THE WASHINGTON HEALTH SECURITY TRUST

A STATE-BASED PROPOSAL

A NARRATIVE

DESCRIPTION OF THE PROBLEM

There is a crisis in health care accessibility, affordability, and choice in Washington state. Health coverage through insurance companies has failed to control costs, increase access, or preserve choice. Well over six hundred thousand Washington residents have no health coverage, and many more are underinsured. Individual plans are unavailable or unaffordable in most counties. Many clinics, physician practices and emergency departments, especially in rural areas, are failing. Employers, faced with fewer choices and more expensive premiums, are reducing the quality of employment-based health coverage. Simplifying health care financing and eliminating administrative waste inherent in multiple insurance plans can create sufficient savings to extend health coverage to all residents and enhance fairness in the system. (These problems are stated in *APPENDIX: Statutory Language… Sec. 1*)

THE PROPOSED SOLUTION

The proposed legislation creates the Washington Health Security Trust (WHST), a single financing entity dedicated to cover **a defined set of health services** for **all** residents of the state of Washington. The trust is directed to accomplish the following goals through public hearings, research, and consensus building:

(a) provide fair, simple, and accountable health care financing for all Washington residents using a single health care financing entity;
(b) cover a comprehensive package of effective and necessary personal health services;
(c) make health coverage independent from employment;
(d) eliminate excessive administrative costs resulting from the current fragmented system of multiple insurers;
(e) generate savings sufficient to ensure coverage for all Washington residents;
(f) integrate current publicly sponsored health programs into the WHST;
(g) preserve and enhance choice of providers for Washington residents;
(h) protect patient rights;
(i) keep clinical decisions in the hands of health professionals and patients, rather than administrative personnel;
(j) promote health care quality;
(k) control excessive health care costs. (See *APPENDIX: Statutory Language… Sec. 1(2) and Sec. 3.*)

DESCRIPTION OF TRUST GOVERNANCE

Board of Trustees: The WHST would be governed by a board of trustees. The board would consist of nine trustees initially selected for their expertise in health care financing and delivery, and representing Washington citizens, business, labor, and health professions. The initial trustees would be appointed by the governor (subject to confirmation by the senate) to staggered terms of two, four, and six years. After the trust is established and operating, trustees would be elected to six-year terms, one trustee from each congressional district, following an orderly process to replace the appointed trustees. The governor would appoint trustees to fill vacancies.

The initial appointed trustees, in order to establish the health care financing system, would occupy their positions on a full-time basis.

The elected trustees would occupy their positions according to the bylaws, rules, and relevant governing documents of the board.

One member of the board would be designated by the governor as chair, subject to confirmation by a majority of the other trustees. The chair would serve in that capacity, subject to continuing confidence of a majority of the board. The governor could, by due process, remove a trustee or the chair for cause.

Five trustees would constitute a quorum for the board to conduct business.

Trustees would be paid a salary to be fixed by the governor in accordance with an existing state law.

Members of the board could have no pecuniary interest in any business subject to regulation by the board. (See *APPENDIX: Statutory Language… Sec. 4.*)

Committees: With approval of the board, the chair would appoint three standing committees.

1. A **financial advisory committee** would consist of financial experts from the state Office of Financial Management, the Office of State Treasurer, and the state Office of Insurance Commissioner. The financial advisory committee would recommend specific details for major budget decisions and for appropriations, taxes, and other funding legislation necessary to conduct the operations of the WHST.
2. A **citizens' advisory committee** would have balanced representation from health experts, business, labor, and consumers. The citizens' advisory committee would hold public hearings on priorities for inclusion in the set of health services, survey public satisfaction, investigate complaints, and identify and report on health care access and other priority issues for residents.
3. A **technical advisory committee** would have members with broad experience in health care delivery, research, and policy, as well as public and private funding of health care services. The technical advisory committee would make recommendations to the board on technical issues related to covered benefits, quality assurance, utilization, and other issues as requested by the board.

The board is directed to consult with the citizens' advisory committee at least quarterly, receive its reports and recommendations, and then report to the governor and legislature at least annually on board actions in response to citizens' advisory committee input.

The board is also directed to seek financially sound recommendations from the financial advisory committee whenever the board requests funding legislation necessary to operate the WHST and whenever the board considers major budget decisions.

With approval of the board, the chair could appoint other committees and task forces as

needed. Members of committees would serve without compensation but could be reimbursed for their expenses according to existing state laws. (See *APPENDIX: Statutory Language… Sec. 5.*)

Board Duties: (a) With advice from the three advisory committees, establish and keep current a set of health services to be financed by the trust; (b) seek all necessary waivers to get federal and state payments for health services to be paid directly to the trust; (c) request legislation authorizing the health security assessments and premiums necessary to operate the trust and make rules, policies, guidelines, and timetables needed for the trust to finance the set of health services for all residents by a certain time; (d) develop a state-wide, anonymous health care data system for quality assurance and cost containment; (e) with advice from the technical advisory committee, develop health care practice guidelines and quality standards; (f) develop policies to protect confidentiality of patient records; (g) make eligibility rules; (h) develop a streamlined uniform claims processing system that must pay in a timely manner for covered health services; (i) develop appeals procedures for residents and providers; (j) integrate functions with other state agencies; (k) work with the three advisory committees to balance benefits and provider payments with revenues, and develop effective measures to control health care costs; (l) address nonfinancial barriers to health care access; (m) monitor population migration into Washington state to detect any trends related to availability of universal health care coverage; and (n) develop an annual budget for the trust.

If these powers and duties were inconsistent with powers and duties of other state entities, the statute declares that the board authority would supersede authority of those other entities. (See *APPENDIX: Statutory Language… Sec. 7.*)

The board, in consultation with the office of financial management, must adopt a budget every year. Budgets could not increase more than the state consumer price index. If expenses exceeded revenues for 2 consecutive years, the board would have to recommend adjustments to the legislature. (See *APPENDIX: Statutory Language… Sec. 8.*)

Other Board Duties: The board is also directed to:

1. report annual changes in total Washington health care costs, along with the financial position and the status of the trust, to the governor and legislature at least once a year;
2. seek audits annually from the state auditor;
3. contract for a performance audit every two years;
4. adopt bylaws, rules, and other appropriate governance documents to assure accountable, open, fair, effective operations of the trust, including methods for electing trustees and rules under which reserve funds may be prudently invested (with advice of the state treasurer and the director of the department of financial management). The board must file its internal rules and policies with the secretary of state to be available for public inspection; (See *APPENDIX: Statutory Language… Sec. 9.*)
5. by a certain date, submit to the legislature a proposal for integrating federally qualified trusts that choose to participate in the Washington health security trust. (See *APPENDIX: Statutory Language… Sec. 35.*)
6. by a certain date and in coordination with the department of labor and industries, study and recommend a plan to the governor and appropriate legislative committees to provide medical benefits for injured workers under the trust; and (See *APPENDIX: Statutory Language… Sec. 36.*)
7. negotiate with multiple entities as described below under **NEGOTIATIONS.**

Chair: The chair would be the presiding officer of the board and would:

(1) appoint an executive director approved by the board;
(2) enter into contracts on behalf of the board subject to review and binding legal opinions by the attorney general's office;
(3) manage gifts, donations, grants, and other funds received by the board;
(4) delegate administrative functions to the executive director and staff of the WHST as necessary to achieve efficient administration.

(See *APPENDIX: Statutory Language… Sec. 6.*)

ADMINISTRATION AND OPERATIONS

Executive Director: The executive director, with board approval, would employ staff necessary to execute policies and decisions of the board. The board would delegate administrative functions to the executive director, who would be accountable to the board for administrative and operational performance. (See *APPENDIX: Statutory Language… Sec. 6.*)

THE DEFINED SET OF COVERED SERVICES

With advice from the citizens' advisory committee and the technical advisory committee, the board is directed to define a single package of benefits covering health services that are effective and necessary for the good health of residents and that emphasize preventive and primary health care.

The benefit package must include:

(a) inpatient and outpatient hospital care, including twenty-four hour a day emergency services and emergency ambulance services;
(b) outpatient, home-based, and office-based care;
(c) rehabilitation services, including speech, occupational, and physical therapy;
(d) inpatient and outpatient mental health services and substance abuse treatment;
(e) hospice care;
(f) prescription drugs and prescribed medical nutrition;
(g) vision and hearing care;
(h) diagnostic tests;
(i) durable medical equipment;
(j) preventive care;
(k) after a financial feasibility analysis, long-term care benefits would be added;
(l) by a specified date, the board would present a plan for dental coverage to the legislature;

The board is also directed to determine copayments for outpatient visits, prescriptions, and the board-and-room part of long-term care; study how to cover research and training under the trust; and report the study to the governor and the legislature by a specified date. Residents below 150% of the federal poverty level would be exempt from copayments and there would be an annual family cap on copayments.

The board would seek methods to finance drugs and durable medical equipment at low cost without interfering with appropriate standards of care. (See *APPENDIX: Statutory Language… Sec. 12.*)

Cooperative, cost-saving measures in trust operations would be protected from federal anti-trust action. (See *APPENDIX: Statutory Language… Sec. 14.*)

EXPLANATION OF FUNDING

Revenue: The WHST would be funded by three primary revenue streams: a payroll tax paid by employers, premiums paid by all Washington residents 18 years of age and older, and continuation of the current state and federal funding now supporting public health programs. The specific amounts of the payroll tax and individual premium will be decided by additional legislation once the WHST becomes law.

For the purposes of this narrative, the dollar amounts and percentages are suggestions that are estimated to provide sufficient revenue as of 2009.

1. Employers in the state of Washington would pay a health security assessment.

Employers would pay an estimated 1% of total quarterly payroll up to $125,000.00 per quarter and an estimated 10% of total quarterly payroll above $125,000.00. The rates could also be adjusted to the state consumer price index by the office of financial management. The department of revenue would manage collection of the assessment and deposit at least 80% of the revenue in the benefits account to be described below. Employers such as the federal government, certain trusts protected by federal law, and native American payrolls would be exempt from the health security assessment until the federal programs come under the trust unless the individual employees involved voluntarily elect to participate in the trust. Employers could apply for hardship allowances under certain circumstances. (See *APPENDIX: Statutory Language… Sec. 16.*)

Employers would pay a temporary, reduced health security assessment for 4 months prior to the starting date of coverage to fund start-up reserves. They may be eligible for refunds in 2 years. 20% of these revenues would be deposited in the reserve account and 80% would be deposited in the benefits account, as described below. (See *APPENDIX: Statutory Language… Sec. 20.*)

2. All Washington residents 18 and over would pay a health security premium.

Those with incomes over 150% of the federal poverty level (except Medicare and Medicaid beneficiaries) would pay an estimated $120.00 per month.

Medicare beneficiaries over 150% of the federal poverty level who voluntarily elect to participate in the trust would pay a premium estimated at $60.00 per month.

Exact premium rates could be adjusted to the state consumer price index. Residents covered by certain federally protected programs and trusts would be exempt until those programs and trusts join the health security trust. Premiums of employees and spouses would be collected by payroll deduction. Self-employed and non-employed residents would pay their premiums directly to the department of revenue. Employers would be permitted to provide other health coverage for their employees and pay the health security premiums for their employees if they so chose. The board would consider subsidizing premiums for residents under 250% of the poverty level. (See *APPENDIX: Statutory Language… Sec. 17.*)

3. Revenue flowing to state health coverage programs would be transferred to the trust:

(a) the state health care authority would be abolished; its revenues, assets, functions, and duties would be transferred to the WHST; existing contracts, obligations and collective bargaining

agreements would continue under the trust; (See *APPENDIX: Statutory Language…Sec. 19 and Sec. 26.*)
(b) the state health services account would be transferred to the WHST; (See *APPENDIX: Statutory Language…Sec. 26 and Sec. 33.*)
(c) certain funds would be transferred from the public employees' and retirees' account to the WHST; (See *APPENDIX: Statutory Language…Sec. 25.*)
(d) four existing taxes now going to the health services account would be transferred to the WHST; (See *APPENDIX: Statutory Language…Sec. 27-30.*)
(e) tobacco settlement funds now going to the health services account would be transferred to the WHST; (See *APPENDIX: Statutory Language…Sec.31.*)
(f) community health center funding would be transferred to the WHST; (See *APPENDIX: Statutory Language…Sec.32.*)
(g) two existing taxes not appropriate for health care financing under the health security trust would be repealed; (See *APPENDIX: Statutory Language…Sec.38.*)
(h) a start-up appropriation might be required, depending on when the proposal is adopted. (See *APPENDIX: Statutory Language…Sec. 37.*)
(i) state government medical assistance programs with their own established funding sources would not be allowed to use or substitute revenue from the WHST. (See *APPENDIX: Statutory Language…Sec 18.*)

Accounts: The WHST would establish 3 named accounts:

1. A benefits account would be established in custody of the state treasurer. All receipts from health security assessments and health security premiums that are not dedicated to the reserve or to the displaced worker training account, as well as receipts from other sources, would be deposited into the benefits account. Expenditures from the account would be authorized by the board and used only for health care services and maintenance of the trust. (See *APPENDIX: Statutory Language…Sec 24.*)

2. A reserve account would be established in custody of the state treasurer. It would be fully funded when it totaled 10% of annual budgeted expenditures of the trust. Until it became fully funded, 20% of regular employer assessments, 7% of temporary assessments, 7% of premiums, and 10% of other revenues would flow into the reserve account. After it is fully funded, additional revenues would flow to the benefits account. (See *APPENDIX: Statutory Language…Sec 22.*)

3. A displaced worker account would be established in custody of the state treasurer. 3% of health security assessments and 3% of health security premiums would flow into the account. The account would be used only for retraining and job placement of workers displaced by transition to the WHST and would expire at a specified time after about 2 years. Any funds remaining in the account at expiration would be deposited into the benefits account. (See *APPENDIX: Statutory Language…Sec 23.*)

Expenses:

1. Administrative expenses to operate and maintain the WHST could not exceed eleven percent of the trust's annual budget. The board could not shift administrative costs or duties of the trust to providers or to resident beneficiaries.
2. The board would work with providers to develop and apply scientifically based utilization

standards, use encounter and prescribing data to detect excessive utilization, develop due processes for enforcing appropriate utilization standards, and identify and prosecute fraud.

3. The board would have authority to use other cost-containment measures to maintain a balanced budget, but would not be permitted to use measures that limit access to clinically appropriate care or infringe upon legitimate clinical decision-making by practitioners. (See *APPENDIX: Statutory Language…Sec. 15.)*

DESCRIPTION OF NEGOTIATIONS

Providers: The board would adopt rules permitting providers collectively to negotiate budgets, payment schedules, and other terms and conditions of WHST participation.

1. Annually, the board would negotiate with each hospital and each facility for a prospective global budget covering costs to be paid by the WHST.
2. Group practices could also negotiate on a global budget basis.
3. Hospitals and other facilities would be paid on a fee-for-service or case rate basis, within the limits of their prospective annual budget.
4. Payment to individual practitioners would be on a fee-for-service basis, a case rate basis, or a combination of bases. The board would also consider paying providers by capitation, if feasible.
5. Individual practitioners employed by a group, facility, clinic, or hospital could continue to be paid by salary.
6. The board would adopt rules to ensure that payments for mental health services would be comparable to those for other health services.
7. The board would develop and propose provider payment methods that: (a) encourage an integrated multispecialty approach to disease management; (b) reward education time spent with patients; and (c) include a medical risk adjustment formula for providers serving patients with high health risks See *APPENDIX: Statutory Language…Sec. 13.*)

Government entities: The board, along with state government officials, would negotiate with:

1. sovereign tribal governments under the Centennial Accord to determine which state and federal laws would need to be repealed, amended, or waived to implement this proposal, and recommend those changes to the governor and appropriate committees of the legislature and congress by a certain date;
2. the federal department of health and human services to obtain a statutory or regulatory waiver of provisions of the medical assistance statute, Title XIX of the federal social security act and the children's health insurance program;
3. the federal department of health and human services to obtain a statutory or regulatory waiver of provisions of the medicare statute, Title XVIII of the federal social security act, that constitute barriers to full implementation of this proposal;
4. the federal department of health and human services to obtain any statutory or regulatory waivers of provisions of the United States public health services act necessary to ensure integration of federally funded community and migrant health clinics and other health services funded through the public health services act into the Washington health security trust system under this proposal;

5. the federal office of personnel management for the inclusion of federal employee health benefits in the WHST under this proposal;

6. the federal department of veterans' affairs for the inclusion of veterans' medical benefits in the trust under this proposal;

7. the federal department of defense and other federal agencies for the inclusion of the civilian health and medical program of the uniformed services (CHAMPUS) in the WHST under this proposal;

8. the Indian health services and sovereign tribal governments for inclusion and adequate reimbursement of Indian health benefits under the WHST created by this proposal, and;

9. the United States congress to lobby for an amendment to the internal revenue code making employer health security assessments and individual health security premiums fully deductible for federal tax purposes. (See *APPENDIX: Statutory Language…Sec. 21.*)

MISCELLANEOUS STATUTORY PROVISIONS

1. definitions used throughout the proposal; (See *APPENDIX: Statutory Language…Sec. 2.*)

2. a disclaimer that nothing in the proposal would limit an employer's right to maintain employee benefit plans under the federal employee retirement income security act of 1974 (ERISA); (See *APPENDIX: Statutory Language…Sec. 34* .)

3. a disclaimer that nothing would limit a provider's right to receive payments from sources other than the trust, but any provider who does accept payment from the trust for a service must accept that payment, along with applicable copayments, as payment in full. (See *APPENDIX: Statutory Language…Sec. 13* .)

4. effective dates; and (See *APPENDIX: Statutory Language…Sec. 40* .)

5. two non-severability provisions. (See *APPENDIX: Statutory Language…Secs. 41- 42.*)

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