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**SUBSTITUTE SENATE BILL 5344**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senate Health & Long-Term Care (originally sponsored by Senators Riccelli, Harris, Lovick, Cleveland, Lovelett, Llias, Saldaña, Frame, Hasegawa, Nobles, Trudeau, Valdez, and C. Wilson)

READ FIRST TIME 02/12/25.

1 AN ACT Relating to establishing the essential worker health care  
2 program; adding new sections to chapter 43.20A RCW; adding new  
3 sections to chapter 48.02 RCW; creating a new section; and declaring  
4 an emergency.

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

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

7 (a) That there is a workforce crisis in Washington's nursing  
8 homes where the majority of workers are older women and  
9 disproportionately women of color and immigrants. Overwhelmingly  
10 nursing home workers live at or near poverty levels;

11 (b) Workers in nursing homes are essential health care workers  
12 who provide hands-on personal care, supervision, nursing care  
13 services, and emotional support to thousands of elderly and younger  
14 people with chronic illnesses and disabilities, yet continue to  
15 struggle for recognition and compensation even as the demand for  
16 long-term care services increases;

17 (c) Investments in worker benefits and wages have improved  
18 stability in the Washington in-home workforce by providing access to  
19 affordable and high quality employee health care benefits that help  
20 stem turnover;

1 (d) Access to high quality and affordable health care would help  
2 address staff turnover, stabilize the workforce, and improve the  
3 quality of nursing home care.

4 (2) Therefore, the legislature intends to address this crisis by:

5 (a) Offering increased funding to nursing home operators who  
6 commit to offering high quality and affordable health care to their  
7 employees;

8 (b) Encouraging nursing home operators to offer health care in  
9 the most cost-effective way possible, through large-scale,  
10 multiemployer plans; and

11 (c) Requiring that funds appropriated for this purpose are spent  
12 as intended and that these funds supplement rather than supplant  
13 existing health care funding for employee health care coverage.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A  
15 RCW to read as follows:

16 (1) Subject to the availability of amounts appropriated for this  
17 specific purpose, the essential worker health care program shall be  
18 established within the department to help provide nursing home  
19 workers with high quality, affordable health coverage through  
20 participating nursing home employers. Subject to the availability of  
21 amounts appropriated for this specific purpose, referencing this act  
22 by bill or chapter number, in the omnibus appropriations act, the  
23 department shall:

24 (a) Distribute funding through a supplemental payment to  
25 participating nursing home employers;

26 (b) Distribute the supplemental payment annually in proportion to  
27 each participating nursing home employer's medicaid bed days in the  
28 previous calendar year; and

29 (c) Seek any necessary approvals from the centers for medicare  
30 and medicaid services to provide this supplemental payment as  
31 provided in section 6 of this act.

32 (2) To offer employee health care benefits through a qualified  
33 health fund in the essential worker health care program, employers  
34 must operate at least one nursing home licensed under chapter 18.51  
35 RCW in Washington that participates in medicaid and enter into a  
36 memorandum of understanding with the department committing to:

37 (a) Participate in a qualified health fund certified by the  
38 office of the insurance commissioner;

1 (b) Allocate substantially all of the funds distributed through  
2 this program to the qualified health fund;

3 (c) Provide documentation to the department of its spending on  
4 employee health care benefits in Washington in the two years prior to  
5 its entry into the program;

6 (d) Maintain spending on employee health care benefits in the  
7 first year of its participation in the program at least equal to the  
8 average of its spending in the two years prior to its entry into the  
9 program and maintain spending in subsequent years at least equal to  
10 this level plus the consumer price index for health insurance  
11 maintained by the United States bureau of labor statistics. Spending  
12 to meet this requirement must flow through the certified qualified  
13 health fund. For qualified health funds offered through a Taft-  
14 Hartley fund in which union representatives occupy at least 50  
15 percent of board seats, a certification from each participating union  
16 is sufficient to comply with this requirement;

17 (e) Provide the department with information concerning its  
18 employee health care benefits, covered employee uptake of the  
19 employer's health plan, cost to the employer and covered employees,  
20 and employer retention of employees in the two years prior to its  
21 entry into the program, and provide updates to this information at  
22 the end of each year of participation in the program;

23 (f) Demonstrate at least annually or more frequently at the  
24 request of the department that it has used all of the supplemental  
25 payments received through the program to significantly improve the  
26 quality of employee health care benefits offered to covered  
27 employees; and

28 (g) Meet any other conditions or requirements specified by the  
29 department in rule to achieve the goals of this program.

30 (3) Only covered employees may participate in the program. A  
31 "covered employee" is any permanent employee of a company that  
32 operates a participating facility who works primarily in the state of  
33 Washington including, but not limited to, employees providing direct  
34 care to nursing home residents; employees indirectly involved in  
35 resident care; employees providing dietary, housekeeping, laundry, or  
36 environmental services on location; administrative employees and  
37 management; and corporate office employees, or any subcontractor of  
38 such a company who works on a full-time, permanent basis in a nursing  
39 home.

1 (4) The department may take any enforcement action authorized  
2 under this chapter or terminate any participating employer that fails  
3 to comply with the requirements established in the memorandum of  
4 understanding, sections 2 and 3 of this act, and any related rules  
5 adopted by the department.

6 (5) Subject to the availability of amounts appropriated for this  
7 specific purpose, the department may adopt rules to administer and  
8 implement this act.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.02  
10 RCW to read as follows:

11 (1) Subject to the availability of amounts appropriated for this  
12 specific purpose, the office of the insurance commissioner shall  
13 annually certify a proposed health care benefit arrangement as a  
14 qualified health fund if it meets the requirements of this section.  
15 Supplemental payments to participating employers may be disbursed by  
16 the department of social and health services only to employers that  
17 offer employee health care benefits solely through a qualified health  
18 fund that:

19 (a) Includes at least two distinct and unrelated employers in  
20 each year of the program. For the initial plan year of operation, the  
21 entity seeking certification must provide sufficient information to  
22 the commissioner to confirm that at least two distinct and unrelated  
23 employers will be offering employee health care benefits through the  
24 fund. For subsequent years, the entity seeking certification must  
25 provide information showing that at least two distinct and unrelated  
26 employers participated in the fund during the previous plan year;

27 (b) (i) Operates or provides health coverage through a fully  
28 insured multiple employer welfare arrangement, as described in RCW  
29 48.125.020, or an association health plan; or

30 (ii) Operates as a self-insured Taft-Hartley fund with equal  
31 union and employer participation;

32 (c) For a qualified health fund operated under (b) (i) of this  
33 subsection, during the previous plan year, offered benefits to at  
34 least 5,000 employees in the long-term care industry in Washington  
35 state. For the initial plan year of operation, the entity seeking  
36 certification shall provide sufficient information to the  
37 commissioner to confirm anticipated enrollment of at least 5,000  
38 long-term care employees;

1 (d) Offers a benefit package that is either equivalent to an  
2 affordable care act platinum plan in actuarial value, covered  
3 benefits and cost sharing, or, if the plan is offered by a Taft-  
4 Hartley trust, a plan approved by the board of the trust;

5 (e) Certifies each year that participating employers are  
6 complying with the terms of the program, including the maintenance of  
7 spending requirement provided in section 2(2)(d) of this act;

8 (f) Except for Taft-Hartley plans, demonstrates for the initial  
9 year of operation and annually that it has provided the opportunity  
10 for substantive input on plan design, including covered services and  
11 how they will be delivered from substantially all covered employees;

12 (g) Except for Taft-Hartley plans, demonstrates for the initial  
13 year of operation and annually that it has a robust enrollment  
14 process in place to ensure that covered employees fully understand  
15 their benefits; and

16 (h) Complies with any other requirements determined by the  
17 commissioner in rule to further the goals of the program.

18 (2) Subject to the availability of amounts appropriated for this  
19 specific purpose, the commissioner may adopt rules to administer and  
20 implement this act.

21 (3) For the purposes of this section, "employees in the long-term  
22 care industry" includes but is not limited to any individual that  
23 qualifies as a long-term care worker as defined in RCW 74.39A.009 and  
24 any individual who is employed by a nursing home as licensed under  
25 chapter 18.51 RCW.

26 (4) For the purposes of this section, "association health plan"  
27 means a bona fide group or association of employers to whom a health  
28 plan is issued that constitutes an employer under section 3(5) of the  
29 employee retirement income security act of 1974, 29 U.S.C. Sec.  
30 1002(5), and United States department of labor guidance related to  
31 association health plans.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.02  
33 RCW to read as follows:

34 (1) The commissioner may take any enforcement action authorized  
35 under RCW 48.02.080 or revoke certification for a qualified health  
36 fund that fails to meet the requirements of section 3 of this act or  
37 any related rules adopted by the office of the insurance  
38 commissioner.

1 (2) If the office of the insurance commissioner takes any  
2 enforcement action, revokes a certification, or terminates or is  
3 considering terminating a qualified health fund, the office of the  
4 insurance commissioner shall notify the department of social and  
5 health services.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.20A  
7 RCW to read as follows:

8 (1) For employers participating in a qualified health fund that  
9 loses certified qualified health fund status for noncompliance, the  
10 department shall recoup any supplemental payments received under this  
11 program during the period in which the qualified health fund was out  
12 of compliance with the requirements established in section 3 of this  
13 act and any related rules adopted by the department or the office of  
14 the insurance commissioner.

15 (2) For participating employers that are terminated by the  
16 department for noncompliance, the department shall recoup any  
17 supplemental payments from the participating employer that was out of  
18 compliance with requirements established in section 2 of this act and  
19 any related rules adopted by the department for the fiscal years in  
20 which the employer was out of compliance.

21 (3) The department shall establish and administer a process for  
22 the recoupment of supplemental payments disbursed under the essential  
23 worker health care program established under section 2 of this act.

24 (4) The recoupment process must include:

25 (a) A review and audit of expenditures by participating employers  
26 and qualified health funds at least once every two years;

27 (b) Written notice to employers or funds found noncompliant,  
28 detailing the reasons for recoupment and providing an opportunity for  
29 appeal within 30 days;

30 (c) Recovery of funds by offsetting future payments, direct  
31 reimbursement to the department, or other means as determined by the  
32 department in rule; and

33 (d) Reporting all recoupment activities to the legislature  
34 annually, including details of amounts recovered and the basis for  
35 recoupment.

36 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.20A  
37 RCW to read as follows:

1           (1) The implementation of the essential worker health care  
2 program established in section 2 of this act is contingent upon the  
3 approval of a state plan amendment or waiver by the centers for  
4 medicare and medicaid services providing federal financial  
5 participation for supplemental payments under this program.

6           (2) The department shall submit the necessary state plan  
7 amendment or waiver application to the centers for medicare and  
8 medicaid services no later than six months after state funds are  
9 appropriated for section 2 of this act.

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