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HB 1104 – 2019-20

Concerning the Washington health security trust.

Section 1 finds a crisis in health care accessibility, affordability and choice in Washington and that sets forth **the intention to create a single health financing entity** called the Washington Health Security Trust (the Trust). The Trust will provide fair, simple, and accountable health care financing for all Washington residents using a single health care financing entity; cover a comprehensive package of effective and necessary personal health services; preserve choice of providers for Washington residents; and keep clinical decisions in the hands of health professionals and patients, rather than administrative personnel.

Section 2 is a new section that contains definitions.

Section 3 is a new section that **creates the Trust as a new state agency**, whose purpose is to provide coverage for a set of health services for all residents.

Section 4 provides the Trust shall be **governed by a board of nine trustees**. The Governor shall appoint, from among the listed constituencies, the initial trustees to staggered terms of two, four and six years. **The Health Care Authority shall provide staff support to the Board.**

Section 5 provides for the creation of three standing committees: a) **a Financial Advisory Committee**; b) **a Citizens' Advisory Committee**, and c) **a Technical Advisory Committee**. Members shall not be compensated, but shall be reimbursed for expenses.

Section 6 provides that the chair is the **presiding officer of the Board** and sets forth the chair's powers and duties.

Section 7 enumerates the Board's required duties and powers, including establishing the set of health services to be covered. (See Sec. 11)

Section 8 requires the Board to adopt an annual Washington Health Security Trust budget.

Section 9 requires the Board **to provide reports** to the Governor and legislature, **to seek audits** from the State Auditor (SAO), **to adopt appropriate governance** documents, and **to submit any internal rules or policies** it adopts to the Secretary of State.

Section 10 provides: 1) **all residents are eligible for coverage** through the Trust, 2) the benefits of this act are secondary to any other health insurance a resident currently has, 3) **residents covered under federal health programs** shall continue to use those programs until federal waivers are accomplished, except if certain conditions exist, 4) the Board shall make provision for determining eligibility for **residents while temporarily out of state**, 5) **residents covered under federally qualified trusts** are not covered through the Trust pending integration of the federally qualified trusts into the Trust, except as otherwise noted, 6) **residents who are retirees under federally qualified trusts** are not covered through the Trust pending integration of the federally qualified trusts into the Trust, except as otherwise noted, 7) **Native American**



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residents are not covered through the Trust pending integration of the applicable federal programs described in section 19 of this act, except as otherwise noted, and 8) **nothing in this act limits a resident's right to seek health care from the provider of his/her choice**, or from obtaining coverage for health care benefits in excess of those available under the Trust.

Section 11 (1) sets forth the Board's duty to establish **a single benefits package covering health services**, that (2) outlines the minimum requirements of that benefits package, and that requires advice from the **Citizens' Advisory and Technical Advisory Committees** in establishing the benefits package. (3) This section also **provides for long-term care** as a covered benefit... subject to a financial analysis and (4) requires possible remedies for residents who have made previous payments for long-term care insurance. (5) Board shall submit to the legislature **a plan to incorporate dental coverage** in the benefits within a year. (6) Board to consider including medical research and training.

Section 12 applies to the cost and provision of pharmaceutical and durable medical equipment, and that authorizes the Board to **enact drug formularies** that do not interfere with treatments for appropriate standards of care.

Section 13 1) requires the Board to adopt rules **permitting providers to collectively negotiate** budgets, payment schedules, and other terms and conditions of Trust participation; 2) requires the Board to **annually negotiate with each hospital and facility a prospective global budget** for costs covered by the Trust, 3) provides that **payment to individual practitioners** shall be on a fee-for-service or on a case rate basis, or combination of bases, 4) allows individual practitioners employed by a group, facility or hospital to **be paid by salary**, 5) requires the Board to adopt rules ensuring **payment schedules and procedures for mental health are comparable** to other health care services....

Section 14 exempts the activities approved under this act **from state antitrust laws** and to provide immunity from federal antitrust laws through the state action doctrine.

Section 15 is about administrative costs and: 1) **limits the Trust's administrative expenses to 11%** of the Trust's annual budget, and that prohibits the Board from shifting administrative costs to providers or to resident beneficiaries; 2) requires the Board to work with providers to develop utilization standards; and 3) authorizes the Board to institute other cost-containment measures to maintain a balanced budget.

Section 16 requires that the Joint Select Committee on Health Care Oversight shall contract for **an actuarial analysis of the funding needs** of the Washington Health Security Trust and **recommend a funding mechanism** to the appropriate standing committees of House, Senate and to the Governor's office. (2a) It may contain an assessment paid by all employers in Washington state and (b) a monthly premium by all residents with incomes over 200% FPL, subject to exemptions... (5) six public hearings shall be conducted around the state.

Section 17 **prohibits the revenue derived from the health security assessment or the health security premium from being used** to pay for medical assistance currently provided under chapter 74.09 RCW or other existing federal and state health care programs.

Section 18 **requires HCA, no later than January 1, 2021, to apply for a waiver from the provisions of the Federal Patient Protection and Affordable Care Act** to: a) suspend



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operation of the health benefit exchange; b) enable the state to receive appropriate federal funding, subsidies and payments; and c) ensure the operation of the Trust consistent with this act. HCA must, beginning November 15, 2017, submit to the legislature progress reports regarding the development of the waiver application, and shall promptly notify the Office of the Code Reviser and appropriate legislative committees upon receipt of the waiver. (Note that dates need revision.)

Section 19 requires that the Board, in **consultation with sovereign tribal governments**, to determine the state and federal laws that need to be repealed, amended or waived to implement this act. This section also requires the Governor, in consultation with the Board and sovereign tribal governments, to negotiate with listed federal departments and with Indian health services and sovereign tribal governments for inclusion of specified benefits in the Trust created under this act.

The Board is also to negotiate to obtain a statutory or regulatory waiver of (2a) the medical assistance statute of the Social Security Act and the Children's Health Insurance Program, (2b) provisions in the Medicare statute, (2c) provisions to ensure integration of federally funded community and migrant health services, (2d) provisions for the inclusion of federal employee health benefits, (and others).

Section 20 **creates the Reserve Account in the custody of the Office of the State Treasurer (OST)**. This section specifies which funds must be deposited into the Reserve Account and provides that expenditures may be used only for the purposes of health care services and maintenance of the Trust.

Section 21 creates **the Displaced Worker Training Account** in the custody of OST.

Section 22 **creates the Benefits Account in the custody of OST**. This section specifies which funds must be deposited into this benefits account and provides that expenditures from this account may be used only for health care services and the maintenance of the Trust.

Section 23 requires all revenues currently deposited in the Health Services account for personal health care to be deposited to **the Reserve Account** and to **the Benefits Account** following the repeal, amendment or waiver of existing state and federal laws.

Section 24 is a new section that provides this act **does not limit an employer's right** to maintain employee benefit plans under the federal **employee retirement income security act**.

Section 25 requires the Board to submit to the legislature **a proposal to integrate current and future federally qualified trusts** (AKA Taft-Hartley Trusts) that choose to participate in the Trust.

Section 26 requires the Board, in coordination **with the Department of Labor and Industries**, to study the provision of medical benefits for injured workers under the Trust.

Section 27 provides for **a legislative appropriation for start-up monies**.

Section 28 repeals the following statutes of parts of acts: RCW 82.04.260 and RCW 48.14.0201 (mostly a bunch of special taxes).



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Section 29 states that Sections 1-15, 17, 19-22, and 23-25 constitute a **new chapter in Title 43 RCW**.

Section 30 sets forth **effective dates**.

Section 31 is a **severability clause** in case any part of the law is held invalid.

Section 32 addresses **severability** in case of conflict with federal laws regarding transfers of federal funds to the state.