

# SENATE BILL REPORT

## SB 5701

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As of January 16, 2018

**Title:** An act relating to creating the Washington apple care trust.

**Brief Description:** Creating the Washington apple care trust.

**Sponsors:** Senators Frockt, Keiser, Chase, Hasegawa, Darneille, Ranker, McCoy, Kuderer, Saldaña, Conway and Hunt.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/16/18.

**Brief Summary of Bill**

- Enacts the Washington Apple Care Trust (Trust) to provide health coverage to every resident of the state.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** Evan Klein (786-7483)

**Background:** Federal Health Care Reform. Under the federal Patient Protection and Affordable Care Act (ACA), all U.S. citizens and legal residents are required to have health insurance coverage or pay a tax penalty. The ACA gave states the option to expand their Medicaid programs to cover individuals at up to 133 percent of the federal poverty level, which Washington State has done. The law also establishes state-based insurance exchanges in which individuals and small businesses may compare and purchase health insurance. As a result, Washington State established the Health Benefit Exchange (Exchange) as a public-private partnership to provide a platform for accessing the individual insurance market and the state Apple Health program. Premium assistance and cost-sharing subsidies are also available in the Exchange on a sliding scale for persons between 134 and 400 percent of the federal poverty level.

Sections 1115 and 1332 of the ACA allow states to apply for waivers of Medicaid and insurance rules enacted by the ACA, for the purpose of developing innovative ways to deliver coverage.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Joint Select Committee on Health Care Oversight. In 2013 the Joint Select Committee on Health Care Oversight (JSCHCO) was established to provide oversight between the Health Care Authority (HCA), the Health Benefit Exchange, the Office of the Insurance Commissioner, the Department of Health, and the Department of Social and Health Services. The JSCHCO has ten legislative members appointed by the House of Representatives and the Senate, including the chairs of the House of Representatives Health Care and Wellness Committee and the Senate Health & Long Term Care Committee.

**Summary of Bill:** The Trust is created as an agency of the state to provide health coverage for all residents of the state.

Governance. The Trust is governed by a nine member board of trustees (Board). The Board must include individuals with knowledge of health care needs of diverse populations. The two largest caucuses of the House and Senate must submit nominees who are not legislators or employees of the state, and from this list, the Governor must appoint the initial trustees. At least one trustee from each of the caucus' lists must be appointed. The trustees are appointed for varying terms of two, three, or four years and may be reappointed for multiple terms. Replacement of a vacant trustee position must be made by gubernatorial appointment.

The chair of the Board must appoint three standing committees: (1) a financial advisory committee; (2) a citizen's advisory committee; and (3) a technical advisory committee. The Board must consult with the citizen's advisory committee at least annually and report on Board actions in response to the committee's input. They must also consult with the financial advisory committee whenever the Board requests funding legislation necessary to operate the Trust.

The Chair of the Board is the presiding officer, and is provided powers and duties to appoint an executive director, enter into contracts, accept funds received by the Board, and delegate administrative functions.

Duties of the Board. The Board must:

- adopt bylaws, rules and other appropriate governance documents;
- consult with the citizen's and technical advisory committees to keep a current set of health services to be financed by the Trust;
- seek all necessary waivers of federal law;
- request legislation authorizing the assessments and premiums necessary to operate the trust;
- develop or contract for development of an anonymous health care data system to use for quality assurance and cost containment;
- develop health care practice guidelines, with advice from the technical advisory committee;
- develop confidentiality guidelines for patient records;
- develop eligibility rules;
- develop a uniform claims processing system;
- balance benefits and provider payments with revenues;
- address nonfinancial barriers to health care;
- monitor population migration related to availability of universal health care in the state; and

- develop an annual budget.

The Board must report annual changes in total Washington health care costs to the Governor and Legislature at least once a year. The board must also seek annual audits from the state auditor.

The Board must adopt rules allowing providers to collectively negotiate budgets, payment schedules and other terms and conditions of trust participation. The Board must also annually negotiate a prospective global budget with each hospital and facility for payment of covered costs on a fee-for-service or case rate basis.

The Board must consult with tribal governments to determine which state and federal laws need to be repealed, amended, or waived to implement the Trust. The Board must also seek to integrate federally qualified trusts into the Trust.

Eligibility. All residents of Washington State are eligible for coverage through the Trust. However, if a resident has health insurance for any health services provided by the Trust, the benefits provided by the Trust are secondary to that insurance. Nonresidents are covered for emergency services and emergency transportation.

Residents covered by federal health programs will remain in those programs until all necessary federal waivers are received, unless the resident elects to voluntarily participate in the Trust, the resident's pay is considered under the employer assessment; and the employer or employee pays the Trust premium.

Employees covered under federally qualified trusts are not eligible for the Trust unless they meet certain exceptions, or until the federally qualified trusts are integrated into the Trust. Residents who are retirees covered under a federally qualified trust are not eligible for coverage under the Trust unless they pay the premium.

Benefits. The Board, in consultation with the citizen's advisory committee, must design a single benefits package that constitutes minimum essential coverage under the ACA. The benefits package must include:

- inpatient and outpatient hospital care;
- outpatient and office-based care;
- rehabilitation services;
- mental health care;
- hospice;
- prescription drug benefits;
- vision and hearing care;
- diagnostic tests;
- durable medical equipment;
- preventive care; and
- other essential health benefits as required by the ACA.

If the Trust has sufficient funds after year three, the Trust shall include coverage for long-term care. By the third July of the Trust's existence, the Board must submit a plan for including dental coverage.

Prescription drug and durable medical equipment manufacturers must provide their drugs to Washington State at the lowest rate offered to federal and other government entities.

Antitrust. The activities of the Trust are exempt from state antitrust laws.

Expenses. The JSCHCO must contract for an actuarial analysis of the funding needs of the Trust and recommend a funding mechanism, which may contain premiums, assessments on employers, and other funding sources. These revenues may not be used to pay for medical assistance under Medicaid or other existing federal or state health care programs.

Administrative expenses of the Trust may not exceed 11 percent of the Trust.

Accounts. A reserve account is created to accumulate reserve funds for the Trust—up to 10 percent of the total annual budget expenditures of the Trust. A displaced worker training account is created to fund job placement for workers displaced by the transition to the Trust. A benefits account is created to pay for health care services and maintenance of the Trust.

Construction. The Trust act may not be construed to limit an employer's right to maintain employee benefit plans.

Repeals. The tax on manufacturers and processors of various foods and the premium and prepayment tax on health care services are repealed.

**Appropriation:** None.

**Fiscal Note:** Requested on January 9, 2018.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** PRO: Every transformational idea in this country begins with a conversation about the idea. Bringing the elderly into a single health care system was a radical notion at the time, prior to the actual creation of Medicare. This bill does not contain every answer, but every person in the state deserves health care and we need to think transformationally about what we are doing. This bill is designed to answer questions as it goes through the process. A national health coverage system would be the gold standard, but meanwhile the state can make a significant improvement in establishing health coverage for its residents. This bill would end un-insurance in Washington. Individuals are denied surgeries and services under the current health care system, and individuals without health insurance face problems with getting coverage. Health care is done better by other countries, so it is hard to hear that universal health care cannot be done in the United States. It is frustrating to see people worry about not having health care. Health care is a human right. Health care should not be based on your employment or marital status, or ability to pay. Deferring health care inevitably costs more in the end. Health care providers want to cure all patients, not just those who can pay

for it. Even if people could navigate the health care system, which most have difficulties with, they often cannot access the coverage.

**Persons Testifying:** PRO: Senator David Frockt, Prime Sponsor; Sarah Weinberg, MD, Health Care for All-WA, Physicians for a National Health Program, Western Washington; Jean Brechan, United For National Health Care; Jeff Johnson, President, Washington State Labor Council; Marianna Hopkins Everson, Healthcare-NOW Washington; Kenneth Fabert, MD, Health Care for All Washington; William Justin Baird, Whole Washington and Washington State Progressive Caucus; Lynnette Vehrs, RN, MN, citizen; Dennis Dellwo, Attorney and former Chair of the House Healthcare Committee; Sherry Weinberg, MD; Carmen Mendez, City Councilmember, City of Yakima; Riall Johnson, Chair, NAACP Snohomish County Criminal Justice; Ken Fabert, MD; Matt Ready, Jefferson County Hospital Commissioner; Summer Stinson, citizen; Sara So, MS, citizen; Leslie Zukor, Chair, State Disabilities Caucus; Marianna Hopkins-Everson, RN, citizen; Jeff Johnson, President, Washington State Labor Council; Paul Oldenkamp, Health Care for All, Washington; Glen Anderson, citizen; Kathrine Angel, Health Care for All, Washington and Whole Washington; Carol Butterfield, Whole Washington; Erin Georgian, citizen.

**Persons Signed In To Testify But Not Testifying:** No one.