

Initiative Measure**1163**

Proposed by initiative petition:

Initiative Measure No. 1163 concerns long-term care workers and services for elderly and disabled people.

This measure would reinstate background checks, training, and other requirements for long-term care workers and providers, if amended in 2011; and address financial accountability and administrative expenses of the long-term in-home care program.

Should this measure be enacted into law?

Yes

No

The Official Ballot Title was written by the Attorney General as required by law and revised by the court. The Explanatory Statement was written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Initiative Measure 1163 is located at the end of this pamphlet.

Explanatory Statement

Written by the Office of the Attorney General

The Law as it Presently Exists

Long-term care workers assist the elderly and persons with disabilities in the homes of the people they assist or through assisted living facilities, adult family homes, or state-licensed boarding homes. Assistance by long-term care workers may include help with eating, dressing, bathing, meal preparation, household chores, and other assistance with daily life. Long-term

care workers might provide this assistance under a direct contract with the state as an individual provider, or they might be employees of home care agencies or other facilities. Long-term care workers include respite care providers, community residential service providers, and any other worker who directly provides home or community-based services to the elderly or persons with functional or developmental disabilities. Long-term care workers do not include employees of nursing homes, hospitals or other acute care facilities, adult day care centers, or adult day health providers. Long-term care workers are paid according to a collective bargaining agreement negotiated with the state, subject to legislative approval.

State law currently requires that long-term care workers receive training. Additional requirements are scheduled to take effect in the future. Under current law, long-term care workers hired on or after January 1, 2014, will be required to be certified by the state Department of Health as "home care aides" within 150 days of beginning work. To be certified, long-term care workers will need to complete specific training and pass an examination. The requirement that long-term care workers receive 35 hours of basic training will increase to a 75-hour requirement on January 1, 2014. State law requires that the state pay for the training, and pay long-term care workers for the time they spend in training. After they are certified, long-term care workers hired after January 1, 2014, will be required to receive 12 hours of continuing training each year. There are reduced requirements for those who only provide care for their own adult children or parents. The state will also be required to offer advanced training to long-term care workers beginning January 1, 2014.

State law also requires that long-term care workers receive criminal background checks. These checks determine whether long-term care workers have a criminal history that would disqualify them from working with vulnerable persons. These checks currently look only for criminal convictions in Washington. If the worker has lived in Washington less than three years, then a fingerprint-based check also is conducted through the Federal Bureau of Investigation (FBI). All long-term care workers hired after January 1, 2014, will be required to receive a fingerprint-based check through the FBI, no matter how long they have lived in Washington.

The Effect of the Proposed Measure, if Approved

Initiative Measure 1163 would move up the date by which the additional training, certification, and background check requirements for long-term care workers take effect. The requirement that long-term care workers receive certification as “home care aides,” and receive additional training would apply to all long-term care workers hired on or after January 7, 2012, instead of January 1, 2014. The requirement that long-term care workers receive criminal background checks through the FBI would apply to all long-term care workers hired on or after January 1, 2012, instead of January 1, 2014. Community residential service providers would not be covered by these additional training, certification, and background check requirements until January 1, 2016.

In addition, this measure would require that the state auditor conduct performance audits of the state’s long-term in-home care program. The first audit would have to be completed within twelve months after this measure takes effect. The auditor would be required to conduct performance audits “on a biannual basis thereafter.” This measure would also require the state to hire five additional fraud investigators.

This measure would require the state to limit its administrative expenses so that at least 90% of taxpayer spending on the long-term in-home care program is devoted to direct care. The state would be required to achieve this limitation within two years after this measure takes effect. This measure also provides that if the passage of this act triggers changes to any collective bargaining agreement, then those changes go into effect immediately without the need for legislative approval.

Fiscal Impact Statement

Written by the Office of Financial Management

Current law requires increased mandatory training, background checks and certification for long-term care workers, depending on worker classification, beginning Jan. 1, 2014. Initiative 1163 would require the training, background checks and certification for long-term care workers to begin Jan. 7, 2012, but delay these requirements for community residential providers until Jan 1, 2016. For the long-term in-home care program, administrative costs are capped and performance audits with additional fraud

investigators are required. Over six fiscal years, costs are estimated to increase \$31.3 million and revenue from the federal government and fees is estimated to increase \$18.4 million.

General Assumptions

The Washington State Office of Financial Management, in consultation with the Washington State Department of Social and Health Services (DSHS) and Department of Health (DOH), developed a model to estimate the costs and expenditures of implementing increased mandatory training, background checks and certification for long-term care workers. This model was first developed for the fiscal impact statement for Initiative 1029, passed in 2008, and subsequently used for fiscal notes on legislation, including Engrossed Substitute Senate Bill 6180 (2009) and Engrossed Substitute House Bill 1548 (2011). This statement uses this model updated to the June 2011 Caseload Forecast Council forecast (forecast).

The following assumptions are used to measure fiscal impacts:

- Estimates are described using the state’s fiscal year (FY) of July 1 through June 30.
- The initiative applies prospectively with an implementation date of Jan. 7, 2012.
- Current law directs that increased mandatory training, background checks and certification for long-term care workers begin Jan. 1, 2014. The initiative would require training, background checks and certifications to begin Jan. 7, 2012, but delay the requirements for workers who are community residential service providers to Jan. 1, 2016. Revenues, expenditures and costs already assumed to begin Jan. 1, 2014, are netted against revenues, expenditures and costs generated from the initiative.
- Increased mandatory training, background checks and certification requirements vary by type of long-term care worker:
 - Beginning Jan. 7, 2012, workers who care for the elderly or persons with disabilities are required to complete 75 hours of mandatory training (up from 35 hours), background checks and certification. The training includes five hours of basic safety information and orientation that must be completed before the worker begins employment. The remaining 70 hours

must be completed within 120 days of the worker being hired and can include 12 hours of structured peer mentoring.

- Beginning Jan. 7, 2012, workers hired as individual providers who care for their own elderly or disabled parent or child, or individual providers who work 20 hours or less per month are required to complete increased mandatory training (the amount varies), background checks and certification requirements.
- Beginning Jan. 1, 2016, workers who are community residential providers (supported living providers) are required to complete 75 hours of mandatory training (up from 35 hours), and background checks, but do not require certification.
- All workers are required to complete 12 hours of continuing education courses each year to maintain certification. DSHS must offer, but not require, advanced training to long-term care workers.
- The number of workers who would receive training was developed using the June 2011 Caseload Forecast Council estimate of the number of long-term care clients.
- Current wage information was used as the basis for wage costs, with no inflationary increases included.
- The initiative does not trigger changes to the collective bargaining agreement reached between the state and the exclusive bargaining representative of long-term care workers. Therefore, no fiscal impact is assumed.
- No revenue, cost, expenditure or indebtedness impacts are assumed for local governments.
- There is no state debt associated with long-term care worker training and background check requirements. Therefore, state fiscal impacts are limited to revenues, costs and expenditures.

State Revenue Impacts

Table 1.1, located at the end of this Fiscal Impact Statement, shows estimated revenues by fiscal year factoring in new revenue, revenues already assumed in the forecast, and reduced revenue from the delay of training and background checks for community residential providers. Estimates

contained in parentheses (\$XXX) represent a net revenue reduction.

Some training costs are eligible for 50 percent matching funds from the federal government. The net increase in revenue from the federal government is estimated at \$9.5 million over six fiscal years.

Fees would be paid by long-term care workers applying for certification or renewing their certification. Assuming a \$60 certification fee, the net increase in revenue from fees is estimated at \$8.9 million over six fiscal years.

The initiative directs the state to develop a plan to cap administrative expenses of the long-term in-home care program to 10 percent of taxpayer spending by Jan. 1, 2014. No fiscal impacts are assumed from this portion of the initiative. Based on FY 2011 expenditures, administrative expenses are currently estimated to be 9.9 percent of taxpayer spending using the following assumptions:

- Administrative costs are assumed to mean overhead costs billed as administrative match to the federal Centers for Medicare & Medicaid Services.
- Tax spending is assumed to mean expenditures funded from the State General Fund.
- The term "direct care" is assumed to mean any funds paid to qualified providers of long-term care services, including wages for hands-on workers and any of the provider's related overhead costs.
- The long-term in-home care program is assumed to mean providers of personal care as well as most forms of community-based care, including adult family homes and boarding homes. The definition does not include costs outside of DSHS' in-home program, such as DOH's certification work.

State Expenditures and Costs

Table 1.2, located at the end of this Fiscal Impact Statement, shows estimated costs by fiscal year factoring in new costs, costs already assumed in the forecast, and reduced costs from the delay of training and background checks for community residential providers. Estimates contained in parentheses (\$XXX) represent a net cost reduction.

Department of Social and Health Services Expenditure and Cost Assumptions

DSHS would be required to approve the mandatory training curriculum, including continuing education and advanced training. DSHS would obtain background checks, including fingerprints, at no cost to the worker. Workers would be paid wages for the time they attend required training classes. Costs are also assumed for administrative staff, rule-making activities, information technology changes and contract administration. The combined net cost of these expenditures is estimated to be \$19.6 million over six fiscal years.

The initiative directs the state to hire five additional fraud investigators as part of the performance auditing process. Assuming the investigators will be hired by DSHS, this cost is estimated to be \$2.5 million over six fiscal years.

Department of Health Expenditure and Cost Assumptions

DOH would certify workers who complete the required training and pass a background check within the first 150 days of employment. Workers would not be paid for the time spent taking the certification exam. The combined net cost of these expenditures is estimated to be \$7.1 million over six fiscal years.

Performance Audit and Fraud Prevention Expenditure and Cost Assumptions

The initiative directs the Washington State Auditor's Office to conduct performance audits of the long-term in-home care program biannually, which is assumed to be twice per year. Assuming the term "long-term in-home care program" has the same meaning as used in State Revenue Impacts above, the Auditor's Office estimates it will need three full-time auditors and incur travel and other costs to conduct the audits. This cost is estimated to be \$2.1 million over six fiscal years.

Fiscal Year	2012	2013	2014	2015	2016	2017	REVENUE
Federal Funds	\$3,786,000	\$7,706,000	\$2,745,000	(\$3,385,000)	(\$1,583,000)	\$218,000	\$9,487,000
Fees	\$717,000	\$2,027,000	\$2,265,000	\$1,699,000	\$1,274,000	\$955,000	\$8,937,000
TOTAL	\$4,503,000	\$9,733,000	\$5,010,000	(\$1,686,000)	(\$309,000)	\$1,173,000	\$18,424,000

Fiscal Year	2012	2013	2014	2015	2016	2017	COSTS
DSHS Costs	\$8,935,000	\$17,792,000	\$6,093,000	(\$7,593,000)	(\$3,571,000)	\$449,000	\$22,105,000
DOH Costs	\$1,841,000	\$2,588,000	\$1,654,000	\$355,000	\$357,000	\$294,000	\$7,089,000
State Auditor Costs	\$235,000	\$595,000	\$320,000	\$320,000	\$320,000	\$320,000	\$2,110,000
TOTAL	\$11,011,000	\$20,975,000	\$8,067,000	(\$6,918,000)	(\$2,894,000)	\$1,063,000	\$31,304,000

Argument For Initiative Measure 1163

All of us want safe, quality care for frail seniors and people with disabilities. In 2008, voters overwhelmingly supported full federal background checks and training for long-term care workers who assist our most vulnerable residents, but Olympia politicians ignored our will. Initiative 1163 restores those common sense protections.

Closes Background Check Loophole

Since 2008, adult family home abuse citations are up 15 percent. Seniors and people with disabilities are highly vulnerable to fraud and abuse. It is irresponsible to entrust their care to people who could have a violent or abusive history. 1163 ensures caregivers receive federal background checks, not the current local check that misses out-of-state crimes.

Restores Basic Training, Certification

Home care workers do the same work as nursing home assistants in more isolated environments with less training. While manicurists complete 600 hours of training, home care workers receive less than 40 hours. 1163 protects seniors by requiring home care workers receive comparable training to nursing home assistants.

Requires Efficiency and Accountability

1163 protects taxpayers: requires annual independent audits, requires full-time fraud investigators and requires at least 90 percent of funds go to direct care, not state administrative expenses.

Need is Growing

As our population ages, we need a qualified workforce to help seniors live with dignity in their own homes. Training and background checks are the first step in creating a stable, professional workforce that earns a living wage, while providing cost effective, safe, quality care. Our elders deserve protection. Vote *yes* on 1163.

Rebuttal of Argument Against

Who opposes training for home care workers? Scandal-tarnished providers exposed by the SeattleTimes for negligence and profiteering. Current background checks don't catch out-of-state crimes – federal checks will – and many caregivers currently have no training requirement. Non-partisan state fiscal analysis found 1163 costs only \$13 million over six years – 1/30th of one percent of the budget. And 1163 saves millions by keeping seniors out of nursing homes. Vote *yes* on 1163.

Argument Prepared by

Eugene May, M.D. on behalf of National Multiple Sclerosis Society; **Deborah Osborn**, Parent of child with developmental disabilities, Tacoma; **Martin Levine**, M.D., Family Physician and Geriatrician, Assistant Medical Director; **Sarah White**, R.N. Senior Care Unit, major area hospital; **David Hoffman**, Severe burn survivor, home care client, Port Orchard; **Nora Gibson**, Executive Director, Full Life Care home care agency.

Contact: (206) 467-1565; info@yes1163.com; www.yes1163.com

Argument Against Initiative Measure 1163

Vote *no* on Initiative 1163 to preserve services for seniors and disabled citizens.

This measure has the wrong priorities.

Raising taxes and eliminating services to pay for a costly unfunded initiative is not in our states or our citizens' best interest. Taxpayer dollars for services for low-income seniors and the disabled should go directly to those needing care, not to a training program run by the state's largest union. Because of budget cuts, many long term care services were greatly reduced or eliminated. Our state does not have money to spend on a special interest training program while cutting essential services to our citizens. It is more important to restore these services than to spend millions on additional training and background checks for home care workers.

I-1163 requires either raising taxes or slashing other services to seniors and the disabled.

If passed, the additional training and background checks required by this measure will cost taxpayers \$80 million over the next two years when the state is facing another \$2.8 billion budget deficit.

We support appropriate training for home care workers. This misleading measure makes it seem like background checks aren't required for long term care workers, when they are, and that Washington doesn't have mandated training programs for long term care workers, when it does.

It's absurd to raise taxes, or further cut services to pay for additional training...

...and background checks for in-home care workers when they already exist in state law. Protect seniors and the disabled. Vote *no*.

Rebuttal of Argument For

I-1163 has a hidden agenda. Rather than protecting seniors and disabled residents, it takes \$80 million in funding away from direct services to fund a private union training program. Background checks are already required by law in RCW 43.20A.710 and so is basic training. This unfunded initiative soaks taxpayers at the expense of our seniors' care. Please *vote no* on 1163 to preserve essential services to seniors and the disabled in these painful economic times.

Argument Prepared by

Cindi Laws, Executive Director, Washington State Residential Care Council; **David Lawrence**, President, Washington Private Duty Association; **Doris Visaya**, RN, BSN, Home Care Association of Washington; **Leslie Emerick**, MPA, HCAW, WAPDA; **Craig Frederickson**, member, Governor's Caregiver Training Workshop; **Frank Jenkins**, retired member, Washington Council on Aging.

Contact: (360) 943-5364; www.No1163.com

revenue is collected as long as the revenues are spent on purposes consistent with the eighteenth amendment to the Washington Constitution. Additionally, toll revenue should provide for and encourage the inclusion of recycled and reclaimed construction materials.

(4) Setting toll rates. Toll rates must be set by the legislature as required by RCW 43.135.055 as amended by Initiative Measure No. 1053, must be uniform and consistent, ((which)) may not include variable pricing, and must be set to meet anticipated funding obligations. To the extent possible, the toll rates should be set to optimize system performance, recognizing necessary trade-offs to generate revenue.

(5) Duration of toll collection. ((Because transportation-infrastructure projects have costs and benefits that extend well beyond those paid for by initial construction funding,)) Tolls on future toll facilities ((may remain in place to fund additional capacity, capital rehabilitation, maintenance, management, and operations, and to optimize performance of the system)) must end after the cost of the project is paid.

(6) Dedication of tolls. As referenced in RCW 47.56.030, tolls on a project must be spent on that project and may not be diverted elsewhere and all revenues from such tolls may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.

Sec. 8. RCW 47.56.790 and 2008 c 270 s 5 are each amended to read as follows:

The department shall work with the federal highways administration to determine the necessary actions for receiving federal authorization to toll the Interstate 90 floating bridge. The department must periodically report the status of those discussions to the governor and the joint transportation committee. Toll revenue imposed and collected on the Interstate 90 floating bridge must be used exclusively for toll facilities and capital improvements to Interstate 90 and may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.

MISCELLANEOUS

NEW SECTION. Sec. 9. The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 11. This act is called the "Protect Gas-Taxes and Toll-Revenues Act – Protect the 18th Amendment to Washington's Constitution."

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Complete Text Initiative Measure 1163

AN ACT Relating to restoring long-term care services for eligible elderly and persons with disabilities; adding new sections to chapter 74.39A RCW; adding new sections to chapter 18.88B RCW; creating new sections; repealing RCW 18.88B.020, 18.88B.030, 18.88B.040, 74.39A.009, 74.39A.050, 74.39A.055, 74.39A.073, 74.39A.075, 74.39A.085, 74.39A.260, 74.39A.310, 74.39A.330, 74.39A.340, and 74.39A.350; providing an effective date; and providing contingent effective dates.

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

NEW SECTION. Sec. 1. It is the intent of the people through this initiative to protect vulnerable elderly and people with disabilities by reinstating the requirement that all long-term care workers obtain criminal background checks and adequate training. The people of the state of Washington find as follows:

(1) The state legislature proposes to eliminate the requirement that long-term care workers obtain criminal background checks and adequate training, which would jeopardize the safety and quality care of vulnerable elderly and persons with disabilities. Should the legislature take this action, this initiative will reinstate these critical protections for vulnerable elderly and persons with disabilities; and

(2) Taxpayers' investment will be protected by requiring regular program audits, including fraud investigations, and capping administrative expenses.

PART I PROTECTING VULNERABLE ELDERLY AND PERSONS WITH DISABILITIES BY REINSTATING CRIMINAL BACKGROUND CHECK AND TRAINING REQUIREMENTS FOR LONG-TERM CARE WORKERS

NEW SECTION. Sec. 101. A new section is added to chapter 74.39A RCW to read as follows:

(1) All long term care workers for the elderly or persons with disabilities hired after January 1, 2012, shall be screened through state and federal background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. These background checks shall include checking against the federal bureau of investigation fingerprint identification records system and against the national sex offenders registry or their successor programs. The department shall require these long-term care workers to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation.

(2) To allow the department of health to satisfy its certification responsibilities under chapter 18.88B RCW, the department shall share state and federal background check results with the department of health. Neither department may share the federal background check results with any other state agency or person.

(3) The department shall not pass on the cost of these criminal background checks to the workers or their employers.

(4) The department shall adopt rules to implement the provisions of this section by August 1, 2010.

NEW SECTION. Sec. 102. A new section is added to chapter 74.39A RCW to read as follows:

The department must perform criminal background checks for individual providers and prospective individual providers and ensure that the authority has ready access to any long-term care abuse and neglect registry used by the department. Individual providers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

NEW SECTION. Sec. 103. A new section is added to chapter 18.88B RCW to read as follows:

(1) Effective January 1, 2011, except as provided in RCW 18.88B.040, the department of health shall require that any person hired as a long-term care worker for the elderly or persons with disabilities must be certified as a home care aide within one hundred fifty days from the date of being hired.

(2) Except as provided in RCW 18.88B.040, certification as a home care aide requires both completion of seventy-five hours of training and successful completion of a certification examination pursuant to RCW 74.39A.073 and 18.88B.030.

(3) No person may practice or, by use of any title or description, represent himself or herself as a certified home care aide without being certified pursuant to this chapter.

(4) The department of health shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. Sec. 104. A new section is added to chapter 18.88B RCW to read as follows:

(1) Effective January 1, 2011, except as provided in RCW 18.88B.040, the department of health shall require that all long-term care workers successfully complete a certification examination. Any long-term care worker failing to make the required grade for the examination will not be certified as a home care aide.

(2) The department of health, in consultation with consumer and worker representatives, shall develop a home care aide certification examination to evaluate whether an applicant possesses the skills and knowledge necessary to practice competently. Unless excluded by RCW 18.88B.040 (1) and (2), only those who have completed the training requirements in RCW 74.39A.073 shall be eligible to sit for this examination.

(3) The examination shall include both a skills demonstration and a written or oral knowledge test. The examination papers, all grading of the papers, and records related to the grading of skills demonstration shall be preserved for a period of not less than one year. The department of health shall establish rules governing the number of times and under what circumstances individuals who have failed the examination may sit for the examination, including whether any intermediate remedial steps should be required.

(4) All examinations shall be conducted by fair and wholly impartial methods. The certification examination shall be administered and evaluated by the department of health or by a contractor to the department of health that is neither an employer of long term care workers or private contractors providing training services under this chapter.

(5) The department of health has the authority to:

(a) Establish forms, procedures, and examinations necessary to certify home care aides pursuant to this chapter;

(b) Hire clerical, administrative, and investigative staff as needed to implement this section;

(c) Issue certification as a home care aide to any applicant who has successfully completed the home care aide examination;

(d) Maintain the official record of all applicants and persons with certificates;

(e) Exercise disciplinary authority as authorized in chapter 18.130 RCW; and

(f) Deny certification to applicants who do not meet training, competency examination, and conduct requirements for certification.

(6) The department of health shall adopt rules by August 1, 2010, that establish the procedures, including criteria for reviewing an applicant's state and federal background checks, and examinations necessary to carry this section into effect.

NEW SECTION. Sec. 105. A new section is added to chapter 18.88B RCW to read as follows:

The following long-term care workers are not required to become a certified home care aide pursuant to this chapter.

(1) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary of health, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary of health determines that the circumstances do not require certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(2) A person already employed as a long term care worker prior to January 1, 2011, who completes all of his or her training requirements in effect as of the date he or she was hired, is not required to obtain certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(3) All long-term care workers employed by supported living providers are not required to obtain certification under this chapter.

(4) An individual provider caring only for his or her biological, step, or adoptive child or parent is not required to obtain certification under this chapter.

(5) Prior to June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month is not required to obtain certification under this chapter.

(6) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.073

may not be prohibited from enrolling in training pursuant to that section.

(7) The department of health shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. Sec. 106. A new section is added to chapter 74.39A RCW to read as follows:

The department's system of quality improvement for long-term care services shall use the following principles, consistent with applicable federal laws and regulations:

(1) The system shall be client-centered and promote privacy, independence, dignity, choice, and a home or home-like environment for consumers consistent with chapter 392, Laws of 1997.

(2) The goal of the system is continuous quality improvement with the focus on consumer satisfaction and outcomes for consumers. This includes that when conducting licensing or contract inspections, the department shall interview an appropriate percentage of residents, family members, resident case managers, and advocates in addition to interviewing providers and staff.

(3) Providers should be supported in their efforts to improve quality and address identified problems initially through training, consultation, technical assistance, and case management.

(4) The emphasis should be on problem prevention both in monitoring and in screening potential providers of service.

(5) Monitoring should be outcome based and responsive to consumer complaints and based on a clear set of health, quality of care, and safety standards that are easily understandable and have been made available to providers, residents, and other interested parties.

(6) Prompt and specific enforcement remedies shall also be implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160, chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have delivered care or failed to deliver care resulting in problems that are serious, recurring, or uncorrected, or that create a hazard that is causing or likely to cause death or serious harm to one or more residents. These enforcement remedies may also include, when appropriate, reasonable conditions on a contract or license. In the selection of remedies, the safety, health, and well-being of residents shall be of paramount importance.

(7) All long term care workers shall be screened through background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. Long-term care workers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055. This information will be shared with the department of health in accordance with RCW 74.39A.055 to advance the purposes of chapter 2, Laws of 2009.

(8) No provider, or its staff, or long term care worker, or prospective provider or long term care worker, with a stipulated finding of fact, conclusion of law, an agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into a state registry finding him or her guilty of abuse, neglect, exploitation, or abandonment of a minor or a vulnerable adult as defined in chapter 74.34 RCW shall be employed in the care of and have unsupervised access to vulnerable adults.

(9) The department shall establish, by rule, a state registry which contains identifying information about long term care workers identified under this chapter who have substantiated findings of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult as defined in RCW 74.34.020. The rule must include disclosure, disposition of findings, notification, findings of fact, appeal rights, and fair hearing requirements. The department shall disclose, upon request, substantiated findings of abuse, neglect, financial exploitation, or abandonment to any person so requesting this information. This information will also be shared with the department of health to advance the purposes of chapter 2, Laws of 2009.

(10) Until December 31, 2010, individual providers and home care agency providers must satisfactorily complete department-approved orientation, basic training, and continuing education within the time period specified by the department in rule. The department shall adopt rules by March 1, 2002, for the implementation of this section. The department shall deny payment to an individual provider or a home care provider who does not complete the training requirements within the time limit specified by the department by rule.

(11) Until December 31, 2010, in an effort to improve access to training and education and reduce costs, especially for rural communities, the coordinated system of long-term care training and education must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges or other entities, as defined by the department.

(12) The department shall create an approval system by March 1, 2002, for those seeking to conduct department-approved training.

(13) The department shall establish, by rule, background checks and other quality assurance requirements for long term care workers who provide in-home services funded by medicaid personal care as described in RCW 74.09.520, community options program entry system waiver services as described in RCW 74.39A.030, or chore services as described in RCW 74.39A.110 that are equivalent to requirements for individual providers. Long-term care workers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

(14) Under existing funds the department shall establish internally a quality improvement standards committee to monitor the development of standards and to suggest modifications.

(15) Within existing funds, the department shall design, develop, and implement a long-term care training program that is flexible, relevant, and qualifies towards the requirements for a nursing assistant certificate as established under chapter 18.88A RCW. This subsection does not require completion of the nursing assistant certificate training program by providers or their staff. The long-term care teaching curriculum must consist of a fundamental module, or modules, and a range of other available relevant training modules that provide the caregiver with appropriate options that assist in meeting the resident's care needs. Some of the training modules may include, but are not limited to, specific training on the special care needs of persons with developmental disabilities, dementia, mental illness, and the care needs of the elderly. No less than one training

module must be dedicated to workplace violence prevention. The nursing care quality assurance commission shall work together with the department to develop the curriculum modules. The nursing care quality assurance commission shall direct the nursing assistant training programs to accept some or all of the skills and competencies from the curriculum modules towards meeting the requirements for a nursing assistant certificate as defined in chapter 18.88A RCW. A process may be developed to test persons completing modules from a caregiver's class to verify that they have the transferable skills and competencies for entry into a nursing assistant training program. The department may review whether facilities can develop their own related long-term care training programs. The department may develop a review process for determining what previous experience and training may be used to waive some or all of the mandatory training. The department of social and health services and the nursing care quality assurance commission shall work together to develop an implementation plan by December 12, 1998.

NEW SECTION. Sec. 107. A new section is added to chapter 74.39A RCW to read as follows:

(1) Effective January 1, 2011, except as provided in RCW 18.88B.040, all persons employed as long term care workers for the elderly or persons with disabilities must meet the minimum training requirements in this section within one hundred twenty calendar days of employment.

(2) All persons employed as long term care workers must obtain seventy five hours of entry level training approved by the department. A long-term care worker must accomplish five of these seventy five hours before becoming eligible to provide care.

(3) Training required by subsection (4)(c) of this section will be applied towards training required under RCW 18.20.270 or 70.128.230 as well as any statutory or regulatory training requirements for long-term care workers employed by supportive living providers.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The seventy five hours of entry-level training required shall be as follows:

(a) Before a long-term care worker is eligible to provide care, he or she must complete two hours of orientation training regarding his or her role as caregiver and the applicable terms of employment;

(b) Before a long-term care worker is eligible to provide care, he or she must complete three hours of safety training, including basic safety precautions, emergency procedures, and infection control; and

(c) All long-term care workers must complete seventy hours of long term care basic training, including training related to core competencies and population specific competencies.

(5) The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors on the competencies and training topics in this section.

(6) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(7) The department of health shall adopt rules by August 1, 2010, to implement subsections (1), (2), and (3) of this section.

(8) The department shall adopt rules by August 1, 2010, to implement subsections (4) and (5) of this section.

NEW SECTION. Sec. 108. A new section is added to chapter 74.39A RCW to read as follows:

(1) Effective January 1, 2011, a biological, step, or adoptive parent who is the individual provider only for his or her developmentally disabled son or daughter must receive twelve hours of training relevant to the needs of adults with developmental disabilities within the first one hundred twenty days of becoming an individual provider.

(2) Effective January 1, 2011, individual providers identified in (a) and (b) of this subsection must complete thirty five hours of training within the first one hundred twenty days of becoming an individual provider. Five of the thirty five hours must be completed before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:

(a) An individual provider caring only for his or her biological, step, or adoptive child or parent unless covered by subsection (1) of this section; and

(b) Before January 1, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(3) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(4) The department shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. Sec. 109. A new section is added to chapter 74.39A RCW to read as follows:

(1) The department shall deny payment to any individual provider of home care services who has not been certified by the department of health as a home care aide as required under chapter 2, Laws of 2009 or, if exempted from certification by RCW 18.88B.040, has not completed his or her required training pursuant to chapter 2, Laws of 2009.

(2) The department may terminate the contract of any individual provider of home care services, or take any other enforcement measure deemed appropriate by the department if the individual provider's certification is revoked under chapter 2, Laws of 2009 or, if exempted from certification by RCW 18.88B.040, has not completed his or her required training pursuant to chapter 2, Laws of 2009.

(3) The department shall take appropriate enforcement action related to the contract of a private agency or facility licensed by the state, to provide personal care services, other than an individual provider, who knowingly employs a long-term care worker who is not a certified home care aide as required under chapter 2, Laws of 2009 or, if exempted from certification by RCW 18.88B.040, has not completed his or her required training pursuant to chapter 2, Laws of 2009.

(4) Chapter 34.05 RCW shall govern actions by the department under this section.

(5) The department shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. Sec. 110. A new section is added to chapter 74.39A RCW to read as follows:

(1) The department shall create a formula that converts the cost of the increase in wages and benefits negotiated and funded in the contract for individual providers of home care services pursuant to RCW 74.39A.270 and 74.39A.300, into a per hour amount, excluding those benefits defined in subsection (2) of this section. That per hour amount shall be added to the statewide home care agency vendor rate and shall be used exclusively for improving the wages and benefits of home care agency workers who provide direct care. The formula shall account for:

(a) All types of wages, benefits, and compensation negotiated and funded each biennium, including but not limited to:

- (i) Regular wages;
- (ii) Benefit pay, such as vacation, sick, and holiday pay;
- (iii) Taxes on wages/benefit pay;
- (iv) Mileage; and
- (v) Contributions to a training partnership; and

(b) The increase in the average cost of worker's compensation for home care agencies and application of the increases identified in (a) of this subsection to all hours required to be paid, including travel time, of direct service workers under the wage and hour laws and associated employer taxes.

(2) The contribution rate for health care benefits, including but not limited to medical, dental, and vision benefits, for eligible agency home care workers shall be paid by the department to home care agencies at the same rate as negotiated and funded in the collective bargaining agreement for individual providers of home care services.

NEW SECTION. Sec. 111. A new section is added to chapter 74.39A RCW to read as follows:

Long-term care workers shall be offered on-the-job training or peer mentorship for at least one hour per week in the first ninety days of work from a long-term care worker who has completed at least twelve hours of mentor training and is mentoring no more than ten other workers at any given time. This requirement applies to long term care workers who begin work on or after July 1, 2011.

NEW SECTION. Sec. 112. A new section is added to chapter 74.39A RCW to read as follows:

(1) The department of health shall ensure that all long-term care workers shall complete twelve hours of continuing

education training in advanced training topics each year. This requirement applies beginning on July 1, 2011.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 2, Laws of 2009.

(3) Unless voluntarily certified as a home care aide under chapter 2, Laws of 2009, subsection (1) of this section does not apply to:

(a) An individual provider caring only for his or her biological, step, or adoptive child; and

(b) Before June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(5) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(6) The department of health shall adopt rules by August 1, 2010, to implement subsections (1), (2), and (3) of this section.

(7) The department shall adopt rules by August 1, 2010, to implement subsection (4) of this section.

NEW SECTION. Sec. 113. A new section is added to chapter 74.39A RCW to read as follows:

The department shall offer, directly or through contract, training opportunities sufficient for a long-term care worker to accumulate seventy hours of training within a reasonable time period. For individual providers represented by an exclusive bargaining representative under RCW 74.39A.270, the training opportunities shall be offered through the training partnership established under RCW 74.39A.360. Training topics shall include, but are not limited to: Client rights; personal care; mental illness; dementia; developmental disabilities; depression; medication assistance; advanced communication skills; positive client behavior support; developing or improving client-centered activities; dealing with wandering or aggressive client behaviors; medical conditions; nurse delegation core training; peer mentor training; and advocacy for quality care training. The department may not require long term care workers to obtain the training described in this section. This requirement to offer advanced training applies beginning January 1, 2012.

NEW SECTION. Sec. 114. A new section is added to chapter 74.39A RCW to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adult family home" means a home licensed under chapter 70.128 RCW.

(2) "Adult residential care" means services provided by a boarding home that is licensed under chapter 18.20 RCW

and that has a contract with the department under RCW 74.39A.020 to provide personal care services.

(3) "Assisted living services" means services provided by a boarding home that has a contract with the department under RCW 74.39A.010 to provide personal care services, intermittent nursing services, and medication administration services, and the resident is housed in a private apartment-like unit.

(4) "Boarding home" means a facility licensed under chapter 18.20 RCW.

(5) "Core competencies" means basic training topics, including but not limited to, communication skills, worker self care, problem solving, maintaining dignity, consumer directed care, cultural sensitivity, body mechanics, fall prevention, skin and body care, long-term care worker roles and boundaries, supporting activities of daily living, and food preparation and handling.

(6) "Cost-effective care" means care provided in a setting of an individual's choice that is necessary to promote the most appropriate level of physical, mental, and psychosocial well-being consistent with client choice, in an environment that is appropriate to the care and safety needs of the individual, and such care cannot be provided at a lower cost in any other setting. But this in no way precludes an individual from choosing a different residential setting to achieve his or her desired quality of life.

(7) "Department" means the department of social and health services.

(8) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(9) "Direct care worker" means a paid caregiver who provides direct, hands on personal care services to persons with disabilities or the elderly requiring long term care.

(10) "Enhanced adult residential care" means services provided by a boarding home that is licensed under chapter 18.20 RCW and that has a contract with the department under RCW 74.39A.010 to provide personal care services, intermittent nursing services, and medication administration services.

(11) "Functionally disabled person" or "person who is functionally disabled" is synonymous with chronic functionally disabled and means a person who because of a recognized chronic physical or mental condition or disease, or developmental disability, including chemical dependency, is impaired to the extent of being dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. "Activities of daily living," in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities as they are related to the mental capacity to perform activities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(12) "Home and community services" means adult family homes, in-home services, and other services administered or provided by contract by the department directly or through contract with area agencies on aging or similar services provided by facilities and agencies licensed by the department.

(13) "Home care aide" means a long-term care worker who has obtained certification as a home care aide by the department of health.

(14) "Individual provider" is defined according to RCW 74.39A.240.

(15) "Long-term care" is synonymous with chronic care and means care and supports delivered indefinitely, intermittently, or over a sustained time to persons of any age disabled by chronic mental or physical illness, disease, chemical dependency, or a medical condition that is permanent, not reversible or curable, or is long-lasting and severely limits their mental or physical capacity for self-care. The use of this definition is not intended to expand the scope of services, care, or assistance by any individuals, groups, residential care settings, or professions unless otherwise expressed by law.

(16)(a) "Long-term care workers for the elderly or persons with disabilities" or "long-term care workers" includes all persons who are long-term care workers for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities under Title 71 RCW, all direct care workers in state licensed boarding homes, assisted living facilities, and adult family homes, respite care providers, community residential service providers, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) "Long-term care workers" do not include: (i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or (ii) persons who are not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(17) "Nursing home" means a facility licensed under chapter 18.51 RCW.

(18) "Personal care services" means physical or verbal assistance with activities of daily living and instrumental activities of daily living provided because of a person's functional disability.

(19) "Population specific competencies" means basic training topics unique to the care needs of the population the long-term care worker is serving, including but not limited to, mental health, dementia, developmental disabilities, young adults with physical disabilities, and older adults.

(20) "Qualified instructor" means a registered nurse or other person with specific knowledge, training, and work experience in the provision of direct, hands on personal care and other assistance services to the elderly or persons with disabilities requiring long term care.

(21) "Secretary" means the secretary of social and health services.

(22) "Secretary of health" means the secretary of health or the secretary's designee.

(23) "Training partnership" means a joint partnership or trust that includes the office of the governor and the exclusive bargaining representative of individual providers

under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

(24) "Tribally licensed boarding home" means a boarding home licensed by a federally recognized Indian tribe which home provides services similar to boarding homes licensed under chapter 18.20 RCW.

NEW SECTION. Sec. 115. The following acts or parts of acts are each repealed:

(1) RCW 18.88B.020 (Certification requirements) and 2011 c ... s ..., 2009 c 580 s 18, & 2009 c 2 s 4;

(2) RCW 18.88B.030 (Certification examinations) and 2011 c ... s ..., 2009 c 580 s 4, & 2009 c 2 s 6;

(3) RCW 18.88B.040 (Exemptions from training requirements) and 2011 c ... s ..., 2010 c 169 s 11, 2009 c 580 s 15, & 2009 c 2 s 7;

(4) RCW 74.39A.009 (Definitions) and 2011 c ... s ..., 2009 c 580 s 1, 2009 c 2 s 2, 2007 c 361 s 2, 2004 c 142 s 14, & 1997 c 392 s 103;

(5) RCW 74.39A.050 (Quality improvement principles) and 2011 c ... s ..., 2009 c 580 s 7, 2009 c 2 s 14, 2004 c 140 s 6, 2000 c 121 s 10, 1999 c 336 s 5, 1998 c 85 s 1, 1997 c 392 s 209, & 1995 1st sp.s. c 18 s 12;

(6) RCW 74.39A.055 (Criminal history checks on long-term care workers) and 2011 c ... s ..., 2009 c 580 s 2, & 2009 c 2 s 3;

(7) RCW 74.39A.073 (Training requirements for long-term care workers) and 2011 c ... s ..., 2009 c 580 s 10, & 2009 c 2 s 5;

(8) RCW 74.39A.075 (Training requirements for individual providers caring for family members) and 2011 c ... s ..., 2009 c 580 s 11, & 2009 c 2 s 8;

(9) RCW 74.39A.085 (Enforcement actions against persons not certified as home care aides and their employers) and 2011 c ... s ..., 2009 c 580 s 14, & 2009 c 2 s 12;

(10) RCW 74.39A.260 (Department duties -Criminal background checks on individual providers) and 2011 c ... s ..., 2009 c 580 s 9, & 2002 c 3 s 5;

(11) RCW 74.39A.310 (Contract for individual home care services providers -Cost of increase in wages and benefits funded -Formula) and 2011 c ... s ..., 2007 c 361 s 8, & 2006 c 9 s 1;

(12) RCW 74.39A.330 (Peer mentoring) and 2011 c ... s ..., 2009 c 478 s 1, & 2007 c 361 s 3;

(13) RCW 74.39A.340 (Continuing education requirements for long-term care workers) and 2011 c ... s ..., 2009 c 580 s 12, 2009 c 2 s 9, & 2007 c 361 s 4; and

(14) RCW 74.39A.350 (Advanced training) and 2011 c ... s ..., 2009 c 580 s 13, 2009 c 2 s 10, & 2007 c 361 s 5.

**PART II
PROTECTING TAXPAYERS BY REQUIRING ANNUAL
INDEPENDENT AUDITS, INCREASING FRAUD
INVESTIGATION, AND CAPPING ADMINISTRATIVE
EXPENSES**

NEW SECTION. Sec. 201. The state auditor shall conduct performance audits of the long-term in-home care program. The first audit must be completed within twelve months after the effective date of this section, and must be completed on

a biannual basis thereafter. As part of this auditing process, the state shall hire five additional fraud investigators to ensure that clients receiving services at taxpayers' expense are medically and financially qualified to receive the services and are actually receiving the services.

NEW SECTION. Sec. 202. The people hereby establish limits on the percentage of tax revenues that can be used for administrative expenses in the long-term in-home care program. Within one hundred eighty days of the effective date of this section, the state shall prepare a plan to cap administrative expenses so that at least ninety percent of taxpayer spending must be devoted to direct care. This limitation must be achieved within two years from the effective date of this section.

**PART III
MISCELLANEOUS**

NEW SECTION. Sec. 301. (1) Sections 101 and 115(6) of this act only take effect if RCW 74.39A.055 is amended or repealed by the legislature in 2011.

(2) Sections 102 and 115(10) of this act only take effect if RCW 74.39A.260 is amended or repealed by the legislature in 2011.

(3) Sections 103 and 115(1) of this act only take effect if RCW 18.88B.020 is amended or repealed by the legislature in 2011.

(4) Sections 104 and 115(2) of this act only take effect if RCW 18.88B.030 is amended or repealed by the legislature in 2011.

(5) Sections 105 and 115(3) of this act only take effect if RCW 18.88B.040 is amended or repealed by the legislature in 2011.

(6) Sections 106 and 115(5) of this act only take effect if RCW 74.39A.050 is amended or repealed by the legislature in 2011.

(7) Sections 107 and 115(7) of this act only take effect if RCW 74.39A.073 is amended or repealed by the legislature in 2011.

(8) Sections 108 and 115(8) of this act only take effect if RCW 74.39A.075 is amended or repealed by the legislature in 2011.

(9) Sections 109 and 115(9) of this act only take effect if RCW 74.39A.085 is amended or repealed by the legislature in 2011.

(10) Sections 110 and 115(11) of this act only take effect if RCW 74.39A.310 is amended or repealed by the legislature in 2011.

(11) Sections 111 and 115(12) of this act only take effect if RCW 74.39A.330 is amended or repealed by the legislature in 2011.

(12) Sections 112 and 115(13) of this act only take effect if RCW 74.39A.340 is amended or repealed by the legislature in 2011.

(13) Sections 113 and 115(14) of this act only take effect if RCW 74.39A.350 is amended or repealed by the legislature in 2011.

(14) Sections 114 and 115(4) of this act only take effect if RCW 74.39A.009 is amended or repealed by the legislature in 2011.

(15) Section 303 of this act takes effect only if one or more other sections of this act take effect pursuant to paragraphs (1) through (14) of this section.

NEW SECTION. Sec. 302. The code reviser is directed to note in the Revised Code of Washington that sections 101 through 114 of this act are versions of statutes existing prior to the 2011 regular legislative session as follows:

(1) Section 101 of this act is the same language as RCW 74.39A.055 and 2009 c 580 s 2;

(2) Section 102 of this act is the same language as RCW 74.39A.260 and 2009 c 580 s 9;

(3) Section 103 of this act is the same language as RCW 18.88B.020 and 2009 c 580 s 18;

(4) Section 104 of this act is the same language as RCW 18.88B.030 and 2009 c 580 s 4;

(5) Section 105 of this act is the same language as RCW 18.88B.040 and 2010 c 169 s 11;

(6) Section 106 of this act is the same language as RCW 74.39A.050 and 2009 c 580 s 7;

(7) Section 107 of this act is the same language as RCW 74.39A.073 and 2009 c 580 s 10;

(8) Section 108 of this act is the same language as RCW 74.39A.075 and 2009 c 580 s 11;

(9) Section 109 of this act is the same language as RCW 74.39A.085 and 2009 c 580 s 14;

(10) Section 110 of this act is the same language as RCW 74.39A.310 and 2007 c 361 s 8;

(11) Section 111 of this act is the same language as RCW 74.39A.330 and 2009 c 478 s 1;

(12) Section 112 of this act is the same language as RCW 74.39A.340 and 2009 c 580 s 12;

(13) Section 113 of this act is the same language as RCW 74.39A.350 and 2009 c 580 s 13; and

(14) Section 114 of this act is the same language as RCW 74.39A.009 and 2009 c 580 s 1.

If any of sections 101 through 114 of this act take effect, the code reviser is directed to codify such sections in the revised code of Washington under the same statute number as previously used for such statute, as set forth in this section.

NEW SECTION. Sec. 303. Notwithstanding any action of the legislature during 2011, all long-term care workers as defined under RCW 74.39A.009(16), as it existed on April 1, 2011, are covered by sections 101 through 113 of this act or by the corresponding original versions of the statutes, as referenced in section 302 (1) through (13) on the schedules set forth in those sections, except that long-term care workers employed as community residential service providers are covered by sections 101 through 113 of this act beginning January 1, 2016.

NEW SECTION. Sec. 304. A new section is added to chapter 74.39A RCW to read as follows:

(1) If any provision of this act triggers changes to an agreement reached under RCW 74.39A.300, the changes must go into effect immediately without need for legislative approval.

(2) The requirements contained in RCW 74.39A.300 and this act constitute ministerial, mandatory, and nondiscretionary duties. Failure to fully perform such duties constitutes a violation of this act. Any person may bring an action to require the governor or other responsible persons to perform such duties. Such action may be brought in the superior court, at the petitioner's option, for (a) Thurston county, or (b) the county of the petitioner's residence or principal place of business, or such action may be filed directly with the supreme court, which is hereby given original jurisdiction over such action.

NEW SECTION. Sec. 305. The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. Sec. 306. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 307. This act takes effect sixty days from its enactment by the people.

NEW SECTION. Sec. 308. This act may be known and cited as the restoring quality home care initiative.

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