

# Initiative No. 1471

March 23, 2022

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## BILL REQUEST - CODE REVISER'S OFFICE

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BILL REQ. #: I-4450.1/22

ATTY/TYPIST: MW:jlb

BRIEF DESCRIPTION:

# Initiative No. 1471

March 23, 2022

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

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

## **Part I**

### **Universal Health Care for Washington State**

NEW SECTION. **Sec. 101.** WASHINGTON HEALTH TRUST PROTECTIONS.  
During this time of deep racial and socioeconomic inequity,

Washingtonians have watched as loved ones and neighbors slipped through the widening gaps in our health care system. According to the Washington state department of health, the COVID-19 pandemic has worsened these structural disparities, showing in their recent COVID-19 morbidity report that the death and burden of this pandemic has disproportionately affected those already marginalized and underserved communities. With the intent to start healing the wounds of generations of inequality and to ensure a future where health care is recognized as a basic right afforded to each resident, the people of the state of Washington declare their intention to create a single, primary nonprofit health financing entity called the Washington health trust. The trust will simplify health care financing, eliminate administrative waste, respond to the health needs of each regional health district, and guarantee all residents coverage of a comprehensive set of essential health benefits without the burden of premiums, deductibles, copayments, or medical bills.

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

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

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

(4) No person shall, on the basis of race, color, national origin, age, disability, immigration status, or sex, including sex stereotyping, gender identity, sexual orientation, and pregnancy and related medical conditions, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by any participating provider or any entity conducting, administering, or

funding a health program or activity, including contracts of insurance, under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Reproductive, maternity, and newborn care;

(g) Pediatric primary and specialty care;

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

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

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

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

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

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

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

(15) "Health care facility" or "facility" includes any of the following appropriately accredited entities: Hospices and home health agencies licensed pursuant to chapter 70.127 RCW; hospitals licensed pursuant to chapter 70.41 RCW; rural health care facilities as defined in RCW 70.175.020; psychiatric hospitals licensed pursuant to chapter 71.12 RCW; nursing homes licensed pursuant to chapter 18.51 RCW; community mental health centers licensed pursuant to chapter 71.05 or 71.24 RCW; kidney disease treatment centers; ambulatory surgical facilities licensed under chapter 70.230 RCW; approved drug and alcohol treatment facilities certified by the department of social and health services; such other facilities owned and operated by a political subdivision or instrumentality of the state; a tribally operated facility as defined in RCW

43.71B.010; and such other facilities as required by federal law and implementing regulations.

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

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

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

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

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

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

(22) "Resident" means an individual who presents evidence of established permanent residency in the state of Washington and meets

residency requirements consistent with RCW 46.16A.140. "Resident" also includes people and their accompanying family members who are residing in the state for the purpose of engaging in employment for at least one month. The confinement of a person in a nursing home, hospital, or other medical institution in the state may not by itself be sufficient to qualify such person as a resident.

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

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

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

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



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

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

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

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

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

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

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

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

(b) A citizen committee consisting of balanced representation from health experts, business, labor, and consumers, specifically including representation from populations where health care disparities are known to exist as described in section 107 of this act. The citizen committee shall hold public hearings on priorities for inclusion in the set of health services to be offered through the trust, survey public satisfaction, investigate complaints, and identify and report on health care access and other priority issues for residents; and

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

(2) The board shall consult with the citizen committee at least quarterly, receive its reports and recommendations, and then report to the governor and legislature at least annually regarding board actions in response to citizen committee recommendations. The board shall regularly seek financial recommendations from the finance committee to establish and maintain the trust solvency. The board shall consult with the provider committee to promote development of

policy and procedures for administration of reimbursements, negotiations for reimbursements, and related documentation.

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

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

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

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

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

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

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

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

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

(b) Subject to the funding mechanisms established under this chapter, seek all applicable waivers or demonstration project approvals, or both, so that current federal and state payments for

health services to residents will be paid directly or are made otherwise available to the trust;

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

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

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

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

(g) Make rules for eligible nonresidents;

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

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

(j) Develop appeals procedures for residents and providers;

(k) Integrate functions with other state agencies;

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

(m) Implement policies to ensure that all Washingtonians receive culturally, linguistically, and structurally competent care and address nonfinancial barriers to health care access including developing specific goals and plans and identifying and addressing the needs of vulnerable populations that are most susceptible to health care disparities, particularly targeting disease prevention and health promotion and medical, mental/behavioral health, and public health issues that disproportionately affect the diverse populations where disparities are known to exist, in order to ensure

equitable, appropriate, effective, safe, and high quality care for all, with no gaps in services based on any medically irrelevant factor; and

(n) Develop an annual trust budget.

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

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

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

(3) Subject to a financial analysis demonstrating ongoing sufficient funds in the trust, long-term care shall be a covered benefit on January 1, 2027. Long-term care coverage shall include a uniform initial assessment and coordination between home health, adult day care, and nursing home services, and other treatment alternatives. The board may establish a copayment for long-term nursing home care, to cover some costs of room and board, for

residents with household incomes above 150 percent of the federal poverty level.

(4) The board must establish:

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

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

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

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

(a) The essential benefits package; and

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

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

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

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

(4) The board, in coordination with the health care authority, shall annually negotiate with each community health provider a prospective global budget for operational and other costs to be

covered by the trust. Hospitals and other health care facilities shall be paid on a fee-for-service basis, within the limits of their prospective global annual budget. Individual practitioners who are employed by a community health provider may be paid by salary.

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

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

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

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

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

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

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

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

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

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

(b) Reward education time spent with patients; and

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

NEW SECTION. **Sec. 110.** PHARMACEUTICALS, MEDICAL EQUIPMENT, AND BIOLOGICALS. (1) When consistent with federal law, the prices to be paid for covered pharmaceuticals, medical supplies including

biological products, and medically necessary assistive equipment shall be negotiated annually by the board for all residents and eligible nonresidents enrolled in the trust.

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

(i) Encourages best practices in prescribing;

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

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

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

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

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

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

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

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

(a) Under the age of 19; or

(b) With dual eligibility for medicare and medicaid;

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



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

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

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

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

(4) Pending full integration of federally qualified trust funds into the trust, residents who are retirees are eligible for coverage through the trust when they elect the trust coverage as their medicare advantage plan. The board shall make rules and adopt mechanisms to reimburse residents with household incomes below 200 percent of the federal poverty level and all residents who elect to enroll in the trust for medicare premiums the individual pays while enrolled in the trust until a federal waiver or demonstration project approval as applicable is granted integrating the federally qualified trust funds into the trust.

NEW SECTION. **Sec. 112.** COVERAGE USE AND AVAILABILITY. (1) If an enrolled individual has other health insurance coverage for any essential health benefits provided in the state, the trust benefits provided in this chapter are secondary to that insurance coverage. Nonresidents are covered for emergency services and emergency transportation only, except when the individual is an eligible

nonresident and enrolled in the trust for coverage as provided in section 102(6) of this act.

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

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

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

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

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

(a) Persons under the age of 19;

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

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

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

(a) The health care authority;

(b) The public employees' benefits board;

(c) Indian health services;

(d) Center for medicare and medicaid services;

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

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

(6) By October 1, 2024, the board shall establish necessary premiums and cost-sharing requirements for eligible individuals

enrolled in the program through the Washington health benefits exchange, collect premium and assessment payments from all enrolled eligible individuals, and deposit premium payments in the benefits account created in section 123 of this act. If the eligible individual qualifies for premium subsidies or cost-sharing reductions under the patient protection and affordable care act, the premium or cost-sharing amounts established under this subsection may not exceed the amounts the eligible individual would have paid if they had enrolled in a silver level qualified health plan through the Washington health benefit exchange. The portion of premiums, copays, and out-of-pocket costs enrollees are responsible for after eligible premium subsidies or cost-sharing reductions are applied must be consistent with this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Negotiate with the federal department of defense and other federal agencies for the inclusion of the civilian health and medical program of the uniformed services in the trust under this chapter; and

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

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

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

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

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

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

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

NEW SECTION. **Sec. 114.** TRANSITIONAL EMPLOYMENT PROVISIONS.

(1) Employers with employees represented by a union and with established health benefit plans negotiated before the effective date of this section:

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

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

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

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

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

(3) All sole proprietors operating in the state may apply for an exemption from the self-employment contribution established in

section 203 of this act if the individual is enrolled in minimal essential coverage, as defined by the patient protection and affordable care act.

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

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

Within one year of the effective date of this section:

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

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

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

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

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

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

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

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

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

(b) An appeals process.

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

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

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

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

(1) The employment investment to be paid by or on behalf of employed residents and eligible nonresidents, established in section



111 of this act and under the exemption provided in section 114 of this act;

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

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

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

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

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

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

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

NEW SECTION. **Sec. 119.** ALLOCATION OF NEW REVENUES. Revenue derived from the contributions established in sections 202, 203, and 302 of this act and any premiums established under section 107 of this act shall be deposited to the reserve account created in section 121 of this act and the benefits account created in section 123 of this act, and may not be used to pay for medical assistance

currently provided under chapter 74.09 RCW or other existing federal and state health care programs. If existing federal and state sources of payment for health services are reduced or terminated after the effective date of this section, the legislature shall replace these appropriations from the general fund.

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

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

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

NEW SECTION. **Sec. 122.** DISPLACED WORKER TRAINING ACCOUNT. (1) The displaced worker training account is created in the custody of the state treasurer. Expenditures from the account may be used only for retraining and job placement of workers displaced by the transition to the trust. Only the board or the board's designee may

authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Any funds remaining in the account on the second December 31st following the effective date of section 115 of this act must be deposited into the benefits account created in section 123 of this act.

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

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

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

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

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

(4) Prior to making its recommendations, the board shall conduct at least six public hearings in different geographic regions of the

state seeking public input or comment on the recommended funding mechanism.

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

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

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

(2) Seek audits annually from the state auditor;

(3) Contract with the state auditor for a performance audit every two years;

(4) Adopt bylaws, rules, and other appropriate governance documents to assure accountability, as well as the open, fair, and effective operation of the trust, including criteria under which reserve funds may be prudently invested subject to advice from the state treasurer and the director of the department of financial management;

(5) Submit any internal rules or policies it adopts to the secretary of state. Internal rules or policies must be made available by the secretary of state for public inspection; and

(6) Collaborate with the health care authority to recommend adjustments to the percent of an employee's wages an employer must pay to or on behalf of an employee for required health care expenditures established in section 202 of this act to the employment security department, including the self-employment contribution and employee deduction. Recommendations must ensure the employment-based contribution percentage rates:

(a) Do not exceed 10.5 percent of an employee's aggregate adjusted quarterly payroll;

(b) Are not higher than is necessary to provide adequate funding for the trust and the health options program as described in section 127 of this act;

(c) Are equal for the self-employment contribution and the employee deduction; and

(d) Do not reduce any individual's access to health care services or enrollment in the trust.

NEW SECTION. **Sec. 126.** CONFORMING EMPLOYER BENEFITS PLANS.

(1) Employers may maintain employee benefits plans under the federal employee retirement income security act of 1974.

(2) Irrevocable expenditures.

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

(b) At least 80 percent of each required health care expenditure for calendar year 2025 must consist of irrevocable expenditures. Revocable expenditures that exceed 20 percent of required health care expenditures shall not be counted toward the employer spending requirement.

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

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

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

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

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

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

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

(4) Effect of court order. If the attorney general certifies to the governor and the legislature that a court of competent jurisdiction has struck down any provision of subsection (3) of this section, or permanently enjoined its enforcement, then only irrevocable expenditures shall count toward the employer spending requirement as of the first day of the next calendar quarter following the attorney general's certification.

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

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

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

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

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

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

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

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

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

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

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

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

(9) The health care authority shall develop a plan to more directly integrate employer coverage for essential health benefits and to ensure that employer health care expenditures made to the employment security department pursuant to section 202 of this act can be used to maximize enrollment in health insurance through the trust or medicaid. This plan may include possible options for incenting employers to provide quality, affordable health insurance directly to employees. This plan shall be presented to the legislature annually beginning no later than December 1, 2027, so that it may be considered and approved for full implementation to begin during a marketplace open enrollment period no more than 20 months following approval. Until a plan to integrate employer essential health coverage directly into the trust is approved by the legislature, the health care authority shall continue to administer



the health options program, which includes community health access and medical reimbursement accounts, in a manner that is consistent with section 101 of this act.

NEW SECTION. **Sec. 128.** CONFORMING FEDERALLY QUALIFIED TRUST FUNDS. By January 1, 2027, the board shall submit to the legislature a proposal to integrate those current and future federally qualified trust funds that choose to participate in the trust.

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

## **Part II**

### **Employment-Based Contributions**

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

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

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

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

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

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

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

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

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

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

(10) "Health care expenditure" means an amount paid by an employer to an employee or a trustee or a third party on behalf of the employee for the purpose of providing or reimbursing the cost of health care services for employees, their spouses, or both, domestic partners, children, or other dependents. "Health care expenditure" also means an amount paid by an employer to the Washington health trust on behalf of the employee to establish their enrollment in the Washington health trust in the manner and according to the terms set by the health care authority. "Health care expenditure" does not include any amount otherwise required to be paid by federal, state, or local law.

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

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

(13) "Individual" means a natural person.

(14) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of the effective date of this

section, or such subsequent date as the department of revenue may provide by rule consistent with the purpose of this chapter.

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

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

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

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

(19) "Resident" means an individual who meets residency requirements consistent with RCW 46.16A.140. "Resident" also includes an individual and the individual's accompanying family members who are residing in the state for the purpose of engaging in employment for at least one month. The confinement of a person in a nursing home, hospital, or other medical institution in the state may not by itself be sufficient to qualify such person as a resident.

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

(21) "Sole proprietor" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) The department must deposit revenue collected under this section into the medical reimbursement accounts created in section 127 of this act or the Washington health trust benefits account created in section 123 of this act.

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

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

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

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

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

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

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

NEW SECTION. **Sec. 204.** EMPLOYER WITHHOLDING ESTIMATED EMPLOYEE DEDUCTION. Every employer making a payment of wages or salaries earned in this state by Washington residents, regardless of the place where the payment is made, and who is required by the internal revenue code to withhold taxes, must deduct and withhold an employee deduction as prescribed by the department by rule. The rules prescribed must reasonably reflect the quarterly tax liability of the employee under this chapter. Every employer making such a deduction and withholding must furnish to the employee a record of the amount of tax deducted and withheld from the employee on forms provided by the department.

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

NEW SECTION. **Sec. 206.** CREDITS FOR WITHHELD EMPLOYEE HEALTH CONTRIBUTIONS. The amount deducted and withheld as tax under sections 204 through 221 of this act during any taxable year is allowed as a credit against the employer contribution imposed for the taxable year by this chapter. If the liability of any individual for taxes, interest, penalties, or other amounts due the state of Washington is less than the total amount of the credit which the individual is entitled to claim under this section, the individual is entitled to a refund from the department in the amount of the excess of the credit over the tax otherwise due. If any individual entitled to claim a credit under this section is not otherwise required by this chapter to file a return with the department, a

refund may be obtained in the amount of the credit by filing a return with the department, with applicable sections completed, to claim the refund. No credit or refund is allowed under this section unless the credit or refund is claimed on a return filed for the taxable year for which the amount was deducted and withheld.

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

(a) Maintain accurate records of health care expenditures, required health care expenditures, and proof of such expenditures made each quarter and each year, and allow the department reasonable access to such records, provided, however, that employers are not required to maintain such records in any particular form; and

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

(2) Where an employer does not maintain or retain adequate records documenting the health care expenditures made, or does not allow the department reasonable access to such records, it shall be presumed that the employer did not make the required health care expenditures for the quarter for which records are lacking, absent clear and convincing evidence otherwise. The department of revenue and the health care authority have the authority to provide any and



all nonfinancial information to the department necessary to fulfill the department responsibilities as the enforcing agency under this chapter. With regard to all such information provided by the department of revenue and the health care authority, the department shall be subject to the confidentiality provisions in RCW 82.32.330.

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

(2) In case any employer, or a responsible person within the meaning of internal revenue code section 6672, collected the tax and fails to pay it to the department, the employer or responsible person is personally liable to the state for the amount collected. The interest and penalty provisions of chapter 82.32 RCW apply to this section. An employer or other responsible person who appropriates or converts the employee health assessment is guilty of a gross misdemeanor as provided in chapter 9A.20 RCW.

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

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

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

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

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

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

NEW SECTION. **Sec. 214.** TERMINATION OR DISPOSAL OF BUSINESS—CONTRIBUTION PAYMENT—SUCCESSOR LIABILITY. Whenever any employer quits business, or sells out, exchanges, or otherwise disposes of the employer's business or stock of goods, any employer contributions payable under this chapter shall become immediately due and payable. The employer shall, within 10 days, make a return and pay the employer contributions due; and any person who becomes a successor to such business shall become liable for the full amount of the employer contributions and withhold from the purchase price a sum sufficient to pay any employer contributions due from the employer until such time as the employer produces a receipt from the department showing payment in full of any employer contributions due or a certificate that no employer contribution is due and, if such employer contribution is not paid by the employer within 10 days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of employer contributions, and the payment thereof by such successor shall, to the extent thereof, be deemed a payment upon the purchase price, and

if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such successor from the employer. A successor may not be liable for any employer contributions due from the person from whom the successor acquired a business or stock of goods if that person gives written notice to the department of such acquisition and no employer contribution is issued by the department within 180 days of receipt of such notice against the former operator of the business and a copy thereof mailed to such successor.

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

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

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

NEW SECTION. **Sec. 216.** UNCOLLECTIBLE ACCOUNTS. The commissioner may charge off as uncollectible and no longer an asset of the Washington health trust enforcement account, any delinquent assessments, interest, penalties, or credits if the commissioner is satisfied that there are no cost-effective means of collecting the assessments, interest, penalties, or credits.

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

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

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

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

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

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

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

## Capital Gains Investment in Health

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

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

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

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

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

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

(6) "Individual" means a natural person.

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

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

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

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

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

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

NEW SECTION. **Sec. 302.** LONG-TERM CAPITAL GAINS TAX. (1) Beginning January 1, 2024, an excise tax is imposed on all individuals for the privilege of selling or exchanging long-term capital assets, or receiving Washington capital gains. The tax equals eight and one-half percent multiplied by the individual's Washington capital gains.

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

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

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

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

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

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

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

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

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

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

(2) Assets held under a retirement savings account under Title 26 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered annuity or a custodial account described in Title 26 U.S.C. Sec. 403(b) of the internal revenue code, a deferred compensation plan under Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an individual retirement account or an individual retirement annuity described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a roth individual retirement account described in Title 26 U.S.C. Sec. 408A of the internal revenue code, an employee defined contribution program, an employee defined benefit plan, or a similar retirement savings vehicle;

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

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

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

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

(7) Timber, timberland, or the receipt of Washington capital gains as dividends and distributions from real estate investment trusts derived from gains from the sale or exchange of timber.

"Timber" means forest trees, standing or down, on privately or publicly owned land, and includes Christmas trees and short-rotation hardwoods. The sale or exchange of timber includes the cutting or disposal of timber qualifying for capital gains treatment under Title 26 U.S.C. Sec. 631(a) or (b) of the internal revenue code.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

(f) "Qualifying interest" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 309.** PERSONS REQUIRED TO FILE A STATE RETURN. (1) Only individual and joint taxpayers with federal net long-term capital gains or net earnings from self-employment of sole

proprietors in excess of \$15,000 on their federal tax return are required to file a capital gains tax return with the department. Each person required to file a return under this chapter must, without assessment, notice, or demand, pay any tax due thereon to the department on or before the date fixed for the filing of the return.

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

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

(4) If a taxpayer required to file a return under this section has obtained an extension of time for filing the federal tax return for the taxable year, the taxpayer is entitled to the same extension of time for filing the return required under this section if the taxpayer provides the department, before the due date provided in

subsection (1) of this section, the extension confirmation number or other evidence satisfactory to the department confirming the federal extension. An extension under this subsection for the filing of a return under this chapter is not an extension of time to pay the tax due under this chapter.

(5) If any return due on long-term capital gains under subsection (1) of this section, along with a copy of the federal tax return, is not filed with the department by the due date or any extension granted by the department, the department must assess a penalty in the amount of five percent of the tax due for the taxable year covered by the return for each month or portion of a month that the return remains unfiled. The total penalty assessed under this subsection may not exceed 25 percent of the tax due for the taxable year covered by the delinquent return.

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

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

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

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

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

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

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

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

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

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

(b) The department determines that the domestic partner qualifies for relief as provided by rule of the department. Such rule, to the extent possible without being inconsistent with this chapter, must follow Title 26 U.S.C. Sec. 6015.

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

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

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

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

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

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

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

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

ALLOWS STATES TO COORDINATE.

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

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

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

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



NEW SECTION. **Sec. 318.** CONFORMING RCW. To the extent not inconsistent with the provisions of this chapter, the following statutes apply to the administration of taxes imposed under this chapter: RCW 82.32.050, 82.32.055, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130, 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190, 82.32.200, 82.32.210, 82.32.212, 82.32.220, 82.32.230, 82.32.235, 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.300, 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, 82.32.410, 82.32.805, 82.32.808, and section 317 of this act.

NEW SECTION. **Sec. 319.** A new section is added to chapter 82.04 RCW to read as follows:

A deduction is allowed against a person's gross income of the business to the extent necessary to avoid taxing the same amounts under this chapter and section 302 of this act.

NEW SECTION. **Sec. 320.** RULES. The department may adopt rules for the administration and enforcement of this act.

NEW SECTION. **Sec. 321.** APPEALS. The board of tax appeals has jurisdiction over appeals relating to tax deficiencies and refunds, including penalties and interest, under this chapter. The taxpayer may elect a formal or informal hearing pursuant to RCW 82.03.140. Before appealing to the board of tax appeals, the taxpayer may first elect to address disputes through the department's administrative review process.

NEW SECTION. **Sec. 322.** Notwithstanding any common law rule of strict construction of statutes imposing taxes, this chapter, being necessary for the welfare of the state and its inhabitants, must be liberally construed in support of application of the tax.

## Miscellaneous

NEW SECTION. **Sec. 401.** CODIFICATION. (1) Sections 101 through 113 and 115 through 129 of this act constitute a new chapter in Title 43 RCW.

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

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

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

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

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

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

- (a) The health care authority;
- (b) An entity within the health care authority; or
- (c) The board created in section 104 of this act.

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

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

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