally liable to the state for the amount collected. The
38 interest and penalty provisions of chapter 82.32 RCW apply to this
39 section. An employer or other responsible person who appropriates or

1 converts the employee health assessment is guilty of a gross
2 misdemeanor as provided in chapter 9A.20 RCW.

3 (3) In case any employer or responsible person within the meaning
4 of internal revenue code section 6672 fails to collect the employee
5 health assessment herein imposed, the employer is still liable to the
6 state for the amount owed.

7 NEW SECTION. **Sec. 209.** OUT-OF-STATE EMPLOYERS OF WASHINGTON
8 RESIDENTS. By January 1, 2027, the department shall develop policy,
9 procedures, and forms allowing out-of-state employers employing one
10 or more residents of Washington state to voluntarily pay the employer
11 contribution established in section 202 of this act.

12 NEW SECTION. **Sec. 210.** EMPLOYER REQUIREMENTS. To the extent not
13 inconsistent with the provisions of this chapter, RCW 50A.20.030
14 applies to the employer requirements imposed under this chapter.

15 NEW SECTION. **Sec. 211.** UNLAWFUL ACTS—EMPLOYERS. To the extent
16 not inconsistent with the provisions of this chapter, RCW 50A.40.010
17 applies to the unlawful acts of employers imposed under this chapter.

18 NEW SECTION. **Sec. 212.** EMPLOYER PENALTIES. To the extent not
19 inconsistent with the provisions of this chapter, RCW 50A.40.010
20 applies to the employer penalties imposed under this chapter.

21 NEW SECTION. **Sec. 213.** OUT-OF-STATE EMPLOYEES—CONTRIBUTION
22 WAIVER. An employer may file an application with the department for a
23 conditional waiver for the payment of the employer contribution under
24 section 202 of this act for out-of-state employees for any employees
25 granted a waiver for the family and medical leave premiums defined in
26 RCW 50A.10.040.

27 NEW SECTION. **Sec. 214.** TERMINATION OR DISPOSAL OF BUSINESS—
28 CONTRIBUTION PAYMENT—SUCCESSOR LIABILITY. Whenever any employer quits
29 business, or sells out, exchanges, or otherwise disposes of the
30 employer's business or stock of goods, any employer contributions
31 payable under this chapter shall become immediately due and payable.
32 The employer shall, within 10 days, make a return and pay the
33 employer contributions due; and any person who becomes a successor to

1 such business shall become liable for the full amount of the employer
2 contributions and withhold from the purchase price a sum sufficient
3 to pay any employer contributions due from the employer until such
4 time as the employer produces a receipt from the department showing
5 payment in full of any employer contributions due or a certificate
6 that no employer contribution is due and, if such employer
7 contribution is not paid by the employer within 10 days from the date
8 of such sale, exchange, or disposal, the successor shall become
9 liable for the payment of the full amount of employer contributions,
10 and the payment thereof by such successor shall, to the extent
11 thereof, be deemed a payment upon the purchase price, and if such
12 payment is greater in amount than the purchase price the amount of
13 the difference shall become a debt due such successor from the
14 employer. A successor may not be liable for any employer
15 contributions due from the person from whom the successor acquired a
16 business or stock of goods if that person gives written notice to the
17 department of such acquisition and no employer contribution is issued
18 by the department within 180 days of receipt of such notice against
19 the former operator of the business and a copy thereof mailed to such
20 successor.

21 NEW SECTION. **Sec. 215.** DELINQUENCY—ORDER AND NOTICE OF
22 ASSESSMENT. At any time after the commissioner shall find that any
23 employer contributions, interest, or penalties have become
24 delinquent, the commissioner may issue an order and notice of
25 assessment and enforce collection using a process consistent with
26 those provided for family and medical leave in RCW 50A.45.015 through
27 50A.45.070 except that:

28 (1) Interest collected under this section shall be paid into the
29 Washington health trust enforcement account; and

30 (2) Property acquired by the department may be sold by the
31 commissioner or their representative at public or private sale, and
32 the amount realized shall be placed in the Washington health trust
33 enforcement account.

34 NEW SECTION. **Sec. 216.** UNCOLLECTIBLE ACCOUNTS. The commissioner
35 may charge off as uncollectible and no longer an asset of the
36 Washington health trust enforcement account, any delinquent
37 assessments, interest, penalties, or credits if the commissioner is

1 satisfied that there are no cost-effective means of collecting the
2 assessments, interest, penalties, or credits.

3 NEW SECTION. **Sec. 217.** INSPECTION AND AUDIT. The department may
4 inspect and audit employer files and records relating to the
5 Washington health trust program.

6 NEW SECTION. **Sec. 218.** ENFORCEMENT ACCOUNT. The Washington
7 health trust enforcement account is created in the custody of the
8 state treasurer. Any penalties and interest collected under this
9 chapter must be deposited into the account and shall be used only for
10 the purposes of administering and enforcing this chapter. Only the
11 commissioner may authorize expenditures from the account. The account
12 is subject to allotment procedures under chapter 43.88 RCW, but an
13 appropriation is not required for expenditures.

14 NEW SECTION. **Sec. 219.** AGREEMENT TO WAIVE. (1) Any agreement to
15 waive, release, or commute an individual's right to benefits or any
16 other rights under this chapter is void.

17 (2) Any assignment, pledge, or encumbrance of any right to
18 benefits that are or may become due or payable under this chapter is
19 void. Such rights to benefits are exempt from levy, execution,
20 attachment, or any other remedy whatsoever provided for the
21 collection of debts. Any waiver of any exemption provided for in this
22 section is void.

23 NEW SECTION. **Sec. 220.** ALLOCATION OF REVENUES TO BENEFITS
24 ACCOUNT. All revenue from taxes collected by the department under
25 this chapter, including penalties and interest on such taxes, must be
26 deposited in the benefits account created in section 123 of this act.

27 NEW SECTION. **Sec. 221.** ADOPTION OF RULES. The commissioner
28 shall have the authority to adopt, amend, or rescind rules
29 interpreting and implementing the provisions of this chapter.

30 NEW SECTION. **Sec. 222.** CONFORMING RCW. To the extent not
31 inconsistent with the provisions of this chapter, chapter 82.32 RCW
32 applies to the administration of taxes imposed under section 203 of
33 this act.

1 **Part III**

2 **Capital Gains Investment in Health**

3 NEW SECTION. **Sec. 301.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter unless the context clearly
5 requires otherwise.

6 (1) "Accessory dwelling unit" means a separate habitable living
7 area that is subordinate to the principal single-family dwelling
8 unit, which is either internal to, attached to, or located on the
9 same property tax parcel as, the principal single-family dwelling
10 unit.

11 (2) "Adjusted capital gain" has the meaning provided in RCW
12 82.87.020.

13 (3) "Capital asset" has the same meaning as provided by Title 26
14 U.S.C. Sec. 1221 of the internal revenue code and also includes any
15 other property if the sale or exchange of the property results in a
16 gain that is treated as a long-term capital gain under Title 26
17 U.S.C. Sec. 1231 or any other provision of the internal revenue code.

18 (4) "Department" means the department of revenue.

19 (5) "Federal net long-term capital gain" has the meaning provided
20 in RCW 82.87.020.

21 (6) "Individual" means a natural person.

22 (7) "Internal revenue code" means the United States internal
23 revenue code of 1986, as amended, as of the effective date of this
24 section, or such subsequent date as the department may provide by
25 rule consistent with the purpose of this chapter.

26 (8) "Long-term capital asset" means a capital asset that is held
27 for more than one year.

28 (9) "Resident" has the meaning provided in RCW 82.87.020.

29 (10) "Taxable year" means the taxpayer's taxable year as
30 determined under the internal revenue code.

31 (11) "Taxpayer" means an individual subject to tax under this
32 chapter.

33 (12) "Washington investment in health capital gains" means an
34 individual's annual adjusted capital gain under this chapter, for
35 each return filed under this chapter.

36 NEW SECTION. **Sec. 302.** LONG-TERM CAPITAL GAINS TAX. (1)
37 Beginning January 1, 2024, an excise tax is imposed on all
38 individuals for the privilege of selling or exchanging long-term

1 capital assets, or receiving Washington capital gains. The tax equals
2 eight and one-half percent multiplied by the individual's Washington
3 capital gains.

4 (2) If an individual's Washington capital gains are less than
5 zero for a taxable year, no tax is due under this section. No such
6 losses may be carried back or carried forward to another taxable
7 year.

8 (3) The tax imposed in this section applies to:

9 (a) The sale or exchange of long-term capital assets owned by the
10 taxpayer, whether the taxpayer was the legal or a beneficial owner of
11 such assets at the time of the sale or exchange; or

12 (b) Washington capital gains otherwise realized by the taxpayer.

13 (4) For purposes of this chapter, an individual is a beneficial
14 owner of long-term capital assets held by an entity that is a pass-
15 through or disregarded entity for federal tax purposes, such as a
16 partnership, limited liability company, S corporation, or trust, to
17 the extent of the individual's ownership interest in the entity as
18 reported for federal income tax purposes.

19 NEW SECTION. **Sec. 303.** EXEMPTS CERTAIN GAINS AND LOSSES. This
20 chapter does not apply to the sale or exchange of:

21 (1) Any residential dwelling, along with the land upon which the
22 dwelling is located. For the purposes of this subsection,
23 "residential dwelling" means property consisting solely of:

24 (a) A single-family residence, a residential condominium unit, or
25 a residential cooperative unit, including any accessory dwelling unit
26 associated with such residence or residential unit;

27 (b) A multifamily residential building consisting of one or more
28 common walls and fewer than four units; or

29 (c) A floating home as defined in RCW 82.45.032;

30 (2) Assets held under a retirement savings account under Title 26
31 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered
32 annuity or a custodial account described in Title 26 U.S.C. Sec.
33 403(b) of the internal revenue code, a deferred compensation plan
34 under Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an
35 individual retirement account or an individual retirement annuity
36 described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a
37 roth individual retirement account described in Title 26 U.S.C. Sec.
38 408A of the internal revenue code, an employee defined contribution

1 program, an employee defined benefit plan, or a similar retirement
2 savings vehicle;

3 (3) Assets pursuant to or under imminent threat of condemnation
4 proceedings by the United States, the state or any of its political
5 subdivisions, or a municipal corporation;

6 (4) Cattle, horses, or breeding livestock held for more than 12
7 months if, for the taxable year of the sale or exchange, more than 50
8 percent of the taxpayer's gross income for the taxable year,
9 including from the sale or exchange of capital assets, is from
10 farming or ranching;

11 (5) Agricultural land by an individual who has regular,
12 continuous, and substantial involvement in the operation of the
13 agricultural land that meets the criteria for material participation
14 in an activity under Title 26 U.S.C. Sec. 469(h) of the internal
15 revenue code for the 10 years prior to the date of the sale or
16 exchange of the agricultural land;

17 (6) Property used in a trade or business if the property
18 qualifies for an income tax deduction under Title 26 U.S.C. Sec. 167
19 or 179 of the internal revenue code; and

20 (7) Timber, timberland, or the receipt of Washington capital
21 gains as dividends and distributions from real estate investment
22 trusts derived from gains from the sale or exchange of timber.
23 "Timber" means forest trees, standing or down, on privately or
24 publicly owned land, and includes Christmas trees and short-rotation
25 hardwoods. The sale or exchange of timber includes the cutting or
26 disposal of timber qualifying for capital gains treatment under Title
27 26 U.S.C. Sec. 631(a) or (b) of the internal revenue code.

28 NEW SECTION. **Sec. 304.** COMPUTATION OF TAX—DEDUCTION OF
29 PROHIBITED AMOUNTS. In computing tax, there may be deducted from the
30 measure of tax amounts that the state is prohibited from taxing under
31 the state or federal Constitutions.

32 NEW SECTION. **Sec. 305.** QUALIFIED FAMILY-OWNED SMALL BUSINESS
33 DEDUCTION. (1) In computing tax under this chapter for a taxable
34 year, a taxpayer may deduct adjusted capital gains, to the extent
35 they are included in Washington capital gains, derived in the taxable
36 year from the sale of substantially all of the fair market value of
37 the assets of, or the transfer of substantially all of the taxpayer's
38 interest in, a qualified family-owned small business.

1 (2) For purposes of this section, the following definitions
2 apply:

3 (a) "Assets" means real property and personal property, including
4 tangible personal property and intangible property.

5 (b) "Family" has the same meaning as "member of the family" in
6 RCW 83.100.046.

7 (c)(i) "Materially participated" means an individual was involved
8 in the operation of a business on a basis that is regular,
9 continuous, and substantial.

10 (ii) The term "materially participated" must be interpreted
11 consistently with the applicable treasury regulations for section 469
12 of the internal revenue code, to the extent that such interpretation
13 does not conflict with any provision of this section.

14 (d) "Qualified family-owned small business" means a business:

15 (i) In which the taxpayer held a qualifying interest for at least
16 eight years immediately preceding the sale or transfer described in
17 subsection (1) of this section;

18 (ii) In which the taxpayer or their family member materially
19 participated in operating the business for at least five of the eight
20 years immediately preceding the sale or transfer described in
21 subsection (1) of this section, unless such sale or transfer was to a
22 qualified heir;

23 (iii)(A) That had no more than 50 full-time employees at any time
24 during the 12-month period immediately preceding the sale or transfer
25 described in subsection (1) of this section.

26 (B) For purposes of this subsection (2)(d)(iii), "full-time
27 employee" means an employee who is, or any combination of employees
28 who are, paid by the business for at least 1,820 hours of employment,
29 including paid leave, for the 12-month period described in
30 (d)(iii)(A) of this subsection (2); and

31 (iv) That had worldwide gross revenue of \$7,000,000 or less in
32 the 12-month period immediately preceding the sale or transfer
33 described in subsection (1) of this section.

34 (e) "Qualified heir" means a member of the taxpayer's family.

35 (f) "Qualifying interest" means:

36 (i) An interest as a proprietor in a business carried on as a
37 sole proprietorship; or

38 (ii) An interest in a business if at least:

39 (A) Fifty percent of the business is owned, directly or
40 indirectly, by the taxpayer and members of the taxpayer's family;

1 (B) Thirty percent of the business is owned, directly or
2 indirectly, by the taxpayer and members of the taxpayer's family, and
3 at least:

4 (I) Seventy percent of the business is owned, directly or
5 indirectly, by members of two families; or

6 (II) Ninety percent of the business is owned, directly or
7 indirectly, by members of three families.

8 (g) "Substantially all" means at least 90 percent.

9 NEW SECTION. **Sec. 306.** ADJUSTED CAPITAL GAINS. (1) For purposes
10 of the tax imposed under this chapter, adjusted capital gains are
11 allocated as follows:

12 (a) Adjusted capital gains from the sale or exchange of real
13 property are allocated to this state if the real property is located
14 in this state or a majority of the fair market value of the real
15 property is located in this state;

16 (b) Adjusted capital gains from the sale or exchange of tangible
17 personal property are allocated to this state if the property was
18 located in this state at the time of the sale or exchange. Adjusted
19 capital gains from the sale or exchange of tangible personal property
20 are also allocated to this state even though the property was not
21 located in this state at the time of the sale or exchange if:

22 (i) The property was located in the state at any time during the
23 taxable year in which the sale or exchange occurred or the
24 immediately preceding taxable year;

25 (ii) The taxpayer was a resident at the time the sale or exchange
26 occurred; and

27 (iii) The taxpayer is not subject to the payment of an income or
28 excise tax legally imposed on the adjusted capital gain by another
29 taxing jurisdiction; and

30 (c) Adjusted capital gains derived from intangible personal
31 property are allocated to this state if the taxpayer was domiciled in
32 this state at the time the sale or exchange occurred.

33 (2) A credit is allowed against the tax imposed in section 302 of
34 this act equal to the amount of any legally imposed income or excise
35 tax paid by the taxpayer to another taxing jurisdiction on capital
36 gains derived from capital assets within the other taxing
37 jurisdiction to the extent such capital gains are included in the
38 taxpayer's Washington capital gains.

1 (a) The amount of credit under this subsection may not exceed the
2 total amount of tax due under this chapter, and there is no carryback
3 or carryforward of any unused credits.

4 (b) As used in this section, "taxing jurisdiction" means a state
5 of the United States other than the state of Washington, the District
6 of Columbia, the Commonwealth of Puerto Rico, any territory or
7 possession of the United States, or any foreign country or political
8 subdivision of a foreign country.

9 (3) A deduction is allowed against the tax imposed in sections
10 202 and 203 of this act to the extent necessary to avoid taxing the
11 same amounts under this chapter.

12 NEW SECTION. **Sec. 307.** DUAL RESIDENCE. (1) If an individual is
13 regarded as a resident both of this state and another jurisdiction
14 for state tax purposes, the department must reduce the tax on that
15 portion of the taxpayer's income which is subjected to tax in both
16 jurisdictions solely by virtue of dual residence, if the other taxing
17 jurisdiction allows a similar reduction.

18 (2) As used in this section, "taxing jurisdiction" means a state
19 of the United States other than the state of Washington, the District
20 of Columbia, the Commonwealth of Puerto Rico, any territory or
21 possession of the United States, or any foreign country or political
22 subdivision of a foreign country.

23 NEW SECTION. **Sec. 308.** TREATMENT OF PARTNERSHIPS AND S
24 CORPORATION INCOME. (1) Partnerships are not subject to the long-term
25 capital gains tax under this chapter. Partners are subject to the
26 long-term capital gains tax under this chapter in their separate or
27 individual capacities.

28 (2) S corporations are not subject to the long-term capital gains
29 tax under this chapter. Shareholders of S corporations are subject to
30 the long-term capital gains tax under this chapter in their separate
31 or individual capacities.

32 NEW SECTION. **Sec. 309.** PERSONS REQUIRED TO FILE A STATE RETURN.
33 (1) Only individual and joint taxpayers with federal net long-term
34 capital gains or net earnings from self-employment of sole
35 proprietors in excess of \$15,000 on their federal tax return are
36 required to file a capital gains tax return with the department. Each
37 person required to file a return under this chapter must, without

1 assessment, notice, or demand, pay any tax due thereon to the
2 department on or before the date fixed for the filing of the return.

3 (2) Except as otherwise provided in this chapter or RCW
4 82.32.080, taxpayers owing tax under this chapter must file, on forms
5 prescribed by the department, a return with the department on or
6 before the date the taxpayer's federal income tax return for the
7 taxable year is required to be filed along with all schedules and
8 supporting documentation.

9 (3) If an adjustment to a taxpayer's federal return is made by
10 the taxpayer or the internal revenue service, the taxpayer must,
11 within 90 days of the final determination of the adjustment by the
12 internal revenue service or within 30 days of the filing of a federal
13 return adjusted by the taxpayer, file with the department on forms
14 prescribed by the department a corrected return reflecting the
15 adjustments as finally determined; however, such an amendment of the
16 state return may take place only when the original filing was made in
17 error. The taxpayer must pay any additional tax due resulting from
18 the finally determined internal revenue service adjustment or a
19 taxpayer adjustment without notice and assessment. Notwithstanding
20 any provision of this chapter or any other title to the contrary, the
21 period of limitation for the collection of the additional tax,
22 interest, and penalty due as a result of such an adjustment by the
23 taxpayer or a finally determined internal revenue service adjustment
24 must begin at the later of 30 days following the final determination
25 of the adjustment or the date of the filing of the corrected return.

26 (4) If a taxpayer required to file a return under this section
27 has obtained an extension of time for filing the federal tax return
28 for the taxable year, the taxpayer is entitled to the same extension
29 of time for filing the return required under this section if the
30 taxpayer provides the department, before the due date provided in
31 subsection (1) of this section, the extension confirmation number or
32 other evidence satisfactory to the department confirming the federal
33 extension. An extension under this subsection for the filing of a
34 return under this chapter is not an extension of time to pay the tax
35 due under this chapter.

36 (5) If any return due on long-term capital gains under subsection
37 (1) of this section, along with a copy of the federal tax return, is
38 not filed with the department by the due date or any extension
39 granted by the department, the department must assess a penalty in
40 the amount of five percent of the tax due for the taxable year

1 covered by the return for each month or portion of a month that the
2 return remains unfiled. The total penalty assessed under this
3 subsection may not exceed 25 percent of the tax due for the taxable
4 year covered by the delinquent return.

5 (a) The penalty under this subsection is in addition to any
6 penalties assessed for the late payment of any tax due on the return.

7 (b) The department must waive or cancel the penalty imposed under
8 this subsection if:

9 (i) The department is persuaded that the taxpayer's failure to
10 file the return by the due date was due to circumstances beyond the
11 taxpayer's control; or

12 (ii) The taxpayer has not been delinquent in filing any return
13 due under this section during the preceding five calendar years.

14 NEW SECTION. **Sec. 310.** PENALTIES. (1) Any taxpayer who
15 knowingly attempts to evade payment of the tax imposed under this
16 chapter is guilty of a class C felony as provided in chapter 9A.20
17 RCW.

18 (2) Any taxpayer who knowingly fails to pay tax, make returns,
19 keep records, or supply information, as required under this title, is
20 guilty of a gross misdemeanor as provided in chapter 9A.20 RCW.

21 NEW SECTION. **Sec. 311.** INSTRUCTIONS FOR JOINT FILING. (1) If
22 the federal income tax liabilities of both spouses are determined on
23 a joint federal return for the taxable year, they must file a joint
24 return under this chapter.

25 (2) Except as otherwise provided in this subsection, if the
26 federal income tax liability of either spouse is determined on a
27 separate federal return for the taxable year, they must file separate
28 returns under this chapter. State registered domestic partners may
29 file a joint return under this chapter even if they filed separate
30 federal returns for the taxable year.

31 (3) In any case in which a joint return is filed under this
32 section, the liability of each spouse or state registered domestic
33 partner is joint and several, unless:

34 (a) The spouse is relieved of liability for federal tax purposes
35 as provided under Title 26 U.S.C. Sec. 6015 of the internal revenue
36 code; or

37 (b) The department determines that the domestic partner qualifies
38 for relief as provided by rule of the department. Such rule, to the

1 extent possible without being inconsistent with this chapter, must
2 follow Title 26 U.S.C. Sec. 6015.

3 (4) The department must take actions and adopt rules, forms, and
4 procedures to implement this chapter consistently with RCW 26.60.015,
5 notwithstanding any term or provision of this chapter.

6 NEW SECTION. **Sec. 312.** DUE DATES FOR RETURNS, PENALTIES. The
7 due date of a return required to be filed with the department is the
8 due date of the applicable federal income tax return for federal
9 income tax purposes. The department may grant extensions of time by
10 which returns required to be filed by this chapter may be submitted.
11 The department may grant extensions of time to pay tax with regard to
12 taxes imposed by this chapter. Interest at the rate as specified in
13 RCW 82.32.050 accrues during any extension period and the interest
14 and penalty provisions of chapter 82.32 RCW apply to late payments
15 and deficiencies. RCW 82.32.105 applies to this section.

16 NEW SECTION. **Sec. 313.** RECORDS AND RETURNS. (1) Every taxpayer
17 with federal net long-term capital gains or net earnings from self-
18 employment of sole proprietors in excess of \$15,000 annually must
19 keep records, render statements, make returns, file reports, and
20 perform other acts as the department requires by rule. Each return
21 must be made under penalty of perjury and on forms prescribed by the
22 department. The department may require other statements and reports
23 be made under penalty of perjury and on forms prescribed by the
24 department. The department may require any taxpayer and any person
25 required to deduct and withhold the tax imposed under this chapter to
26 furnish to the department a correct copy of any return or document
27 which the taxpayer has filed with the internal revenue service or
28 received from the internal revenue service.

29 (2) All books and records and other papers and documents required
30 to be kept under this chapter are subject to inspection by the
31 department at all times during business hours of the day.

32 NEW SECTION. **Sec. 314.** ALLOCATION OF REVENUES TO BENEFITS
33 ACCOUNT. All revenue from taxes collected by the department under
34 this chapter, including penalties and interest on such taxes, must be
35 deposited in the benefits account created in section 123 of this act.

1 NEW SECTION. **Sec. 315.** TAXES UNDER THIS CHAPTER IN ADDITION TO
2 OTHER TAXES. The tax imposed under this chapter is in addition to any
3 other taxes imposed by the state or any of its political
4 subdivisions, or a municipal corporation, with respect to the same
5 sale or exchange, including the taxes imposed in or under the
6 authority of chapter 82.04, 82.08, 82.12, 82.14, 82.45, or 82.46 RCW.

7 NEW SECTION. **Sec. 316.** REFUNDS FOR OVERPAYMENT. The department
8 must refund all taxes improperly paid or collected by the department.

9 NEW SECTION. **Sec. 317.** A new section is added to chapter 82.32
10 RCW to read as follows:

11 ALLOWS STATES TO COORDINATE. (1) The department may enter into
12 reciprocal tax collection agreements with the taxing officials of any
13 other state imposing a specific tax. Agreements authorized under this
14 section must require each state to offset delinquent specified taxes
15 owed by a taxpayer to one party to the agreement, including any
16 associated penalties, interest, or other additions, against refunds
17 of overpaid specified taxes owed to the taxpayer by the other party
18 to the agreement. Such agreements may also include provisions
19 governing the sharing of information relevant to the administration
20 of specified taxes. However, the department may not share return or
21 tax information with other states except as allowed under RCW
22 82.32.330. Likewise, the department may not share federal tax
23 information with other states without the express written consent of
24 the internal revenue service.

25 (2) The definitions in this subsection apply throughout this
26 section unless the context clearly requires otherwise.

27 (a) "Specific taxes" means generally applicable state and local
28 sales tax and use taxes, broad-based state gross receipts taxes,
29 state income taxes, and stand-alone state taxes on capital gains or
30 interest and dividends. "Specified taxes" include, but are not
31 limited to, the taxes imposed in or under the authority of chapters
32 82.04, 82.08, 82.12, 82.14, 82.16, and 82.--- RCW (the new chapter
33 created in section 401(3) of this act), and similar taxes imposed by
34 another state. For purposes of this subsection (2)(a), "gross
35 receipts tax," "income tax," "sales tax," and "use tax" have the
36 meanings provided in RCW 82.56.010.

37 (b) "State" has the meaning provided in RCW 82.56.010.

1 (2) Sections 114 and 201 through 222 of this act constitute a new
2 title to be codified as Title 50C RCW.

3 (3) Sections 301 through 316, 318, and 320 through 322 of this
4 act constitute a new chapter in Title 82 RCW.

5 NEW SECTION. **Sec. 402.** EFFECTIVE DATES. (1) Sections 101
6 through 107 of this act take effect February 1, 2024.

7 (2) Sections 108 through 114, 116 through 119, and 121 through
8 125 of this act take effect March 1, 2024.

9 (3) Sections 126 through 129 of this act take effect May 15,
10 2025.

11 NEW SECTION. **Sec. 403.** CONTINGENT EFFECTIVE AND EXPIRATION
12 DATES. (1) Section 115 of this act takes effect when 51 percent of
13 residents are enrolled in health insurance coverage managed by:

14 (a) The health care authority;

15 (b) An entity within the health care authority; or

16 (c) The board created in section 104 of this act.

17 (2) The health care authority must provide notice of the
18 effective date of section 115 of this act and the expiration dates of
19 sections 114 and 122 of this act to affected parties, the chief clerk
20 of the house of representatives, the secretary of the senate, the
21 office of the code reviser, and others as deemed appropriate by the
22 authority.

23 NEW SECTION. **Sec. 404.** SEVERABILITY. If any provision of this
24 act or its application to any person or circumstance is held invalid,
25 the remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

--- END ---