

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support
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## Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of State Treasurer	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Office of Attorney General	0	133,000	0	410,000	0	820,000
Office of Administrative Hearings	0	0	0	222,800	0	346,600
State Investment Board	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Employment Security Department	Non-zero but indeterminate cost and/or savings. Please see discussion.					
<b>Total \$</b>	<b>0</b>	<b>133,000</b>	<b>0</b>	<b>632,800</b>	<b>0</b>	<b>1,166,600</b>

## Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Joint Legislative Audit and Review Committee	.0	0	0	.0	0	0	.0	0	0
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.2	0	133,000	1.6	0	410,000	3.1	0	820,000
Washington State Health Care Authority	.0	0	0	.0	0	0	1.4	0	5,080,000
Office of Administrative Hearings	.0	0	0	.8	0	222,800	1.4	0	346,600
State Investment Board	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	8.0	2,956,000	2,956,000	12.0	1,639,000	4,689,000	100.6	0	31,158,000
Employment Security Department	27.2	0	14,102,794	48.7	0	20,963,198	24.0	0	8,152,252
<b>Total \$</b>	<b>35.4</b>	<b>2,956,000</b>	<b>17,191,794</b>	<b>63.1</b>	<b>1,639,000</b>	<b>26,284,998</b>	<b>130.5</b>	<b>0</b>	<b>45,556,852</b>

## Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Joint Legislative Audit and Review Committee	.0	0	0	.0	0	0	.0	0	0
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Washington State Health Care Authority	.0	0	0	.0	0	0	.0	0	0
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
State Investment Board	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	.0	0	0	.0	0	0	.0	0	0
Employment Security Department	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

### Estimated Capital Budget Breakout

NONE

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<b>Prepared by:</b> Anna Minor, OFM	<b>Phone:</b> (360) 902-0541	<b>Date Published:</b> Final 3/19/2019
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support	<b>Agency:</b> 014-Joint Legislative Audit and Review Committee
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## Part I: Estimates

No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: LeighBeth Merrick	Phone: 360-786-7445	Date: 03/04/2019
Agency Preparation: Valerie Whitener	Phone: 360 786-5191	Date: 03/05/2019
Agency Approval: Keenan Konopaski	Phone: 360-786-5187	Date: 03/05/2019
OFM Review: Linda Hamilton	Phone: (360) 902-0556	Date: 03/05/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Given the due date of this assignment JLARC does not anticipate costs through the biennia covered by this fiscal note.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

NONE

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support	<b>Agency:</b> 090-Office of State Treasurer
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

**Non-zero but indeterminate cost. Please see discussion.**

### Estimated Operating Expenditures from:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: LeighBeth Merrick	Phone: 360-786-7445	Date: 03/04/2019
Agency Preparation: Dan Mason	Phone: (360) 902-8990	Date: 03/06/2019
Agency Approval: Dan Mason	Phone: (360) 902-8990	Date: 03/06/2019
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 03/07/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

2SHB 1087 creates the long-term services and supports trust account and allows the account to retain its earnings from investments.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Projected cash flows are currently unavailable; therefore, estimated earnings from investments are indeterminable.

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

## Part IV: Capital Budget Impact

NONE

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
Legal Services Revolving Account-State 405-1	133,000		133,000	410,000	820,000
<b>Total \$</b>	133,000		133,000	410,000	820,000

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.4	0.0	0.2	1.6	3.1
<b>Account</b>					
Legal Services Revolving Account-State 405-1	133,000	0	133,000	410,000	820,000
<b>Total \$</b>	133,000	0	133,000	410,000	820,000

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: LeighBeth Merrick	Phone: 360-786-7445	Date: 03/04/2019
Agency Preparation: Bruce Turcott	Phone: (360) 586-2738	Date: 03/07/2019
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 03/07/2019
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/11/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Sec. 3 is a new section that defines the respective duties of the Health Care Authority (HCA), Department of Social and Health Services (DSHS), and Employment Security Department (ESD) in implementing the long-term services and supports trust program.

Sec. 4 is a new section establishing the long-term services and supports trust commission.

Sec. 5 is a new section regarding qualified individuals.

Sec. 6 is a new section establishing services and benefits for qualified individuals beginning January 1, 2025.

Sec. 7 is a new section regarding benefits.

Sec. 8 is a new section requiring ESD to assess premiums beginning January 1, 2022.

Sec. 9 is a new section allowing self-employed persons to elect coverage beginning January 1, 2022 and requiring ESD to adopt rules. (The original bill and first substitute bill were a year later, beginning January 1, 2023.)

Sec. 12 is a new section providing for appeals from DSHS determinations.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Cash receipts are assumed to equal the Legal Service Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is ESD and the Washington State Investment Board (WSIB). The AGO will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agencies' fiscal note. Appropriation authority is necessary in the AGO budget.

#### AGO AGENCY ASSUMPTIONS:

ESD will be billed in FY 2023 and in each FY thereafter: 1.77 Assistant Attorney General (AAG) and 0.89 Legal Assistant (LA) at a cost of \$410,000 per FY.

WSIB will be billed in FY 2020: 0.25 AAG and 0.13 LA at a cost of \$133,000 (this includes SAAG costs of \$75,000).

### II. C - Expenditures



*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

#### AGO Agency Assumptions:

1. This bill is assumed effective 90 days after the end of the 2019 legislative session.
2. This request does not include cost of living salary increases identified in the Governor's proposed 2019-21 budget.
3. The AGO Social & Health Services (SHO) division has reviewed this bill and determined this bill will not affect the provision of legal services to the Department of Social and Health Services (DSHS). The bill requires DSHS to evaluate the functional eligibility of potential beneficiaries, and approve and register service providers. DSHS will have to adopt rules and the bill grants administrative hearing rights to challenge the department's decisions about eligibility or approval to be a service provider. DSHS intends to represent itself in any such hearings. Any legal services needed to support the department in implementing the bill will be provided with existing resources.
4. The AGO SHO division has reviewed this bill and determined this bill will not affect the provision of legal services to the Health Care Authority (HCA). The bill requires HCA to evaluate whether an applicant is qualified to receive a benefit and establish payment criteria and procedures. HCA will have to adopt rules and the bill grants administrative hearing rights to challenge the HCA's decisions about eligibility or service provider criteria. HCA intends to represent itself in any such hearings. Any legal services needed to support the HCA in implementing the bill will be provided with existing resources.

#### Assumptions for the AGO Licensing & Administrative Law (LAL) Legal Services for ESD:

1. The AGO will bill ESD for legal services based on the enactment of this bill.
2. Between FY 2020 and FY 2022, the AGO assumes a nominal level of legal services for rulemaking that will be provided with existing resources.
3. Beginning in approximately May 2022, ESD will issue orders and notices of assessment for unpaid long-term care premiums, which are subject to administrative appeal rights. From that point forward, each year, approximately 229 employers will request administrative hearings. This bill has the same or similar coverage provisions as the number of yearly appeals projected for paid family and medical leave premium assessments. The timing of the appeals is based on the effective date of the law change and the first expected delinquencies resulting in turn in the issuance of assessments of unpaid long-term care premiums.
4. ESD will request AGO representation in litigating up to a half of the administrative appeals received, particularly when the law is new and on complex or higher-stakes appeals. With respect to appeals litigated by agency staff, the AGO will provide training, develop legal resources, and offer review and advice when needed.
5. The AGO will handle all court appeals from final agency orders assessing premiums for long-term care.
6. Premiums under Section 8 of this law will be assessed beginning in January 2022. It is assumed these premiums will be paid on a quarterly basis, as with unemployment and paid family and medical leave premiums,

and that the first premium payments would be due at the end of April 2022. Those employers who do not pay premiums as required are subject to issuance of assessments under Sections 8 and 9, which may be appealed under Section 12.

7. Based on data from unemployment insurance premium assessments, ESD anticipates that on a yearly basis administrative hearings will be requested on approximately 229 long-term care premium assessments each year. ESD will handle the majority of these appeal hearings with agency staff, but the AGO will provide training and develop legal resources for use by such staff in handling administrative appeals. The AGO will provide representation in up to one-third (approximately 75) of the more complex administrative appeals hearings, including briefing, oral argument, exhibit submission, and witness examination.

8. Each administrative appeal handled by the AGO is assumed to require 40 hours of AAG legal services. In administrative appeals handled by ESD, AAGs will provide advice as needed. The AGO will handle all court appeals from final administrative orders in long-term care assessment appeals.

9. With litigation beginning in FY 2023, the AGO will also continue to provide advice on vendor contract management issues and operational processes, among other issues. An employer's request for hearing upon an assessment is the document that initiates litigation proceedings. It triggers the ESD's need to request assignment of an Administrative Law Judge (ALJ) for scheduling hearings. It is possible that ESD will settle a handful of appeals before requesting assignment of an ALJ, but this is rare because settlement generally occurs in the context of litigation proceedings. As a result, nearly all of the 229 projected appeals will result in litigation. The AGO is anticipated to provide representation in approximately 75 cases each year, with the remainder handled by ESD staff upon training and guidance by the AGO.

10. Beginning in FY 2023, litigation will require 3,000 hours of Assistant Attorney's General (AAG) legal services, with 180 additional hours for advice on statutory and regulatory construction and on vendor contract compliance issues relating to ESD's implementation of the new law.

11. Total workload impact: FY 2023 and in each FY thereafter: 1.77 AAG and 0.89 Legal Assistant (LA) at a cost of \$410,000 per FY.

Assumptions for the AGO Revenue & Finance (REV) Legal Services for the WSIB:

1. The AGO will bill WSIB for legal services based on the enactment of this bill.
2. This bill will require new legal services regarding the implementation of Section 4(6), which establishes an Investment Strategy Subcommittee of the Long-Term Services and Support Trust Commission to provide guidance and advice to the WSIB, and Section 11, which directs DSHS to have the WSIB be responsible for investing the funds in the Long-Term Services and Supports Trust Account.

REV assumes the need for 0.25 AAG in FY 2020 for legal services relating to the implementation of Sections 4(6) and 11.

REV assumes the need to contract with a Special Assistant Attorney General for legal services relating to the implementation of Sections 4(6) and 11. The purchase of SAAG services is to provide legal advice on federal law issues relating to implementation of Sections 4(6) and 11, including whether the new Fund/Plan will be qualified by the IRS for tax free treatment. REV assumes \$75,000 (150 hours at \$500 per hour) in FY 2020.

3. This estimate assumes that the funds can and will be invested in the WSIB's commingled trust fund pursuant to authorizing legislation or a constitutional amendment.

4. Total workload impact in FY 2020: 0.25 AAG and 0.13 LA at a cost of \$133,000 (this includes SAAG costs of \$75,000).

Note: Agency administration support FTEs are included in the tables below, using a Management Analyst 5 as a representative classification.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
405-1	Legal Services Revolving Account	State	133,000	0	133,000	410,000	820,000
<b>Total \$</b>			133,000	0	133,000	410,000	820,000

#### III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25	
FTE Staff Years	0.4		0.2	1.6	3.1	
A-Salaries and Wages	37,000		37,000	263,000	526,000	
B-Employee Benefits	13,000		13,000	90,000	180,000	
C-Professional Service Contracts	75,000		75,000			
E-Goods and Other Services	7,000		7,000	51,000	102,000	
G-Travel				3,000	6,000	
J-Capital Outlays	1,000		1,000	3,000	6,000	
<b>Total \$</b>		133,000	0	133,000	410,000	820,000

#### III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Assistant Attorney General	103,560	0.3		0.1	0.9	1.8
Legal Assistant 3	51,004	0.1		0.1	0.5	0.9
Management Analyst 5	77,614	0.1		0.0	0.2	0.4
<b>Total FTEs</b>		0.4		0.2	1.6	3.1

#### III. D - Expenditures By Program (optional)

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25	
Licensing & Administrative Law Division (LAL)				410,000	820,000	
Revenue & Finance Division (REV)	133,000		133,000			
<b>Total \$</b>		133,000		133,000	410,000	820,000

### Part IV: Capital Budget Impact

NONE

None

### Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

None

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support	<b>Agency:</b> 107-Washington State Health Care Authority
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## Part I: Estimates

No Fiscal Impact

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	0.0	0.0	0.0	1.4
<b>Account</b>					
LTSS Trust Account-State      NEW-1	0	0	0	0	5,080,000
<b>Total \$</b>	0	0	0	0	5,080,000

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

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- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: LeighBeth Merrick	Phone: 360-786-7445	Date: 03/04/2019
Agency Preparation: Kathryn Kingman	Phone: 360-725-0455	Date: 03/14/2019
Agency Approval: Carl Yanagida	Phone: 360-725-1033	Date: 03/14/2019
OFM Review: Robyn Williams	Phone: (360) 902-0575	Date: 03/14/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

See attached narrative

### II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None. See attached narrative.

### II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

See attached narrative

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
NEW-1	LTSS Trust Account	State	0	0	0	0	5,080,000
<b>Total \$</b>			0	0	0	0	5,080,000

### III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years					1.4
A-Salaries and Wages					229,000
B-Employee Benefits					78,000
C-Professional Service Contracts					4,700,000
E-Goods and Other Services					33,000
G-Travel					2,000
J-Capital Outlays					38,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	0	0	0	5,080,000

### III. C - Operating FTE Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
IT Specialist 5	87,792					1.0
Medical Assistance Specialist 3	48,480					0.2
Medical Program Specialist 3	81,516					0.3
<b>Total FTEs</b>						1.4

## Part IV: Capital Budget Impact

NONE

See attached narrative

## **Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

See attached narrative

# HCA Fiscal Note

Bill Number: 1087 2S HB

HCA Request #: 19-155

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

This substitute bill modifies the definition of an “eligible beneficiary”, moves the responsibility to determine qualified individuals to the Employment Security Department (ESD) and requires the Health Care Authority (HCA) to track lifetime benefits and to establish procedures for benefit coordination when the eligible beneficiary is also funded for Medicaid and other long-term services and supports.

The bill amends RCW 74.39A.076 and 18.88B.041, reenacts and amends RCW 43.79A.040, adds a new section to RCW 44.28 and adds a new chapter to Title 50A to create a long-term care insurance benefit that would establish a benefit unit per day for up to three hundred sixty-five days for all qualified individual employees. The benefit would be paid to long-term services and supports (LTSS) providers. These providers would be family members, profession and services providers serving those with long-term health needs. The program is to be funded by payroll deductions.

Section 1 describes the legislature’s intent and findings to pursue an alternative funding mechanism for long-term care access that will provide relief to Washingtonians and the Medicaid program (for long-term services).

Section 2 establishes definitions for terms used including “benefit unit” as up to \$100 allowing for a 3 percent annual increase. “Eligible beneficiary” is defined as a qualified individual who is eighteen or older, resides in the state of Washington, was not disabled before the age of eighteen, has been determined to meet the requirements for requiring long-term services and has not exhausted the lifetime limit of benefit units. Increases in the benefit unit value will require approval from LTSS commission. A “qualified individual” is defined as one with sufficient work history/contributions to the long-term services fund.

“LTSS provider” is defined as an entity that meets the legal qualifications for the service they provide.

Section 3 requires HCA to track the use of lifetime benefit units to verify the individual’s status as an eligible beneficiary. Other requirements include ensuring approved services are provided through audits or service verification processes within the service-provider payment system and recoup any inappropriate payments.

HCA is required to establish procedures for benefit coordination when the eligible beneficiary is also funded for Medicaid and other long-term services and supports and adopt roles and procedure necessary to implement and administer the activities in this section.

The Department of Social and Health Services (DSHS) is required to make determinations regarding an individual’s status as an eligible beneficiary. DSHS will also approve LTSS for payment and register and monitor qualifications of LTSS providers, disburse payments of benefits, provide customer service and administrative and operational support to the commission established in Section 4, tracking useful data.

DSHS is also directed to disburse payments of benefits to registered LTSS providers.

ESD is required to assess and collect employee premiums, assist the commission in monitoring the financial status of the program, to perform compliance investigations of premium payments and to make eligibility determinations to establish qualified individuals.

Section 4 established the Long-term Services and Supports Trust Commission, laying out the responsibilities and requirements for its performance. One of the members will be the Director of HCA or the director’s designee.

# HCA Fiscal Note

Bill Number: 1087 2S HB

HCA Request #: 19-155

Section 5 defines the requirements for an individual to be deemed a qualified individual by ESD.

Section 6 requires that, starting January 1, 2025, services and payments under this program will begin and sets the maximum benefit to a qualified individual at 365 benefit units in the individual's lifetime.

Section 7 provides that family members qualified to be paid will be reimbursed the same way as individual providers.

Section 8 defines the premiums ESD will collect and the manner in which they will be collected.

Section 9 allows self-employed persons to elect coverage.

Section 10 creates the long-term services and support trust account to handle the funds. Expenditures from the account may be used for the administrative activities associated with this program. Before funds from the account may be used for something other than this program the bill requires the legislature to notify each qualified individual by mail that their premiums have been appropriated for another use.

Section 11 states that DSHS shall have the state investment board invest the funds in the account. The state investment board shall routinely consult and communicate with DSHS on the status of the invested funds.

Section 12 establishes that appeals of determinations made by HCA or DSHS are subject to 34.05 RCW and appeals of determinations made by ESD are subject to 50A.04 RCW.

Section 13 requires DSHS to seek access to Medicare data to analyze potential and apply for a demonstration waiver from the Centers for Medicare and Medicaid Services to allow the state to share in the federal match for Medicaid long-term services.

Section 14 establishes an annual requirement, starting December 1, 2026, for the commission to report to the legislature on the program. HCA will not report directly to the legislature.

Section 15 establishes that any benefits used under this program are not income for eligibility determination for any other state program or benefit.

Section 16 establishes that nothing in this bill creates an entitlement for anyone to receive or a state agency to provide case management services.

Section 17 requires the joint legislative audit and review committee (JLARC) to report on the performance of the LTSS trust commission and make recommendations to the legislature on improvements.

Sections 18 and 19 have minor modifications that do not impact HCA.

Section 20 modifies RCW 43.79a.040 to direct the State Treasurer on management of the money from this bill in the treasurer's trust fund.

## **II. B - Cash Receipts Impact**

None

## **II. C – Expenditures**

### **Assumptions:**

Funding: All HCA expenditures will be reimbursed from the long-term services and support trust account created in section 10 of the bill.



## HCA Fiscal Note

Bill Number: 1087 2S HB

HCA Request #: 19-155

ESD will provide an interface with DSHS to provide qualification data to the DSHS Comprehensive Assessment Reporting Evaluation (CARE) system.

Section 5 requires HCA to track the use of lifetime benefit units to verify the individual's status as an eligible beneficiary. HCA is also required to ensure approved services are provided through audits or service verification processes within the service-provider payment system and recoup any inappropriate payments. HCA will establish rules and procedures for benefit coordination when the eligible beneficiary is also funded for Medicaid and other LTSS.

Section 3(3)(e) DSHS disbursement of payments of benefits to registered LTSS providers will have a fiscal impact on HCA as DSHS currently processes payments for many of these services for Medicaid clients using HCA's ProviderOne system.

Therefore the following assumptions are used in this fiscal note:

The ProviderOne system would be enhanced to process payments to LTSS providers including skilled nursing facilities, assisted living services, adult family homes and in-home personal care services agency providers.

HCA assumes that functionality for payment of LTSS services by individual providers and qualified family members which are currently paid for Medicaid providers by Individual ProviderOne will be the responsibility of DSHS using either the Consumer Directed Employer (CDE) or similar entity to perform the employer functions of this requirement including tax collection and reporting. The CDE or other entity would then be paid by HCA through ProviderOne.

ProviderOne is currently a Medicaid system and HCA assumes approval will be obtained from the Centers for Medicare and Medicaid Services (CMS) to utilize ProviderOne for this non-Medicaid program. Cost Allocation methods for ongoing operations and maintenance would need to be developed and approved.

### Impacts:

The ProviderOne system impacts include interface enhancement or development of a new interface with DSHS system(s) used for eligibility for LTSS Trust program clients, development of a new Recipient Aid Category (RAC) to identify these clients, and the addition of new agency account coding and development of account code structures to pay for services from the ESD LTSS Trust Account.

ProviderOne will be modified to interface with DSHS to allow ProviderOne to access the DSHS CARE system for authorized payments.

These system impacts in this section are estimated to include the following costs:

1. Estimated system/enhancement costs: \$3.5 million
2. Estimated cost of changes/enhancements to coordination of benefits (COB)/third party liability (TPL) correspondence: \$1.2 million
3. Two ITS5 business analyst/testing project FTEs to support enhancements for FY24
4. One fifty percent MAS3 FTE to manage coordination of receipt of COB information and entering it into ProviderOne beginning January 1, 2025

In addition:

1. Beginning in FY 2025, one fifty percent MPS 3 position to coordinate rules, operational and system changes, and eligibility with HCA and DSHS programs.
2. Beginning in FY 2026 HCA will need resources to develop the analytics to conduct the audits and to monitor and recoup overpayments identified as a result of the audits. The resources

# HCA Fiscal Note

Bill Number: 1087 2S HB

HCA Request #: 19-155

needed will be based on the volume of audits conducted and the number of overpayments subject to recoupment.

All expenditures are related to administrative activities associated with the trust program and will be reimbursed from the long-term services and support trust account. No federal match funding.

FTEs:

Job title	Salary	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
IT SPECIALIST 5	87,792	0.0	0.0	0.0	0.0	1.0	1.0
MEDICAL ASSISTANCE SPECIALIST 3	48,480	0.0	0.0	0.0	0.0	0.0	0.3
MEDICAL PROGRAM SPECIALIST 3	81,516	0.0	0.0	0.0	0.0	0.0	0.5
<b>Total</b>	217,788	0.0	0.0	0.0	0.0	1.0	1.8

Costs:

Objects		FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
A	Salaries & Wages	-	-	-	-	88,000	141,000
B	Employee Benefits	-	-	-	-	25,000	53,000
C	Personal Serv Contr	-	-	-	-	2,350,000	2,350,000
E	Goods and Services	-	-	-	-	12,000	21,000
G	Travel	-	-	-	-	1,000	1,000
J	Capital Outlays	-	-	-	-	19,000	19,000
<b>Total</b>		-	-	-	-	<b>2,495,000</b>	<b>2,585,000</b>

Funds:

Expenditures			FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
NEW	LTSS Trust Account	1	-	-	-	-	2,495,000	2,585,000
<b>Total</b>			-	-	-	-	<b>2,495,000</b>	<b>2,585,000</b>
<b>Biennial Total</b>				-		-		<b>5,080,000</b>

## Part IV: Capital Budget Impact

None

## Part V: New Rule Making Required

Yes

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support	<b>Agency:</b> 110-Office of Administrative Hearings
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
Administrative Hearings Revolving Account-State 484-1				222,800	346,600
<b>Total \$</b>				222,800	346,600

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	0.0	0.0	0.8	1.4
<b>Account</b>					
Administrative Hearings Revolving Account-State 484-1	0	0	0	222,800	346,600
<b>Total \$</b>	0	0	0	222,800	346,600

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: LeighBeth Merrick	Phone: 360-786-7445	Date: 03/04/2019
Agency Preparation: Deborah Feinstein	Phone: 360-407-2717	Date: 03/12/2019
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 03/12/2019
OFM Review: Bryan Way	Phone: (360) 902-0650	Date: 03/18/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Sec. 3 delegates authority to either HCA, DSHS or ESD regarding the following decisions:

- Determination of an individual's status as a "qualified individual;"
- Determination of an individual's status as an "eligible beneficiary;"
- Approval of long-term care services and supports that may be paid by these funds;
- Registration of providers of those services and supports;
- Discontinuation of registration of providers under certain circumstances;
- Disbursal of payments to providers;
- Recoupment of any inappropriate payments; and
- Collect and assess employee premiums.

Sec. 8 details the assessment ESD will make beginning January 1, 2022.

Sec. 12 grants a hearing right to persons who disagree with HCA, DSHS and ESD decisions.

Sec. 15 may give rise to hearings by persons who disagree with an HCA or DSHS decision to count these funds as income when determining eligibility and/or co-pays for other public benefits, e.g., food assistance, child care assistance or medical assistance.

Sec. 18 and 19 amend the training requirements for certain caregivers. OAH does hearings based on the RCWs in these sections. Even though this bill does not explicitly give the right to an administrative hearing, it is possible that court—or HCA or DSHS—could promulgate a hearing rule into the WAC that grants administrative hearings to caregivers.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

As a central service agency, OAH bills referring agencies for its costs and collects the revenue into the Administrative Hearings Revolving Account. Cash receipts are assumed to equal costs.

Cash receipts from this proposed legislation are a combination of estimable and indeterminate amounts.

OAH will bill the Employment Security Department (ESD) for the dollars listed above.

The number of appeals and thus OAH's costs for appeals from DSHS and HCA are indeterminate. The cash receipts for the work to be billed to DSHS and HCA are thus also indeterminate.

These cash receipts represent the OAH's authority to bill and are not a direct appropriation to OAH. Appropriation authority is necessary in OAH's budget.

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

Appeals from ESD:

The AGO and ESD have estimated that beginning in May 2022, there will be about 229 appeals from assessments for unpaid long-term care premiums. OAH estimates that beginning in May 2022 this will result in the need for .72 FTE Administrative Law Judge along with supervision, training, and associated work for support and administrative staff. There will also be some preparatory work in FY 2022. OAH estimates the cost will be \$48,900 in FY 2022 (\$20,000 of preparatory work plus 2 months of appeals at \$28,900) and \$173,300 in FY 2023 and each fiscal year thereafter.

Appeals from DSHS and HCA:

DSHS and HCA estimate the number of appeals coming to OAH from this proposed legislation to be indeterminate. Consequently, OAH's costs for the impact of appeals from DSHS and HCA is indeterminate.

Workforce Assumptions for the ESD costs:

- \* Ratio of 1 line ALJ to .15 Senior ALJ to 0.5 legal support to 0.25 administrative support.
- \* Average ALJ salary for line ALJ and senior ALJ used.
- \* Legal support staff assumed to be Legal Assistant 2 - range 40 step L.
- \* Administrative support used a representative class of Management Analyst 4 - range 58 step L.
- \* Benefit rates were analyzed by job class using SPS data.
- \* Goods and services, travel and on-going capital outlays were projected based on historical data for each of the job classes.

Total Workload Impact for ESD costs:

FY 2020 and FY 2021:None

FY 2022: 0.12 Administrative Law Judge at a cost of \$17,671; 0.02 Senior Administrative Law Judge at a cost of \$2,907; 0.06 Legal Assistant 2 at a cost of \$5,320. Agency administrative support is included using 0.03 FTE of a Management Analyst 4 as a representative at a cost of \$3,602 and \$20,000 of preparatory work. Total cost: \$ 48,500.

FY 2023 and each FY thereafter: 0.72 Administrative Law Judge at a cost of \$102,328; 0.11 Senior Administrative Law Judge at a cost of \$17445; 0.36 Legal Assistant 2 at a cost of \$31,922. Agency administrative support is included using 0.18 FTE of a Management Analyst 4 as a representative at a cost of \$21,605. Total cost: \$173,300.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
484-1	Administrative Hearings Revolving Account	State	0	0	0	222,800	346,600
<b>Total \$</b>			0	0	0	222,800	346,600

**III. B - Expenditures by Object Or Purpose**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years				0.8	1.4
A-Salaries and Wages				123,356	211,468
B-Employee Benefits				43,499	74,570
C-Professional Service Contracts					
E-Goods and Other Services				52,555	54,752
G-Travel				1,475	2,528
J-Capital Outlays				1,915	3,282
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	0	0	222,800	346,600

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Administrative Law Judge	90,000				0.4	0.7
Legal Assistant 2	46,188				0.2	0.4
Management Analyst 4	72,036				0.1	0.2
Senior Administrative Law Judge	105,000				0.1	0.1
<b>Total FTEs</b>					0.8	1.4

**Part IV: Capital Budget Impact**

NONE

None.

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

None.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support	<b>Agency:</b> 126-State Investment Board
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## Part I: Estimates

No Fiscal Impact

**Estimated Cash Receipts to:**

**Non-zero but indeterminate cost. Please see discussion.**

**Estimated Operating Expenditures from:**

**Non-zero but indeterminate cost. Please see discussion.**

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: LeighBeth Merrick	Phone: 360-786-7445	Date: 03/04/2019
Agency Preparation: Celina Verme	Phone: (360) 956-4740	Date: 03/08/2019
Agency Approval: Theresa Whitmarsh	Phone: 360-956-4600	Date: 03/08/2019
OFM Review: Jane Sakson	Phone: 360-902-0549	Date: 03/08/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Sections 4(6) - Establishes an Investment Strategy Subcommittee of the Long-Term Services and Supports Trust Commission with legislators, agency heads and four members experienced in the investment field to provide guidance and advice to the State Investment Board (SIB) on investment strategies for the account, including seeking counsel and advice on the types of investments that are constitutionally permitted.

Section 11 - Directs the Department of Social and Health Services to have the SIB be responsible for investing the funds in the Long-Term Services and Supports Trust Account.

Fiscal Impact:

This legislation would create a fiscal impact; however, the impact is indeterminate at this time.

Commingling these monies with pension funds would violate federal law and subject the pension funds to taxation. These funds will need to be invested based on legal authority, risk tolerance and time horizon.

The cost assumptions detailed below assume that the Investment Strategy Subcommittee attains a constitutional amendment and funds can be invested in equities:

\$279,000 per year for 1.0 Investment Officer FTE to develop an appropriate investment policy, coordinate asset allocation analyses, manage investment activity, and consult with the administering agency.

\$48,000 per year for 0.25 Investment Accounting Manager FTE to compile and analyze accounting information to support reporting requirements.

\$10,000 per year to audit an additional set of financial statements.

\$52,000 on-time for an external consultant to conduct an asset allocation study.

\$70,000 on-time for 0.25 Legal Services Specialist FTE for legal advice related to implementation.

\$75,000 one-time cost for legal counsel advice.

Information concerning cash flow, liquidity needs, and investment objectives for this new fund are limited at this time. As the program is implemented, SIB may need to reassess the fiscal and workload impacts and submit future budget requests.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

See discussion - Part II. A

### II. C - Expenditures



*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

See discussion - Part II. A

### **Part III: Expenditure Detail**

### **Part IV: Capital Budget Impact**

NONE

### **Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support	<b>Agency:</b> 235-Department of Labor and Industries
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## Part I: Estimates

No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: LeighBeth Merrick	Phone: 360-786-7445	Date: 03/04/2019
Agency Preparation: Jennifer Goss	Phone: 360-902-6083	Date: 03/05/2019
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 03/05/2019
OFM Review: Anna Minor	Phone: (360) 902-0541	Date: 03/05/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This bill addresses long-term services and supports. It amends RCW 74.39A.076 and 18.88B.041, and adds a new chapter to Title 50A RCW.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None. This bill requires employers to collect the premiums through payroll deductions and remit the amounts collected to the Employment Security Department (ESD). Therefore, there is no impact to premiums collected by the Department of Labor and Industries (L&I).

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

The proposed bill does not have fiscal impact for the Department of Labor and Industries (L&I). L&I is currently a primary payer for long-term care for injured workers and the agency would continue to pay for services.

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

NONE

None.

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

None.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support	<b>Agency:</b> 300-Department of Social and Health Services
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

**Non-zero but indeterminate cost. Please see discussion.**

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	7.0	9.0	8.0	12.0	100.6
<b>Account</b>					
General Fund-State 001-1	1,317,000	1,639,000	2,956,000	1,639,000	0
General Fund-State New-1	0	0	0	3,050,000	31,158,000
<b>Total \$</b>	1,317,000	1,639,000	2,956,000	4,689,000	31,158,000

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

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- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: LeighBeth Merrick	Phone: 360-786-7445	Date: 03/04/2019
Agency Preparation: Mickie Coates	Phone: 360-902-8077	Date: 03/12/2019
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 03/12/2019
OFM Review: Bryce Andersen	Phone: (360) 902-0580	Date: 03/14/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 2 - Benefit Unit means up to \$100, increasing at a three percent index subject to annual approval of the Long-Term Services and Supports Trust Commission, paid by the Department of Social and Health Services (DSHS) to a long-term services and supports provider as reimbursement for approved services provided to an eligible beneficiary on a specific date.

Eligible Beneficiary means a qualified individual who:

- Is 18 years old or older
- Resides in Washington State
- Was not disabled before the age of 18
- Has been determined to meet the minimum level of assistance with activities of daily living necessary to receive benefits through the Trust Program
- Has not exhausted the lifetime limit of Benefit Units

Program means the Long-Term Services and Supports Trust Program established in this Chapter.

Qualified Family Member means a relative of an Eligible Beneficiary qualified to meet requirements established in state law for the approved service they provide that would be required of any other long-term service and supports provider to receive payments from the state.

Section 3 - DSHS shall:

- Make determinations regarding an individual's status as an eligible beneficiary.
- Approve long-term services and supports eligible for payment as approved services under the Long-Term Services and Supports Trust Program.
- Register long-term services and supports providers that meet minimum qualifications and discontinue the registration of long-term services and supports providers that fail to meet the minimum qualifications or violate the operational standards of the Long-Term Services and Supports Trust Program.
- Disburse payments of benefits to registered long-term services and supports providers, utilizing and leveraging existing payment systems.
- Prepare and distribute written or electronic materials to qualified individuals, eligible beneficiaries, and the public as deemed necessary by the Long-Term Services and Supports Trust Commission to inform them of program design and updates.
- Provide customer service and address questions and complaints, including referring individuals to other appropriate agencies.
- Provide administrative and operation support to the Long-Term Services and Supports Trust Commission.
- Track data useful in monitoring and informing the Long-Term Services and Supports Trust Program, as identified by the Long-Term Services and Supports Trust Commission.
- Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the Long-Term Services and Supports Trust Program.

Section 4 – The Long-Term Services and Supports Trust Commission includes the Secretary of DSHS or his or her designee. This person shall serve as chair of the Long-Term Services and Supports Trust Commission.

Members of the Long-Term Services and Supports Trust Commission and the Investment Strategy Subcommittee must be compensated and reimbursed for the travel expenses while on official business.

Beginning January 1, 2021, the Long-Term Services and Supports Trust Commission shall propose recommendations to the appropriate executive agency or the Legislature regarding:

- Criteria for determining that an individual has met the requirements to be a qualified individual or an eligible beneficiary.
- Minimum qualifications for the registration of long-term services and supports providers.
- The establishment of payment maximums for approved services consistent with actuarial soundness which shall not be lower than Medicaid payments for comparable services.
- Changes to rules or policies to improve the operation of the Long-Term Services and Supports Trust Program.
- Changes to rules or policies to improve the operation of the Long-Term Services and Supports Trust Program.
- The annual adjustment to the Benefit Unit.
- The preparation of regular actuarial reports on the solvency and financial status of the Long-Term Services and Supports Trust Program and advising the Legislature on actions necessary to maintain the solvency of the Long-Term Services and Supports Trust Program.
- Recommendations on extending coverage to individuals who became disabled before the age of 18, including the impact on the financial status and solvency of the Long-Term Services and Supports Trust Program.

Beginning November 15, 2020, the Long-Term Services and Supports Trust Commission must report annually to the Governor and the fiscal committees of the Legislature on agency spending for administrative expenses. The November 15, 2025 report must include recommendations for a method of calculating future agency administrative expenses to limit administrative expenses while providing sufficient funds to adequately operate the Long-Term Services and Supports Trust Program.

The Long-Term Services and Supports Trust Commission shall establish an Investment Strategy subcommittee. The subcommittee shall provide guidance and advice to the State Investment Board on investment strategies for the account, including seeking counsel and advice on the types of investments that are constitutionally permitted.

Section 6 – Beginning January 1, 2025, a qualified individual may receive services and benefits under the Long-Term Services and Supports Trust Program if they have been determined by DSHS to require assistance with at least three activities of daily living. DSHS must engage sufficient qualified assessor capacity, including via contract, so that determination may be made within 45 days from receipt of a request by a beneficiary to us a benefit.

An eligible beneficiary may not receive more than the dollar equivalent of 365 Benefit Units over the course of their lifetime. Eligible beneficiaries may combine Benefit Units to receive more approved services per day as long as the total number of lifetime Benefit Units has not been exceeded.

Section 10 – The Long-Term Services and Supports Trust Account is created in the State Treasury. Expenditures from the account may be used for the administrative activities of DSHS, the Health Care Authority, and the Employment Security Department. Payment of benefits associated with the Long-Term Services and Supports Trust Program must be disbursed from the account by DSHS. Only the Secretary of DSHS or the Secretary's designee may authorize disbursements from the account. The account is subject to the allotment procedures under RCW 43.88. An appropriation is required for administrative expenses but not for benefit payments. The

account must provide reimbursement of any amounts from other sources that may have been used for the initial establishment of the program.

Section 11 – DSHS shall have the State Investment Board invest the funds in the Long-Term Services and Supports Trust Account. The authority to establish all policies relating to the Long-Term Services and Supports Trust Account, other than investment policies, resides with DSHS. With the exception of expenses of the State Investment Board, disbursements from the Long-Term Services and Supports Trust Account shall be made only on the authorization of DSHS or its designee.

The State Investment Board shall routinely consult and communicate with DSHS on the investment policy, earnings in the accounts, and related needs of the program.

Section 12 - Determinations regarding functional eligibility and those related to registration of long-term services and supports providers are subject to appeal.

Section 13 – DSHS must:

- Seek access to Medicare data from the federal Centers for Medicare and Medicaid Services (CMS) to analyze the potential savings in Medicare expenditures due to operation of the Long-Term Services and Supports Trust Program.
- Apply for a demonstration waiver from CMS to allow for Washington State to share in the savings generated in the federal match for Medicaid long-term services and supports and Medicare due to operation of the Long-Term Services and Supports Trust Program.
- Submit a report on the status of the Waiver to the Office of Financial Management and the appropriate committees of the Legislature by December 1, 2022.

Section 14 – Beginning December 1, 2026, and annually thereafter, the Long-Term Services and Supports Trust Commission shall report to the Legislature on the program, including:

- Projected and actual program participation
- Adequacy of premium rates
- Fund balances
- Benefits paid
- Demographic information on participants in the Long-Term Services and Supports Trust Program
- The extent to which the operation of the program has resulted in savings in the Medicaid program

Section 18 – A spouse or registered domestic partner who is a long-term care worker only for a spouse or domestic partner, pursuant to the Long-Term Services and Supports Trust Program, must receive 15 hours of training in the needs of adults with disabilities and at least six hours of training based on the care-receiving spouse or partner’s needs. The training must be completed within 120 days after becoming a long-term care worker.

Section 19 - A long-term care worker providing approved services only for a spouse or registered domestic partner, pursuant to the Long-Term Services and Supports Program, is not required to become a certified home care aide.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Under passage of this legislation, some Medicaid eligible consumers may not need to access or may delay their use of Medicaid eligible long-term care services and supports. Delays or avoidance of the use of Medicaid services will result in savings to the Medicaid program. The impact on the use of Medicaid services is unknown and any resulting savings is indeterminate.

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

### Indeterminate Costs

There are indeterminate costs that will be incurred in future years related to the Long-Term Services and Supports Trust Program. The funding needs displayed in Parts I and III of this fiscal note and the attachments to this fiscal note do not include any amounts for the three indeterminate cost areas discussed below. Additional funding will be needed once these costs are known.

1. Benefit Costs – Benefit costs are indeterminate until more is known about the number of Benefit Units beneficiaries will be expected to use and the annual increases in benefit amounts to be approved by the Long-Term Services and Supports Trust Commission. It is expected that benefits will begin to be paid in the last six months of Fiscal Year (FY) 2025.
2. Residential Care Services – Costs to license and inspect facilities and investigate complaints cannot be estimated until more is known about any increase in providers that may occur under passage of this legislation.
3. Background Checks – Costs for background checks for providers cannot be estimated until more is known about any increase in providers that may occur under passage of this legislation.

### Long-Term Services and Supports Trust Funds

It is assumed that DSHS's involvement with the State Investment Board on Long-Term Services and Supports Trust funds will be limited to the identification of expected DSHS funding requirements for the Long-Term Services and Supports Trust Program. It is anticipated that DSHS will provide the State Investment Board with projected benefit costs and projected DSHS program/administrative costs. The cost for the development of these projections/forecasts is reflected in this fiscal note. Not included in this fiscal note are costs associated with:

- Monitoring the solvency and financial status of the Long-Term Services and Supports Trust Program
- Providing guidance and advice to the State Investment Board on investment strategies
- Seeking counsel and advice on the types of investments that are constitutionally permitted
- Advising the Legislature on actions necessary to maintain solvency of the Long-Term Services and Supports Trust Program

### Commission, Program Development, Management, and Analysis

FTEs will be needed to staff and support the Long-Term Services and Supports Trust Commission, develop and provide ongoing management of the Long-term Services and Supports Trust Program, and to develop and provide the analyses and reports required in bill. The tasks these FTEs will be responsible for include the development of:



•Criteria for determining an individual has met the requirements to be a qualified individual or an eligible beneficiary.

- Minimum qualifications for registration of long-term services and supports providers.
- Rules and policies to improve the operation of the Long-Term Services and Supports Trust Program.
- The annual adjustment of the Benefit Unit.
- The actuarial reports on the solvency and financial status of the program.
- Access to Medicare data from the federal Centers for Medicare and Medicaid Services (CMS).
- The data acquisition and sharing agreement with CMS.
- Compliance with data security, privacy, usage, and documentation requirements
- The organization of Medicare data necessary for analysis
- Data analyses to determine any savings from operation of the Long-Term Services and Supports Trust

#### Program

- Reports on the results of the savings analyses
- An application for a demonstration waiver from CMS to allow the state to share in the savings generated in federal match
- A report on the status of the waiver by December 1, 2022
- Staff training
- Program needs for information technology systems

The GF-State costs for these staff are estimated at approximately \$1,117,000 in FY 2020, \$1,439,000 in FYs 2021 and 2022, \$1,871,000 in FY 2023, and \$2,303,000 in FYs 2024 and 2025. The identified positions are:

#### Fiscal Year 2020

- Director – 1.0 FTE
- WMS/Band 2 – 4.7 FTEs
- Administrative Assistant 5 – .8 FTE
- Actuary (WMS/Band 3) – .5 FTE

#### Fiscal Years 2021 and 2022

- Director – 1.0 FTE
- WMS/Band 2 – 6.0 FTEs
- Administrative Assistant 5 – 1.0 FTE
- Actuary (WMS/Band 3) – 1.0 FTE

#### Fiscal Year 2023

- Director – 1.0 FTE
- WMS/Band 2 – 9.0 FTEs
- Administrative Assistant 5 – 1.0 FTE
- Actuary (WMS/Band 3) – 1.0 FTE

#### Fiscal Years 2024 and 2025

- Director – 1.0 FTE
- WMS/Band 2 – 12.0 FTEs
- Administrative Assistant 5 – 1.0 FTE
- Actuary (WMS/Band 3) – 1.0 FTE

In addition to the staff above, \$200,000 per year is assumed to contract for an actuarial study every year. This

work will be supported by the DSHS actuary hired for the Long-Term Services and Support Trust Program.

### Information Technology Systems

For purposes of this fiscal note, it is assumed expenditures of \$500,000 will be incurred in FY 2024 to make modifications to the ProviderOne and/or individual provider payment system. It is anticipated that these systems will be modified to make payments to Long-Term Services and Supports Trust Providers.

It is also assumed that 4.0 FTEs will be needed in FY 2024 and 4.5 FTEs will be needed in FY 2025 to modify the Comprehensive Assessment and Reporting Evaluation (CARE) system. It is assumed CARE will be used to:

- Collect demographic data on Eligible Beneficiaries
- Determine program eligibility
- Enroll Eligible Beneficiaries into the Long-Term Services and Supports Trust Program
- Interface with Employment Security Department systems to identify Qualified Individuals and possibly Health Care Authority systems making payments to providers
- Track the Benefit Units used by each Eligible Beneficiary
- Issue program communications to Eligible Beneficiaries

The costs for these staff are estimated at approximately \$564,000 GF-State in FY 2024 and \$635,000 GF-State in FY 2025. The identified positions are:

#### Fiscal Year 2024

- Information Technology Specialist 5 – 2.5 FTEs
- Information Technology Specialist 6 – 1.5 FTEs

#### Fiscal Year 2025

- Information Technology Specialist 5 – 3.0 FTEs
- Information Technology Specialist 6 – 1.5 FTEs

It is assumed 1.0 FTE will be needed in FY 2023 and 2.0 FTEs will be needed in FY 2024 and beyond to maintain, modify, and update the systems supporting the Long-Term Services and Supports Trust Program. The costs for these staff are estimated at \$141,000 GF-State in FY 2023 and \$282,000 in FY 2024 and beyond. The identified positions are Information Technology Specialists 5.

### Communications

For purposes of this fiscal note, it is assumed 1.0 FTE will be needed in FY 2024 and 2.0 FTEs will be needed in FY 2025 to prepare and distribute written or electronic materials to qualified individuals, eligible beneficiaries, and the public to inform them of program design and updates. The costs for these staff are estimated at approximately \$143,000 GF-State in FY 2024 and \$285,000 GF-State in FY 2025. The identified positions are:

#### Fiscal Year 2024

- WMS/Band 2 – .5 FTE
- Web Developer and Maintenance – .5 FTE

#### Fiscal Year 2025

- WMS/Band 2 – 1.0 FTE
- Web Developer and Maintenance – 1.0 FTE

In addition to the staff above, \$450,000 in costs per year are estimated for development, printing, mailing, and publishing of outreach and Long-Term Services and Supports Trust Program information.

#### Register Long-Term Services and Supports Trust Program Providers

For purposes of this fiscal note, it is assumed 3.0 FTEs will be needed in FY 2024 and 6.0 FTEs will be needed in FY 2025 to Register Long-Term Services and Supports Trust Program providers and discontinue the registration of providers that fail to meet the minimum qualifications or violate program standards. The costs for these staff are estimated at approximately \$344,000 GF-State in FY 2024 and \$688,000 GF-State in FY 2025. The identified positions are Contracts Specialists.

In addition to the staff above, funding will be needed to support the registration of Long-Term Services and Supports Trust Program providers done by the Area Agencies on Aging. These costs are estimated as follows:

- FY 2023 - \$550,000 GF-State
- FY 2024 - \$1,100,000 GF-State
- FY 2025 - \$1,650,000 GF-State

#### Determination of Eligibility for Benefits

For purposes of this fiscal note, it is assumed 76.6 FTEs will be needed in FY 2025 to perform:

- Travel to/from assessment
- Functional eligibility assessment
- Person centered options counseling on benefits and choosing a registered provider
- Customer service and address questions and complaints

The DSHS Aging and Long-Term Services Administration (ALTSA) assumes that this effort will take ten hours of staff time per eligible beneficiary. Based on an actuarial study, it is assumed that 15,307 eligible beneficiaries will be served in 2025. Costs are estimated as follows:

$$(15,307 \text{ Beneficiaries} \times 10 \text{ hours}) / 1,332 \text{ hours per FTE} = 114.9 \text{ FTEs (Social Service Specialists 3)}$$

$$114.9 \text{ FTEs} \times \$115,000 \text{ per year/per FTE} = \$13,214,000 \text{ GF-State}$$

It is assumed that hiring of this staff will begin in October 2024. Fiscal Year 2025 costs are estimated at 66.5 percent of this total annual cost (\$8,787,000 GF-State).

In addition to the ten hours of staff time identified to process each application, it is estimated that additional resources will be needed to meet the requirement in this bill to perform all assessments within 45 days from receipt of a request by beneficiary to use a benefit. ALTSA is not able to consistently meet the 45-day requirement statewide under current staffing workload metrics. Based on this experience, it is estimated that additional resources equivalent to 20.0 FTEs will be needed to comply with this requirement.

$$20.0 \text{ FTEs} \times \$115,000 \text{ per year} = \$2,300,000 \text{ GF-State}$$

It is estimated that approximately 75 percent of this amount (\$1,728,000 GF-State) will be needed in FY 2025.

#### Authorize and Disburse Payments

For purposes of this fiscal note, it is assumed 15.3 FTEs will be needed in FY 2025 to authorized and disburse Long-Term Services and Supports Trust Program payments. These costs are estimated as follows:

$(15,307 \text{ Beneficiaries} \times 2 \text{ hours per client}) / 1,332 \text{ hours per FTE} = 23.0 \text{ FTEs (Social Service Specialists 3)}$

$23.0 \text{ FTEs} \times \$115,000 \text{ per year/per FTE} = \$2,645,000 \text{ GF-State}$

It is assumed that hiring of this staff will begin in November 2024. FY 2025 costs are estimated at 66.5 percent of this total annual cost (\$1,759,000 GF-State).

#### Supervisory, Administrative, and Support Staff

A total need for 143.9 Contracts Specialist and Social Service Specialist FTEs is identified above. (6.0 Contracts Specialists (provider registration) + 114.9 Social Service Specialists (eligibility) + 23.0 Social Specialists (payment processing)). Costs for supervisory and administrative support for these 143.9 FTEs is estimated at \$288,000 GF-State in FYs 2023 and 2024 and \$6,217,000 GF-State in FY 2025. The identified positions are:

##### Fiscal Years 2023 and 2024

- 2.0 FTEs - Accounting/Budget, WMS/Band 2

##### Fiscal Year 2025

- 2.0 FTEs - Accounting/Budget, WMS/Band 2
- 15.3 FTEs - Supervisors, Social Service Specialists 4
- 11.4 FTEs – Supervisors, WMS/Band 2
- 3.0 FTEs – IT/Desktop Support, Information Technology Specialists
- 14.0 FTEs – Clerical Support, Administrative Assistants 3

These FTEs and costs were estimated using the supervisory/support staff to direct service staff ratios used in the workload model used to develop the Workload Adjustment for the AL TSA budget.

#### Administration and Supporting Services (Program 110)

It is estimated that 3.0 FTEs (Human Resource Consultants 4 (HRC4)) will be needed to support the new staff hired for the Long-Term Services and Supports Trust Program. Total cost for these 3.0 HRC4 FTEs is estimated at \$344,000 GF-State in FY 2025. This estimate assumes a ratio of one HRC4 per 75 FTEs. It is estimated that 229.4 additional FTEs will be hired by June 30, 2025 to support the Long-Term Services and Supports Trust Program.

$(229.4 \text{ FTEs} / 75 \text{ HRC4}) = 3.0 \text{ HRC4 FTEs}$

Program 110 also estimates that 4.0 FTEs (Fiscal Analysts 2) will be needed to support increased time and attendance, payroll, purchasing, and accounting activities for the agency. Total cost for these 4.0 FTEs is

estimated at \$379,000 GF-State in FY 2025.

Other

While all costs in FYs 2020, 2021, and 2022 are reflected as GF-State expenditures in this fiscal note, Section 10 of this bill indicates that the Long-Term Services and Supports Trust Account “must provide reimbursement of any amounts from other sources that may have been used for the initial establishment of the (Long-Term Services and Supports Trust) program.”

It is anticipated that the number of FTEs needed and the costs of the Long-Term Services and Supports Trust Program will continue to increase beyond 2025 as the number of Eligible Beneficiaries served in the Program increases.

Please see attachment "2SHB 1087 - Fiscal Note Attachment" for detail.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
001-1	General Fund	State	1,317,000	1,639,000	2,956,000	1,639,000	0
New-1	General Fund	State	0	0	0	3,050,000	31,158,000
<b>Total \$</b>			1,317,000	1,639,000	2,956,000	4,689,000	31,158,000

#### III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	7.0	9.0	8.0	12.0	100.6
A-Salaries and Wages	718,000	927,000	1,645,000	2,399,000	15,231,000
B-Employee Benefits	234,000	301,000	535,000	788,000	5,552,000
C-Professional Service Contracts	200,000	200,000	400,000	950,000	4,550,000
E-Goods and Other Services	77,000	111,000	188,000	282,000	4,129,000
G-Travel	37,000	36,000	73,000	98,000	235,000
J-Capital Outlays	42,000	54,000	96,000	144,000	1,206,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service	1,000	1,000	2,000	4,000	55,000
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	8,000	9,000	17,000	24,000	200,000
9-					
<b>Total \$</b>	1,317,000	1,639,000	2,956,000	4,689,000	31,158,000

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Actuary - WMS Band 3	159,000	0.5	1.0	0.8	1.0	1.0
Administrative Assistant 3	46,000					7.0
Administrative Assistant 5	61,000	0.8	1.0	0.9	1.0	1.0
Contracts Specialist 3	69,000					4.5
Director - WMS Band 4	161,000	1.0	1.0	1.0	1.0	1.0
Fiscal Analyst 2	52,000					2.0
Human Resource Consultant 4	74,000					1.5
Information Technology Specialist 5	90,000				0.5	7.0
Information Technology Specialist 6	99,000					1.5
Social Sevice Specialist 3	69,000					46.0
Social Sevice Specialist 4	78,000					7.7
WMS Band 2	91,000	4.7	6.0	5.4	8.5	20.5
<b>Total FTEs</b>		7.0	9.0	8.0	12.0	100.6

**III. D - Expenditures By Program (optional)**

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25
Aging and Long-Term Support Administration (050)	1,317,000	1,639,000	2,956,000	4,689,000	30,435,000
Administration and Supporting Services (110)					723,000
<b>Total \$</b>	1,317,000	1,639,000	2,956,000	4,689,000	31,158,000

**Part IV: Capital Budget Impact**

NONE

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

New rules will be needed to implement this legislation.

**Department of Social and Health Services**  
**2019 Legislative Session**  
**Fiscal Note 2SHB 1087**

	Fiscal Year 2020		Fiscal Year 2021		Fiscal Year 2022		Fiscal Year 2023		Fiscal Year 2024		Fiscal Year 2025	
	FTEs	Cost	FTEs	Cost	FTEs	Cost	FTEs	Cost	FTEs	Cost	FTEs	Cost
Commission, Program Development, Management, and Analysis	7.0	1,317,000	9.0	1,639,000	9.0	1,639,000	12.0	2,071,000	15.0	2,503,000	15.0	2,503,000
Information Technology							1.0	141,000	6.0	1,346,000	6.5	917,000
Communications									1.0	593,000	2.0	735,000
Register Providers								550,000	3.0	1,444,000	6.0	2,338,000
Eligibility Determinations											76.6	10,515,000
Payment Processing											15.3	1,759,000
Supervisors and Administrative Support							2.0	288,000	2.0	288,000	52.7	6,217,000
<b>Total</b>	<b>7.0</b>	<b>1,317,000</b>	<b>9.0</b>	<b>1,639,000</b>	<b>9.0</b>	<b>1,639,000</b>	<b>15.0</b>	<b>3,050,000</b>	<b>27.0</b>	<b>6,174,000</b>	<b>174.1</b>	<b>24,984,000</b>

Position	Salary	Fiscal Year 2020		Fiscal Year 2021		Fiscal Year 2022		Fiscal Year 2023		Fiscal Year 2024		Fiscal Year 2025	
		FTEs	Cost	FTEs	Cost	FTEs	Cost	FTEs	Cost	FTEs	Cost	FTEs	Cost
Actuarial Study			200,000		200,000		200,000		200,000		200,000		200,000
Commission Travel			15,000		15,000		15,000		15,000		15,000		15,000
AAA Provider Registration							550,000		1,100,000		1,650,000		1,650,000
Printing, Mailing, etc.									450,000		450,000		450,000
ProviderOne/IP Payment Systems									500,000				
Case Mgmt - 45 Day Assessments													1,728,000
Director	161,000	1.0	230,000	1.0	230,000	1.0	230,000	1.0	230,000	1.0	230,000	1.0	230,000
WMS2	91,000	4.7	674,000	6.0	868,000	6.0	868,000	11.0	1,588,000	14.5	2,086,000	26.4	3,796,000
Actuary	159,000	0.5	114,000	1.0	222,000	1.0	222,000	1.0	222,000	1.0	222,000	1.0	222,000
Admin Asst 5	61,000	0.8	84,000	1.0	104,000	1.0	104,000	1.0	104,000	1.0	104,000	1.0	104,000
Admin Asst 3	47,000								-		-	14.0	1,224,000
Information Technology Specialist 5	90,000							1.0	141,000	5.0	697,000	9.0	1,268,000
Information Technology Specialist 6	99,000									1.5	227,000	1.5	227,000
Contracts Specialist	69,000									3.0	343,000	6.0	685,000
Human Resource Consultant 4	74,000											3.0	344,000
Fiscal Analyst 2	52,000											4.0	379,000
Social Service Specialist 3	69,000											91.9	10,545,000
Social Service Specialist 4	78,000											15.3	1,917,000
<b>Total</b>		<b>7.0</b>	<b>1,317,000</b>	<b>9.0</b>	<b>1,639,000</b>	<b>9.0</b>	<b>1,639,000</b>	<b>15.0</b>	<b>3,050,000</b>	<b>27.0</b>	<b>6,174,000</b>	<b>174.1</b>	<b>24,984,000</b>

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1087 2S HB	<b>Title:</b> Long-term services & support	<b>Agency:</b> 540-Employment Security Department
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**Part I: Estimates**

No Fiscal Impact

**Estimated Cash Receipts to:**

Non-zero but indeterminate cost. Please see discussion.

**Estimated Operating Expenditures from:**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	1.4	52.9	27.2	48.7	24.0
<b>Account</b>					
All Other Funds-State 000-1	182,584	13,920,210	14,102,794	20,963,198	8,152,252
<b>Total \$</b>	182,584	13,920,210	14,102,794	20,963,198	8,152,252

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: LeighBeth Merrick	Phone: 360-786-7445	Date: 03/04/2019
Agency Preparation: Xia Zhan	Phone: 360 902-0023	Date: 03/15/2019
Agency Approval: Sondra Walsh	Phone: 360/902-0023	Date: 03/15/2019
OFM Review: Anna Minor	Phone: (360) 902-0541	Date: 03/19/2019



## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

The second substitute bill:

- States that beginning January 1, 2022, ESD shall assess for each individual in employment with an employer a premium based on the amount of the individual's wages. For the purposes of this fiscal analysis, our projections remain the same as the previous version of the bill.
- Applies the age and residency requirements to eligible beneficiary status, rather than qualified individual status. Excludes persons who became disabled prior to age 18 from being an eligible beneficiary. Requires the Commission to make recommendations regarding extending coverage to people who became disabled before age 18.
- “Qualified individuals” now means a person that has paid the long-term services and supports premium and has either a total of 10 years without interruption of five or more consecutive years, or three years within the last six years.
- Changes the implementation date for self-employed persons to opt in from 2023 to 2022.

This substitute bill differs from HB 1087 as: it makes technical corrections to definitions, clarifies duties of the involved agencies, adds two new sections to clarify there is no entitlement or requirements created, and includes a JLARC report be conducted. This fiscal note revised the costs for AG's Office based on the information received from AG's Office, , which also decreased the indirect costs.

The bill creates a long-term care insurance benefit for Washington employees and tasks ESD to assess and collect employee premiums beginning January 1, 2022. This will create a new set of work processes that will require a platform and extensions to IT systems to administer and operate the program. Costs are based on volume and staffing allotments for the Paid Family Medical Leave program.

This bill would require a new chapter in 50A RCW.

Sec. 4 requires the ESD Commissioner or commissioner’s designee to be a member of the commission that is tasked with proposing recommendations, establishing minimum qualifications, and providing regular actuarial and financial reports of the program. Although reimbursed for travel expenses and be compensated in accordance with RCW 43.03.250, the duties of the commissioner could displace other duties that could have residual impacts on the agency.

Sec. 8 and 9 Require ESD to collect premiums from employees beginning January 1, 2022 and extending eligibility to self-employed persons. Creating this program will require operational, administrative, technological, policy, communications, and fiscal staff to create the program, establish rule making and policy, communicate and provide customer service to stakeholders, and provide continued support. Staffing costs are outlined in question 19 of this analysis. Additionally, based on the determinations related to staffing above, there will be costs for this program related to facilities and equipment. The costs should be proportionally applied to each program.

The bill creates the trust account in which expenditures could be used for administrative activities associated with the program. However, much of the work needed to build or expand technology, create rule, and other operational needs would be required in the years leading up to when premiums would be collected after January

1, 2022. Therefore, an appropriation would be needed.

**II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Per section 8, ESD would need to assess, for each individual employed in the state, a premium of 0.58% of the individual’s wages. Employers may deduct all premiums from payroll deductions and remit the amounts collected to ESD from pay beginning January 1, 2022. Funds must be deposited in the long-term services and support trust account. Cash receipt assumptions were estimated using total wage information from ESD’s Unemployment Insurance Total Wages for covered employees, reported quarterly. These numbers do not represent true estimates due to exempted individuals UI that are not exempted for this program.

Section 9 will add additional premium payments for self-employed persons who elect. It is unknown how many self-employed persons will elect coverage and therefore this number is indeterminate. Wages that are calculated in the table below are based on reported wages by employers obligated to report for unemployment insurance. Wage growth is estimated by the Economic and Revenue Forecast Council.

Year	Total Wages (Taxable Employers)	Premium CY (.58%)	Premium Assessed by FY	Premium Collected by FY
2022	\$ 178,006,653,724	\$ 1,032,438,592	\$ 516,219,296	\$ 258,109,648
2023	\$ 183,246,079,301	\$ 1,062,827,260	\$ 1,047,632,926	\$1,040,035,759
2024	\$ 186,911,000,887	\$ 1,084,083,805	\$ 1,073,455,533	\$1,068,141,396
2025	\$ 190,649,220,904	\$ 1,105,765,481	\$ 1,094,924,643	\$1,089,504,224
2026	\$ 194,462,205,322	\$ 1,127,880,791	\$ 1,116,823,136	\$1,111,294,309
2027	\$ 198,351,449,429	\$ 1,150,438,407	\$ 1,139,159,599	\$1,133,520,195
2028	\$ 202,318,478,417	\$ 1,173,447,175	\$ 1,161,942,791	\$1,156,190,599
2029	\$ 206,364,847,986	\$ 1,196,916,118	\$ 1,185,181,647	\$1,179,314,411
2030	\$ 210,492,144,946	\$ 1,220,854,441	\$ 1,208,885,280	\$1,202,900,699
2031	\$ 214,701,987,844	\$ 1,245,271,529	\$ 1,233,062,985	\$1,226,958,713

**II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

This bill would establish a new set of work processes and require modifications and creating platforms to the current PFML IT systems to administer and operate the program. Costs are based on volume and staffing budgets for the Paid Family Medical Leave Program implementation.

This fiscal analysis differs from 2018 due to ESD now has more data to assess the impact of this bill. If this bill were to pass ESD needs to have sufficient staff to operate LTC in the event PFML was no longer a program run by ESD. Furthermore, now that PFML has been running for about 18 months with staffing, we have a more accurate understanding of the impacts a program like this will have on our agency.

Operational Costs:

Long-term care program will require additional 15 FTE’s for operational staff with the following breakdown:

This calculation shows our assumption that 1/3 of the work is done for premiums. So, we are multiplying the total PFML ops staff times 1/3 to account for the portion that is theoretically used to process premium collection and related appeal and investigation functions. Currently in PFML 69 staff account for operations, accounting and admin. 1/3 is approximately 23 staff. Absent any other data, we assume that the FTE will increase by 30% (cost to adjust for premium assessment and collection). We add 7 staff to the total which equals 30 FTE for premium assessment and collection. With the total FTE of 30 for premium assessment and collections for both programs (PFML & LTC), we then apply half of the staff for PFML and the other half for LTC premium assessment and collection. 15 of these 30 staff are for PFML and 15 are for LTC premium assessment and collection.

Fiscal Staff costs:

Fiscal staff are assuming needing 1 Fiscal Analyst 5, 1 Fiscal Analyst 4 and 1 Fiscal Analyst 3 to perform full time, permanent work beginning July 1, 2021.

IT costs including contract costs:

IT positions and contracts for LTC will need to add a tech platform and adding additional specifications to current systems. ESD has much of the system which will remove a need for consulting services. ESD assumes this will be 80% of the costs of implementing our current PFML system (80% of PFML iteration and payments from 07/2018 through 02/2019). And additional costs will be estimated of 10% PFML iteration and payments from 03/2019 through 02/2020 for costs associated with sharing and reconciling data between agencies as well as IT FTE totals. Total cost of ownership is not drastically different from PFML. Contract maintenance costs should align with PFML as we would be contracting for support for the added functionality rather than a system overall. Calculations are shown below.

IT FTES:

Fiscal Year 2021 PFML IT FTE = 44

80% of 44 FTEs is 35 FTEs for the first iteration.

10% of 44 is 4.4 (rounded up to 5) for second iteration.

IT Contract costs:

PFML Milestone 2 Costs x 80%

$\$13,780,266 \times 80\% = \$11,024,213$  contract costs for long term care

PFML Milestone 3 Costs x 10%

$\$11,139,628 \times 10\% = \$1,113,962$  contract costs for long term care

Communications costs:

Communication narrative: ESD assumes there will be a significant communication role to educate employer customers about their new responsibilities under the program. This could include how to file and remit for both programs (PFML and LTC). New documents and strategies will be created. ESD estimates 1 CC5 for 18 months,

six months to create content and arrange marketing contracts, six months pre and post roll out to communicate about the program with employer customers. Thereafter, the ESD enterprise would need to support ongoing communications.

Appeals for OAH & AGO

For OAH, PFML appeals on premiums are projected at 229 appeals annually. We are assuming the same for LTC. The cost will be about \$48,900 in FY 2022 (\$20,000 of preparatory work plus 2 months of appeals at \$28,900) and \$173,300 in FY 2023 and each fiscal year thereafter.

The AGO will provide representation in up to 1/3 of the 229 appeals (approximately 75 cases) annually. PFML projected costs for AGO involvement are \$410,000 annually, starting FY2023. (Original FN had AG cost of \$174,000 in FY 2022 - this has been removed)

Other costs as well as facilities and equipment costs:Based on the determinations related to staffing above, there will be costs for this program related to facilities and equipment. The costs should be proportionally applied to each program. If the above methodology is used, we could calculate the lease and equipment costs that apply to the FTEs to apply to this program.

The bill would add a new chapter to RCW 50A.

The bill would create the trust account in which expenditures could be used for administrative activities associated with the program. However, much of the work needed to build or expand technology, create rule, and other operational needs would be required in the years leading up to when premiums would be collected after January 1, 2022. Therefore, an appropriation would be needed.

There are also other operational expenditures such as:

Marketing and communications

Lockbox/credit card/ACH fees

Mailers

Facilities

Rulemaking and hearing costs for stenographer etc.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
000-1	All Other Funds	State	182,584	13,920,210	14,102,794	20,963,198	8,152,252
<b>Total \$</b>			182,584	13,920,210	14,102,794	20,963,198	8,152,252

**III. B - Expenditures by Object Or Purpose**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	1.4	52.9	27.2	48.7	24.0
A-Salaries and Wages	83,269	3,385,534	3,468,803	5,746,639	2,572,806
B-Employee Benefits	33,308	1,354,214	1,387,522	2,298,656	1,029,123
C-Professional Service Contracts		5,962,107	5,962,107	7,076,069	
E-Goods and Other Services	30,500	1,620,940	1,651,440	3,168,737	2,946,936
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	35,507	1,597,415	1,632,922	2,673,097	1,603,387
9-					
<b>Total \$</b>	<b>182,584</b>	<b>13,920,210</b>	<b>14,102,794</b>	<b>20,963,198</b>	<b>8,152,252</b>

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
CC5	79,548		0.5	0.3	0.5	
FA3	59,148				1.0	1.0
FA4	62,148				1.0	1.0
FA5	68,580				1.0	1.0
FA5-Indirect	70,000	0.4	14.4	7.4	12.2	5.5
ITS3	72,036		8.0	4.0	4.0	
ITS4	79,548		6.0	3.0	4.0	1.0
ITS5	87,792		9.0	4.5	6.0	1.5
ITS6	96,912		7.0	3.5	3.5	
MA4	72,036		2.0	1.0	1.0	
PFML Specialist 2	59,148				7.0	7.0
PFML Specialist 3	62,148				4.0	4.0
Secret Senior	38,988		1.0	0.5	0.5	
Tax Policy Spec. 2	77,616		1.0	0.5	1.0	1.0
Tax Policy Spec. 4 - Rulemaking	94,560	0.5	1.0	0.8		
WMS1 - Service Delivery Manager	71,088				1.0	1.0
WMS2 - IT	97,224		1.0	0.5	0.5	
WMS2-Rulemaking	84,072	0.5	1.0	0.8		
WMS3 - IT	109,440		1.0	0.5	0.5	
<b>Total FTEs</b>		<b>1.4</b>	<b>52.9</b>	<b>27.2</b>	<b>48.7</b>	<b>24.0</b>

**Part IV: Capital Budget Impact**

NONE

None.

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

This bill would require major rulemaking and collaboration with stakeholders to create new rules in Title 192 WAC to establish premium collection, notifications, penalty structures, and more. The rulemaking process would include development and filing, Attorney General review, rules hearings, and communications of rules to residents of Washington. Question 19 details expenditures related to these activities.

Sec. 8 requires employers to collect premiums beginning January 1, 2022. The rate is set at 0.58% of an employee's wages. Premiums would be assessed and collected by ESD, and then deposited in the long-term services and supports trust account. Premiums collected under this section would be placed in trust for the individuals served by the program.

Sec. 9 Would allow self-employed persons, including a sole proprietor, independent contractor, partner, or joint venture to elect coverage. This is similar to the Paid Family Medical Leave program process for self-employed persons.

ESD is estimating 3 public hearings that require rule filing, drafting, and review.