

# Long-Term Care Ombuds Program Funding Model Recommendations



A report pursuant to SB 6168 Section 127(92)

# Acknowledgments

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# Executive Summary

## Overview

The State Long-Term Care Ombuds Program (LTC Ombuds Program) is a statewide, independent program that advocates solely on behalf of the individuals who live in licensed LTC settings.

The LTC Ombuds advocates for residents of nursing homes, adult family homes, and assisted living facilities. Its purpose is to protect and promote the resident rights guaranteed to residents under federal and state law and regulations. Program staff and certified volunteers are trained to receive complaints and resolve problems in situations involving quality of care, use of restraints, transfer and discharge, abuse and other aspects of resident dignity and rights.

## Authorizing Legislation

In 2020, the Washington State Legislature included a proviso in the supplemental Operating Budget, SB 6168 Section 127(92) as follows:

(92) \$10,000 of the general fund—state appropriation for fiscal year 2021 is provided solely for the department to make recommendations on a sustainable, transparent, and reactive funding model for the operation of the long-term care ombuds program.

(a) The department must recommend a plan that:

(i) Serves all residents in long term care equally;

(ii) Is reactive to changes in service costs; and

(iii) Is reactive to changes in number of residents and types of facilities served.

(b) The department shall convene not more than three stakeholder meetings that includes representatives from the department of social and health services, the department of commerce, the department of health, the office of financial management, the office of the governor, the long-term care ombuds program, representatives of long term care facilities, representatives for the area agencies on aging, and other stakeholders as appropriate. The department must submit a report with recommendations to the governor and the appropriate fiscal and policy committees of the legislature by December 1, 2020.

## Key Findings

**The LTC Ombuds Program is able to resolve an average of 92% of complaints received by the program.**

This level of performance saves considerable costs as these complaints would otherwise be referred to more expensive regulatory and legal systems or the courts. Because program Ombuds visit long-term care facilities on a regular basis, they can spot problems before they escalate, saving the state time, money, and energy.

**Washington State has successfully "rebalanced" the Medicaid long-term care population, due in no small part to the help LTC Ombuds provide to move people requiring care out of acute-care settings and into the community.**

In this context, "rebalance" refers to the shifting of Medicaid long-term care residents from expensive nursing homes into community settings. This effort, mandated by the State Legislature and accomplished by the Department of Social and Health Services (DSHS) and the State Long-Term Care Ombuds Program, honored the choices of many long-term care residents by helping them find care in community settings or in their own

homes. This reduced the amount of Medicaid residents in nursing homes and larger assisted living facilities. This effort resulted in better quality of care, more independence, and cost savings for long-term care residents.

**Washington's LTC Ombuds Program operates on 58% of the recommended staffing level.**

Based on IOM guidelines, there are currently not enough LTC ombuds to visit and reach out to every long-term care resident and facility as required by the Older Americans Act<sup>1</sup>. Based on Caseload Forecast projections, an additional \$1 million in funding is needed in 2021 to meet IOM recommendations. The expected increase in the number of residents in long-term care will continue to increase future LTCO operational costs.

## Recommendations to the Legislature

**Increase state funding to fully meet IOM guidelines**

Increased funding will allow the LTCO to adequately serve all residents in long-term care. The legislature should also consider tying future increases to bed projections issued by the Caseload Forecast Council.

**Extend and expand the working group to identify alternative funding mechanisms**

The workgroup found that a bed tax model would not be recommended, to prevent placing additional costs on long-term care residents. The workgroup recommends further study on an alternative to a bed tax model. In addition, the workgroup recommends updating the IOM staffing formula, investigating the feasibility of applying for Medicaid Administrative funds, and/or investigating equity issues among different facility types and Medicaid and non-Medicaid residents. A new workgroup should be commissioned and should include a representative from the Caseload Forecast Council, as well as a representative from Residential Care Services at the Department of Social and Health Services (DSHS).

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<sup>1</sup> OLDER AMERICANS ACT OF 1965 [Public Law 89–73] [As Amended Through P.L. 116–131, Enacted March 25, 2020]

# Introduction

## Background

In 2020, the Washington State Legislature included a proviso in the supplemental Operating Budget requiring Commerce to make recommendations on a sustainable, transparent, and reactive funding model for the operation of the LTC Ombuds Program. The proviso is quoted directly in the Executive Summary.

The proviso<sup>2</sup> directed Commerce to recommend a plan that:

- Serves all residents in long-term care equally;
- Is reactive to changes in service costs; and
- Is reactive to changes in number of residents and types of facilities served.

Commerce's Community Services and Housing Division contracted with the agency's Research Services Program to facilitate the stakeholder meetings and write the report.

## Stakeholder Meetings

The proviso required Commerce to convene three stakeholder meetings, with members representing the Department of Social and Health Services, the Department of Health, the Office of Financial Management, the Office of the Governor, the Long-Term Care Ombuds Program, representatives of long-term care facilities, representatives for the area agencies on aging, Commerce, and other stakeholders as appropriate.

The meetings were held on October 8, October 15 and November 13. Before, between, and after each of these meetings, Commerce and LTC Ombuds Program staff worked together to prepare information for the stakeholders, answer questions, and consolidate stakeholder ideas into a report with funding model recommendations.

Each meeting was conducted virtually and was two hours long.

Meeting invitees, workgroup participants, and stakeholders who contributed to the content of the report included the following:

- Aaron Riley, Spokane Regional LTC Ombuds
- Alice Zillah, Manager of Research Services at Commerce
- Alyssa Odegaard, Leading Age Washington
- Amber Leaders, Senior Policy Advisor for Aging and Behavioral Health, Office of the Governor
- Amy Freeman, Contracted Attorney at WA State LTC Ombuds Program
- Betsy Claridge, SE WA Regional LTC Ombuds
- Betty Schwieterman, WA State Developmental Disabilities Ombuds
- Cathy Knight, Head of King County Area Agency on Aging
- Christie Spice, Deputy Assistant Secretary for Policy, HQSA, Department of Health
- Dana Gargus, Kitsap Regional LTC Ombuds
- Danielle Cruver, Office of Financial Management (OFM)
- Deb Murphy, LeadingAge Washington (Non-Profit Provider Association)

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<sup>2</sup> SB 6168 Section 127(92)

- John Ficker, Adult Family Council of Washington
- Maria Langlais, King County Area Agency on Aging
- Melanie Smith, Lobbyist for WA State LTC Ombuds Program
- Nathan Peppin, State LTC Ombuds Program Manager, CSHD, Commerce
- Patricia Hunter, WA State Long-Term Care Ombuds
- Rebecca Duncan, Workgroup Meeting Facilitator, Research Project Coordinator at Commerce
- Robin Corak, Multi Service Center CEO
- Robin Dale, President and CEO of Washington Health Care Association
- Ron Vivion, Council on Aging and Disability
- Rosemary Biggins, State Unit on Aging Program Manager, DSHS
- Stacey Smith, Washington Area Agencies on Aging, Kitsap
- Vicki Elting, Assistant WA State Long-Term Care Ombuds
- Walt Bowen, WA Senior Lobby President

At the first meeting, participants had an open discussion about the main concerns of funding the LTC Program. At the second meeting, Commerce and the State Ombuds shared ideas for funding models, answered the members' questions, and opened the floor for discussion on elements of the funding model and recommendations to the legislature. At the third meeting, Commerce and the State Ombuds shared the draft funding model plan and report with recommendations for the workgroup to review.

# A History of Long-Term Care Ombuds Programs in Washington State

## Establishment

Pursuant to the Older Americans Act, enacted by Congress in 1965, the Washington State Legislature established the Washington State Long-Term Care Ombuds Program (LTC Ombuds Program) in 1983 within the Department of Social and Health Services (DSHS).<sup>3</sup> Five years later, the legislature exercised its option under federal law to remove the LTC Ombuds Program from DSHS and place it within a private nonprofit organization pursuant to a contract with the state. Today, the LTC Ombuds Program is organizationally located within the Multi-Service Center (MSC), a 501c3 organization that serves as a host agency for the Program pursuant to a contract managed by Commerce's Community Services and Housing Division.

## Advocacy for Vulnerable Adults

For the past 37 years, the LTC Ombuds Program has successfully resolved complaints on behalf thousands of LTC residents. Complaints to the program pertain to a variety of areas that impact residents' lives, including quality of care; autonomy and privacy; access to information and services; transfers and discharges; and abuse, neglect, and exploitation. For the past several years, over 90% of complaints have been solved to the satisfaction of residents through low-level, informal problem-solving — the hallmark of LTC Ombuds advocacy. On a systemic level, the LTC Ombuds Program has worked to secure legislative victories on behalf of residents, including legislation to bring parity to the systems for civil penalties applied to adult family homes and assisted living facilities.

## Objectives and Organization of the LTC Ombuds Program

The LTC Ombuds Program is charged with:<sup>4</sup>

- Coordinating the activities of over 20 LTC ombuds throughout the state
- Protecting the confidentiality of records
- Establishing a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in facilities, and
- Providing resources to empower individuals, families and the community to ensure the safety and dignity of all residents in long-term care settings.

The State Ombuds also works to:

- Receive and respond to complaints filed with the Ombuds office
- Advocate before the legislature on the dignity and quality of life of all people receiving long-term care, and
- Monitor the work of state agencies that manage facility licensing, inspections, complaint investigations, and enforcements and their policy and regulatory development.

The LTC Ombuds advocates for a highly vulnerable and ever-growing population in Washington: adult residents of long-term care facilities. Both the State Ombuds and local ombuds programs have worked for decades to ensure these adults receive the care they need and to promptly address problems or complaints. By resolving

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<sup>3</sup> WASHINGTON LAWS, 1983 CHAPTER 290, "LONG--TERM CARE OMBUDSMAN PROGRAM ESTABLISHED"  
<https://leg.wa.gov/CodeReviser/documents/sessionlaw/1983c290.pdf?cite=1983%20c%20290%20%A7%2034>  
<sup>4</sup> 43.190 RCW

complaints early, the LTC Ombuds Program prevents complaints from becoming bigger problems or costly lawsuits, resulting in substantial savings in taxpayer dollars. For instance, in 1999, DSHS estimated that it would cost them about \$2.5 million to address the complaints that were resolved that year by the Long-Term Care Ombudsman Program<sup>5</sup>. Adjusted for inflation, that \$2.5 million translates to \$3,871,113 in 2020 dollars. In 2019, the total budget for the State LTCOP was \$2,149,195. Even if the workload for LTC Ombuds has changed since 1999, the DSHS analysis demonstrates that it is much more cost effective for LTC Ombuds to address long-term care complaints than DSHS, resulting in significant savings.

In addition, the LTC Ombuds Program is essential to connecting to every local ombuds, and thus connecting to all of the many and varied long-term care facilities across the state. There are 12 regional LTC Ombuds entities, hosted by area agencies on aging (AAA's), social services non-profit agencies, and regional offices of the State Ombuds program. The twelve regional LTC Ombuds organizations include:

- Aging & Adult Care of Central WA
- Blue Mountain Action Council
- Olympic Area Agency on Aging
- Area Agency on Aging & Disabilities of SW WA
- SNAP - Eastern Washington Long-Term Care Ombudsman Program
- Northwest Region Long-Term Care Ombudsman Program
- King Long-Term Care Ombudsman Program
- Kitsap County Area Agency on Aging
- People For People
- Lewis/Mason/Thurston Long-Term Care Ombudsman Program
- Pierce County Comm Connections, Aging & Long-Term Care
- Snohomish Long-Term Care Ombudsman Program<sup>6</sup>

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<sup>5</sup> Washington State LTCOP, "About Us: Washington State LTC Ombudsman Program", 2020

<sup>6</sup> Washington State Long-Term Care Ombudsman Program, "Find an Ombuds", <https://www.waombudsman.org/find-ombudsman/>

# Past and Current Funding of Washington LTC Ombuds Programs

## Historic Funding Challenges

Despite the long history of the LTC Care Ombuds Program, funding streams and methods have not been consistent from year to year. Each regional LTC Ombuds Program supplements federal and state funds through grant funding and other fundraising activities. In addition, national recommendations for how to fund a LTC Ombuds Program have not been updated since the 1990's. A 1995 Institute of Medicine (IOM) study, the IOM recommends a standard staffing ratio of one full-time equivalent paid staff working as an authorized, designated ombuds per 2000 long-term care facility beds.<sup>7</sup> The report recommended that this 1:2000 ratio be used as a "base indicator of performance and a unit of effort to determine the amount of additional resources needed."<sup>8</sup>

The landscape of long-term care in Washington has changed dramatically since publication of the 1995 IOM report. Each year, more people are entering long-term care facilities than are leaving them. Additionally, in the last five years, the addition of a new type of assisted living facility known as Enhanced Services Facilities and the addition of skilled nursing home beds in Crisis Access Hospitals has significantly increased the number of beds under the purview of the LTC Ombuds. Furthermore, Washington is unique in comparison to other states due to an increased number of adult family homes, which have fewer licensed beds but are placed throughout communities. This means the long-term care beds in Washington have both increased over time and spread out geographically.

## Funding Streams for LTC Ombuds Program

The LTC Ombuds Program is supported by multiple funding sources (Figure 3). These sources include federal dollars allocated through the Older Americans Act (OAA) and state general fund appropriation allocated through the Department of Social and Health Services (DSHS) and passed to the Department of Commerce (Commerce) through an interagency agreement. Commerce distributes the federal funding and general state funds, and temporary funding from certain bills or initiatives. The State LTC Ombuds Program also receives time-limited grants and shares these funds with regional LTC Ombuds programs. Each regional program finds other ways to supplement state-allocated funds, such as acquiring funds from local governments, applying for grants, and fundraising.

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7 Institute of Medicine (US) Committee to Evaluate the State Long-Term Care Ombudsman Programs, "Real People Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act" <https://pubmed.ncbi.nlm.nih.gov/25101383/>

8 Institute of Medicine (US) Committee to Evaluate the State Long-Term Care Ombudsman Programs, "Real People Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act" <https://pubmed.ncbi.nlm.nih.gov/25101383/>

**Figure 1: Summary of LTC Ombuds Program Funding in 2019<sup>9</sup>**

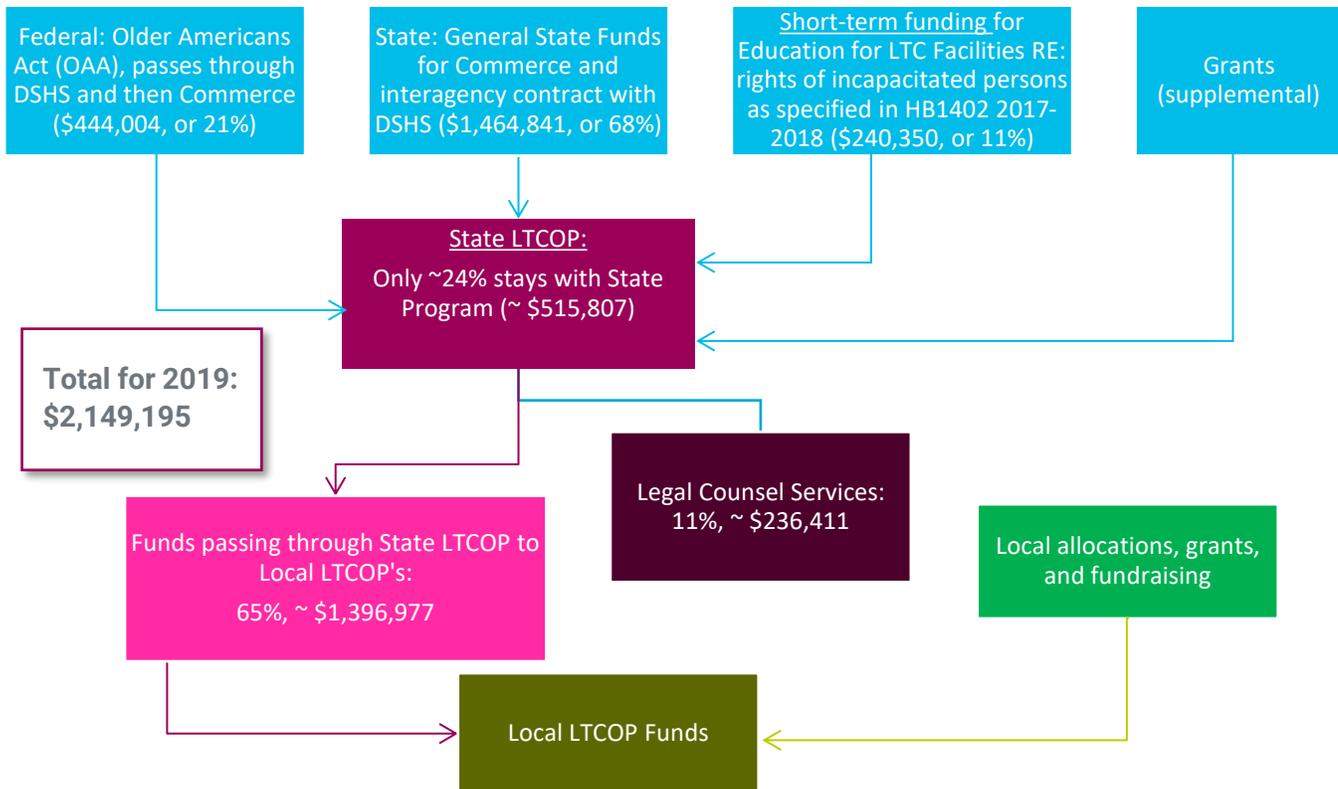


Figure 1 illustrates the LTC Ombuds Program budget in 2019. The total funding amount for the LTC Ombuds Program in 2019 was \$2,149,195. This budget overview does not include funds from grants, which vary from year to year and are typically short-term.

The majority (68%) of program funding is from state general fund appropriations. A portion of funding in 2019 originated from a bill requiring the LTC Ombuds provide education for LTC facilities regarding rights of incapacitated persons as specified in HB1402, 2017-2018, but this funding was only allocated for five years. Close to two-thirds (65% on average) of overall funding goes to local programs, with only 24% of the budget directed to the LTC Ombuds Program Office. The remaining 11% funds legal counsel services, which are contracted to two private attorneys.

## Current Coverage

The current funding provided by the Legislature (\$1,464,841 as of 2019) is inadequate to provide enough staff as recommended by the Institute of Medicine.

- The LTCOP serves 73,991 beds in long-term care facilities in fiscal year 2021.
- Per IoM recommendations, at least 37 full-time staff should serve this number of beds to advocate for residents, address complaints and visit facilities. However, there are only 21.19 FTE for regional ombuds programs and four FTE for the state Ombuds office for 2021 due to limitations in funds. This includes administrative or clerical staff.

<sup>9</sup> Washington State Long-Term Care Ombuds Program Budget 2018-19

- As a result, the regional and state LTC ombuds staff are stretched incredibly thin, with almost 12 fewer staff members than recommended (only 57% of the recommended number) to advocate for the growing population in long-term care facilities.

**Figure 2: Actual vs. Recommended Washington LTC Ombuds FTE<sup>10</sup>**

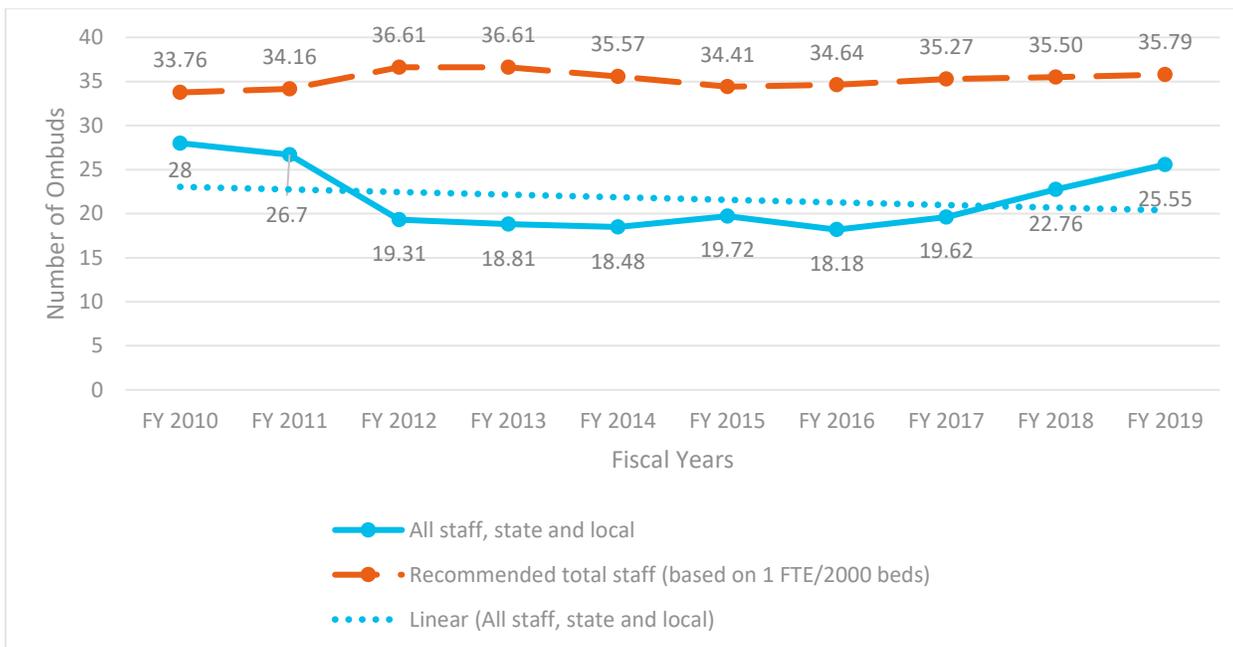


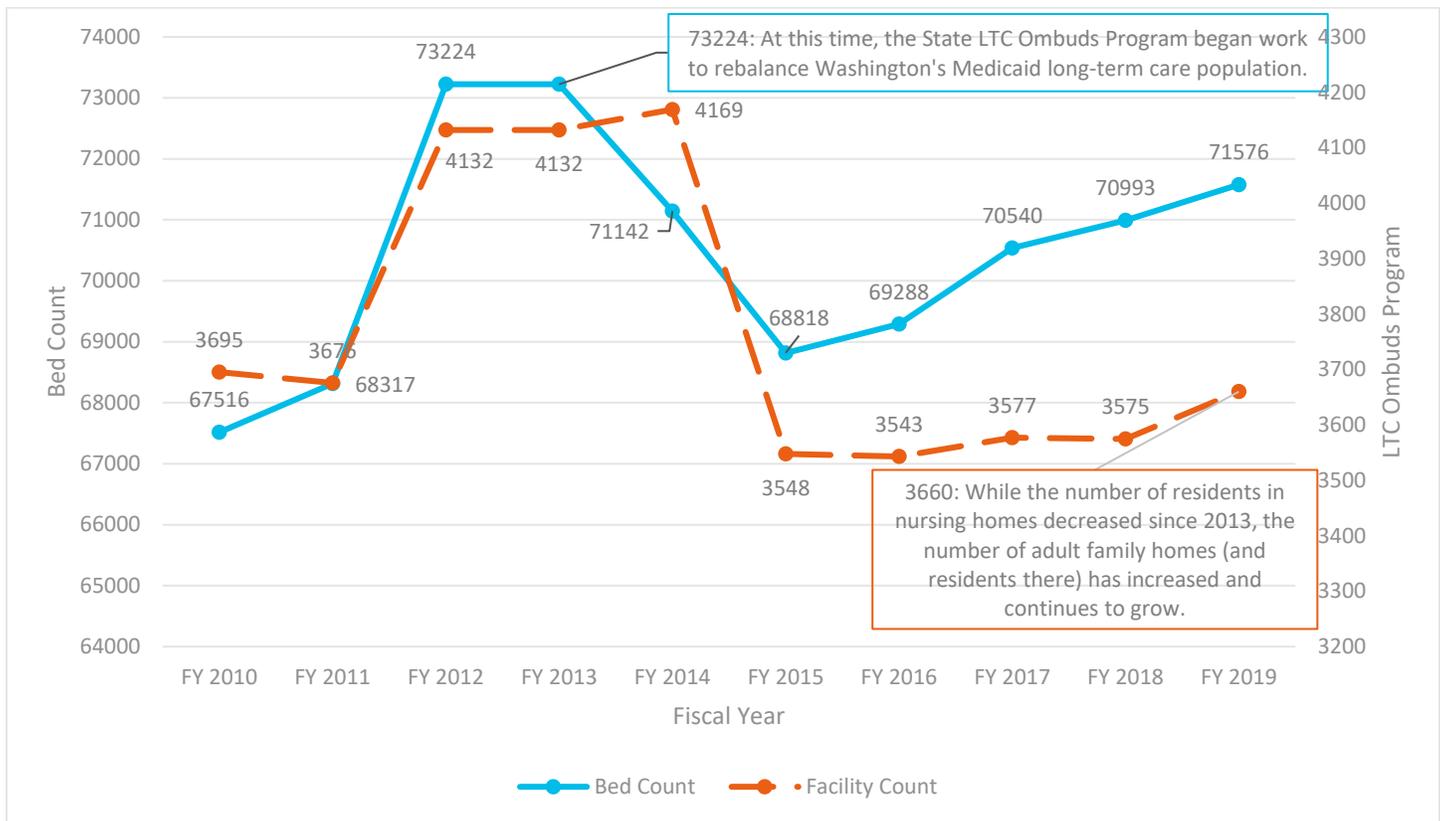
Figure 2 illustrates that the number of ombuds FTEs has not matched the recommended number at any point in the last decade. A drop in staff numbers in 2012 was due to a decrease in funding, after a 2010 funding proposal for the State LTC Ombuds Program was denied. However, the slow but steady increase in staff over the last four years can be attributed to the hard work of the state and regional LTC Ombuds programs to find other sources of funding, including increased funding award by the Legislature. Program costs have also increased since 2010 due to inflation, health insurance costs and other direct and indirect costs.

Washington State is recognized across the nation as a state that has successfully "rebalanced" its Medicaid long-term care population.<sup>11</sup> Figure 3 shows the change in long-term care residents and facilities in Washington since 2010. A sharp decline after 2013 in both the number of facilities and residents was due to efforts to move people out of nursing homes and into community-based settings. The LTC Ombuds works as part of the LTSS (Long-Term Care Services and Supports System) to inform all long-term care residents of their long-term care choices, including but not limiting to moving out of comparatively expensive nursing home care into less restrictive community-based care such as assisted living facilities or adult family homes. Through the Community Option Program Entry System (COPES) Medicaid Waiver program and other state programs, individuals in need of nursing home level of care can receive care in their own homes, allowing for more independence.

<sup>10</sup> WA State Annual Ombuds Report for Federal FY 2010 - 2019

<sup>11</sup> Attached see the annual AARP and SCAN Foundation SCORE card ranking Washington State compared to other long-term care services and supports systems (LTSS). <https://www.longtermscorecard.org/>

**Figure 3: Long-Term Care Beds and Facilities in Washington<sup>12</sup>**



The ombuds uses their knowledge about Medicaid, Medicare and residents rights to help residents advocate for their choices in treatment, care and living environment. While this valuable work led to a reduction in the number of people in nursing homes, the overall number of people in need of long-term care each year has increased over time. While facility data is only available through state fiscal year 2019, the LTC Ombuds estimates the total number of long-term care facilities in Washington is approximately 4,200 in as of January 2020.

Even as long-term care residents and facilities increase, the LTC Ombuds Program has effectively resolved complaints with LTC facility providers. On average, 92% of complaints received by the program annually are resolved by Ombuds,<sup>13</sup> rather than referred to more expensive regulatory and legal systems or the courts.

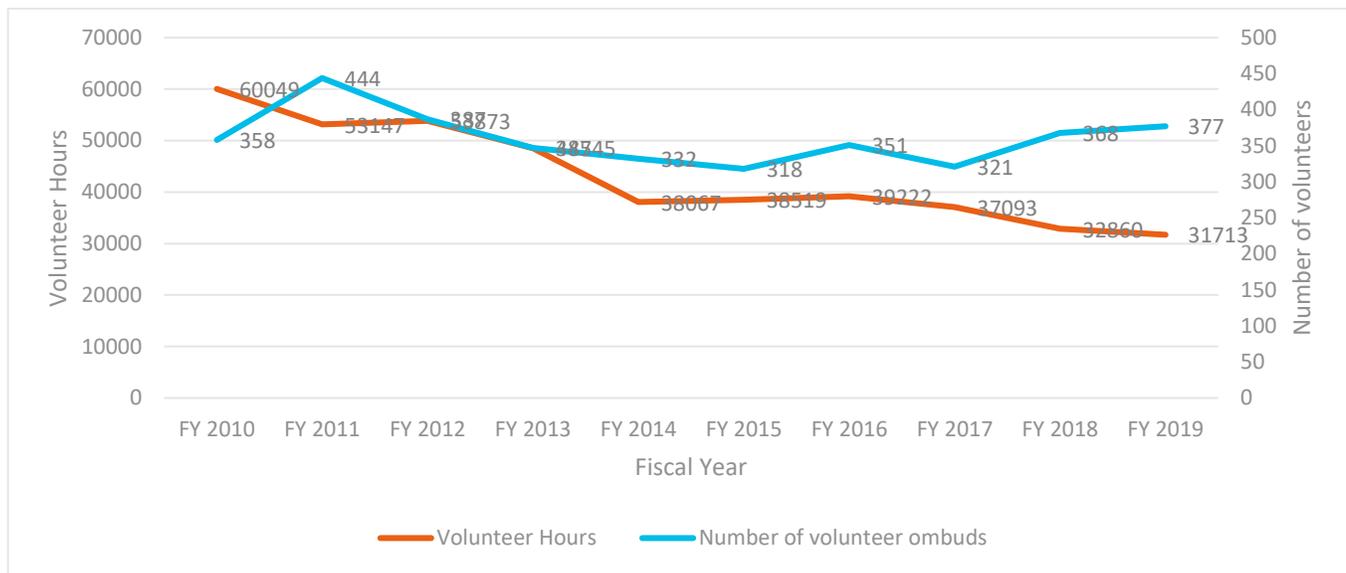
State and regional LTC Ombuds staff and volunteers visit long-term care facilities on a regular basis. Ombuds can spot problems before they escalate, saving the state time, money, and energy. However, the frequency of visits to long-term care facilities varies greatly from community to community, and regular visits are becoming more challenging for LTC Ombuds as the number of small facilities interspersed throughout communities (such as adult family homes) continue to grow.

<sup>12</sup> WA State Annual Ombuds Report for Federal FY 2010 - 2019

<sup>13</sup> Washington State Long-Term Care Ombuds Program, "About Us: Washington State LTC Ombuds Program"

# The Cost and Benefit of Volunteer LTC Ombuds

**Figure 4: Number of volunteer LTC ombuds and volunteer hours per year over time**



Volunteer LTC ombuds are essential to the functioning of the LTC Ombuds program in Washington. Volunteer ombuds work with long-term care residents to inform them of their rights and hear their complaints. In 2019, there were 368 volunteer Ombuds certified to address complaints in Washington, recording over 32,000 volunteer hours donated.

Some LTC ombuds programs have more volunteers than others, and the number of certified volunteer LTC ombuds has changed over time (as shown above in Figure 4). According to the Independent Sector, a membership coalition representing charitable organizations, the value of volunteer time in Washington in 2019 was \$33.02 per hour.<sup>14</sup> Therefore, in 2019, volunteers' contribution of 31,713 volunteer hours equated to \$1,047,163 of volunteer LTC ombuds work.

However, more volunteers working under the direction of an LTC ombuds requires more time for coordination and oversight, and less time available to actively do ombuds work. Therefore, while volunteer LTC ombuds save a significant amount of money, they also take noteworthy time (and money) to train and coordinate.

Furthermore, volunteerism has been changing over time in the United States. A study conducted by the University of Maryland's School of Public Policy found that the national volunteer rate has been declining since 2005, and Washington saw a significant decrease in volunteer rates between 2004 and 2015.<sup>15</sup> The LTC Ombuds Program similarly saw a decrease in the number of volunteers after 2011, but it was followed by a slight increase in volunteer numbers after 2018. This change in trends indicates that staff are working hard to recruit and retain volunteer ombuds to address the needs in their regions and across the state. Given the amount of time and energy it takes to recruit, train, and manage volunteer ombuds, the number of full-time LTC ombuds needs to increase to expand volunteer LTC ombuds programs.

<sup>14</sup> Independent Sector, "The Value of Volunteer Time / State and Historical Data" [https://independentsector.org/resource/vovt\\_details/](https://independentsector.org/resource/vovt_details/)

<sup>15</sup> University of Maryland, "Where Are America's Volunteers? A Look at America's Widespread Decline in Volunteering in Cities and States" <https://dogood.umd.edu/research-impact/publications/where-are-americas-volunteers>

Unfortunately, the COVID-19 pandemic has only highlighted the challenges with volunteer programs and the insufficiencies in the current funding streams. Many volunteer LTC ombuds have stopped working because of health concerns, significantly reducing the LTC ombuds workforce in regions that rely on volunteers. In addition, residents of long-term care facilities have been severely impacted by COVID-19 concerns, increasing the amount of work for each paid LTC ombuds as they try to address the concerns of residents and advocate for their rights and safety. In order to adequately serve the residents of long-term care facilities, the Ombuds Program needs a more reliable funding plan that ensures there are enough full-time staff in each region to serve residents equally and react to changes in service costs, resident numbers and types of facilities served.

## Long-Term Care Ombuds Programs in other States

Every state is required to have a Long-Term Care Ombuds Program, but the structure of programs differ from state to state.

In some states, long-term care ombuds programs are entirely managed by the state. In others, the state LTC ombuds program is almost or entirely independent from the state. Funding sources vary, from state and federal allocations, to independent fundraising, to placing fees on nursing homes based on bed count. To examine these variations, we collected data on the LTC Ombuds Programs of twelve states, including Washington. Figure 5 compares the number of long-term care facilities and beds in under the jurisdiction of each state's LTC Ombuds Program. In addition, Figure 6 compares the coverage and budgets of each state's LTC Ombuds Program. In this case, "coverage" means 1) the percentage of nursing homes the LTC Ombuds visit quarterly, and 2) the ratio of recommended Ombuds staffing per the IOM to actual Ombuds staffing. For the complete data set, please see Appendix B.

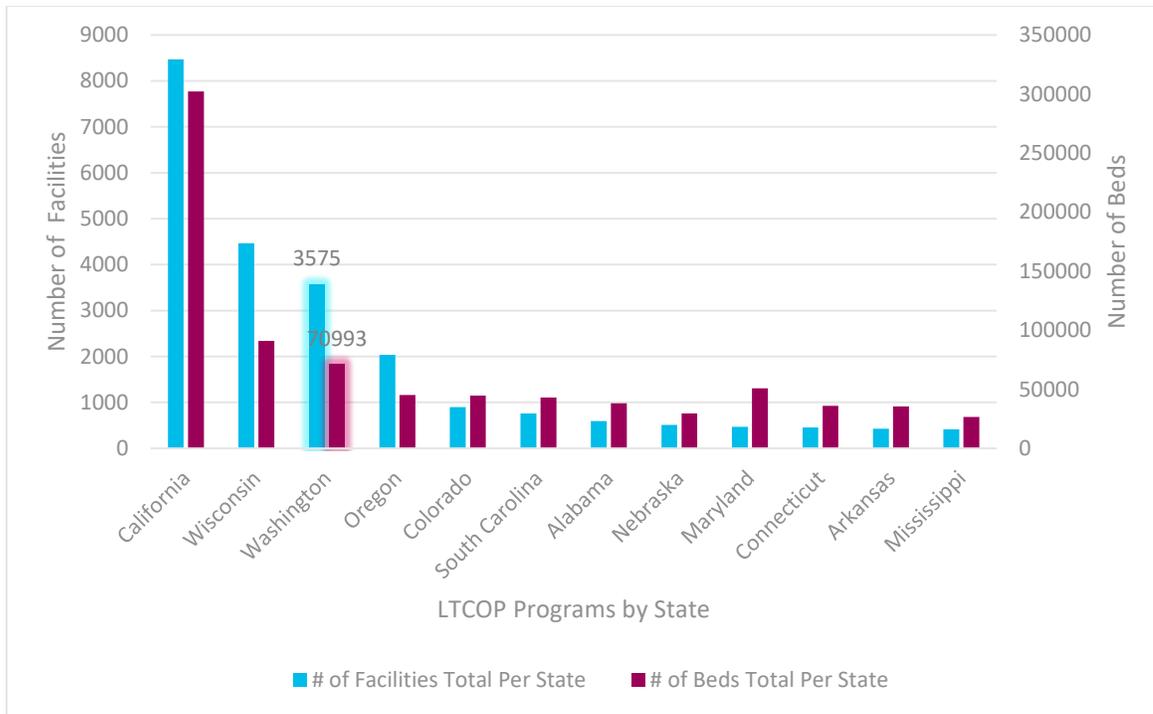
By comparing Washington with many other state LTC Ombuds Programs, we see that:

- Washington has the third-most beds and facilities (and most of these facilities are adult family homes)
- Despite the high number of residents and facilities, Washington has a mid-range budget (close to those of Maryland, South Carolina and Wisconsin)
- Washington has the fourth-lowest actual to recommended staff ratio (58%)
- Washington has the third-lowest rate of quarterly nursing home visitation (30%), but this count does not include the work done to visit the many adult family homes in Washington

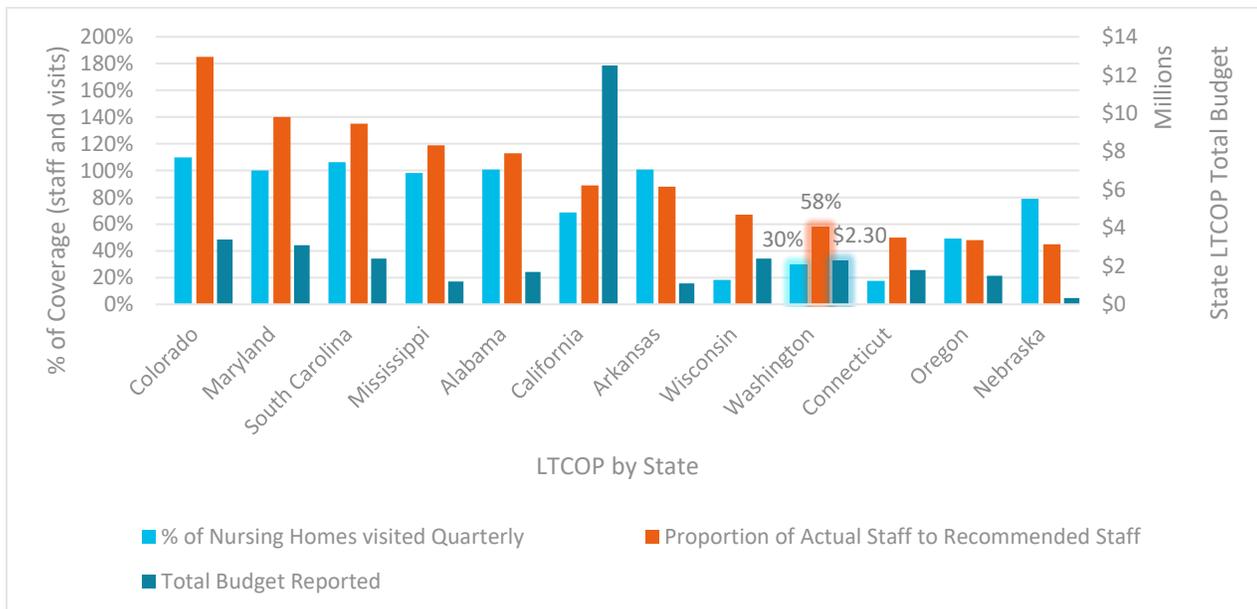
Washington has significantly more adult family homes and assisted living facilities than all other states aside from California and Wisconsin. However, the Washington LTC Ombuds budget is not significantly larger than that of other programs. In addition, some states (such as Colorado and Maryland) have more paid staff than recommended by the IOM, with actual to recommended staff proportions exceeding 100%. Many states with higher actual to recommended staff proportions also boast high rates of nursing homes visited quarterly (100% or over). Even California, with a paid staff ratio of 89%, has a 69% nursing home coverage rate. By contrast, Washington has significantly less paid staff FTE than recommended, and the percentage of nursing homes visited quarterly is relatively low (30%).

Among the states included in Figures 5 and 6, Washington has the fourth lowest actual to recommended staff ratio (58%), but the largest number of LTC residents and facilities. In addition, the majority of these facilities are adult family homes that are small and interspersed throughout communities, making it challenging for the relatively low number of Ombuds to visit them regularly.

**Figure 5: Comparing Long-Term Care Ombuds Program Facilities and Beds across States - 2018<sup>1617</sup>**



**Figure 6: Comparing Long-Term Care Ombuds Program Coverage across States - 2018<sup>1819</sup>**



16 National Ombuds Resource Center, Administration on Community Living, Administration on Aging

17 A full version of this table with additional state data can be found in Appendix B

18 National Ombuds Resource Center, Administration on Community Living, Administration on Aging

19 Appendix B contains a full table presenting all of this data, including budget data for each LTCOP

Under current limited resources, the Washington LTC Ombuds Program prioritizes responding to residents and facilities with complaints and issues, to ensure the residents most in need of advocacy and assistance are supported. Ninety-two percent of complaints received annually by the LTC Ombuds Program are resolved by Ombuds. Even with limited resources and inadequate staffing, the State LTC Ombuds Program is making sure that allegations of abuse and neglect are addressed promptly. Given the steady increase in need for long-term care facilities and beds, the program's ability to maintain this level of responsiveness without a funding increase is in doubt.

## Recommended Funding Model for the State LTC Ombuds Program

Funding Model Idea (Summarized)	Stakeholder Response
Bed Tax or Fee System: for each designated Long-Term Care bed in Washington, charge the responsible facility a flat tax or fee. Revenue would go to the State LTCOP.	Stakeholders did not support this model due to concern that the cost of the bed tax or fee would be passed on to the LTC residents.
IOM Model: Total funding must support one Ombuds for every 2000 long-term care beds.	Stakeholders supported this model, but were curious how the model could be updated (as the IOM recommendations come from a 1995 study).
<b>IOM and CFC Model: Total funding must support one Ombuds for every 2000 long-term care beds, using future bed counts as projected by the Caseload Forecast Council.</b>	<b>Stakeholders supported this model, especially since it considers future growth of the long-term care population in Washington and is updated from the 1995 IOM study.</b> Stakeholders were interested in how this model could be further fine-tuned to capture volunteer work and region-to-region variations in costs and workload.

Based on an historical review of the LTC Ombuds Program's funding, current funding needs, and the workgroup discussions, the group recommends a funding model that relies on the IOM recommendation for one FTE per 2000 beds. The exact number of FTEs would fluctuate from year to year based on long-term care bed projections from the Caseload Forecast Council (CFC).

This simplified version of the model is as follows:

$$\left( \frac{\text{Number of Future Beds}}{2,000 \text{ beds}} \right) * \text{Average salary, benefits, overhead \& legal costs} = \text{Full Funding for LTCOP}$$

Dividing the number of beds by 2,000 provides us with the number of FTE recommended by the IOM. Using the CFC's bed projections provides the number of FTEs needed in the future to respond to increases and decreases in long-term care residents.

Therefore, simplified further, the model is as follows:

$$\text{FTE Need} * \text{Average salary, benefits, overhead \& legal costs} = \text{Full Funding for LTCOP}$$

The following describes how two key factors will be determined: the number of future beds, and the average salary, benefits and overhead per full time staff member.

## Projecting Future Long-Term Care Beds

Washington already has an agency that projects the number of long-term care beds to inform the state biennial and supplemental budget: the Caseload Forecast Council (CFC). The CFC currently tracks past and current needs for long-term care, including:

- Home and Community Services (individuals in managed care, residential services and in-home services)
- Nursing Homes (Medicaid eligible clients in state licensed nursing facilities)

The CFC also forecasts several years into the future each February as part of the state budget process, and produces monthly monitoring reports comparing the budget forecast to the current forecast based on the most recent statistics.<sup>20</sup> The most recent projections published by the CFC (shown below) illustrate that the sum of projected beds for both nursing homes (64,885) and home and community services (9,393) in 2022 will total 74,277 beds. Basing LTCOP full-time staffing requirements on the total of 74,277 will allow for enough staff to address not only current residents, but to assist and prepare for future residents of long-term care facilities.

Figure 7: Forecast Beds for Home and Community Services <sup>21</sup>					Figure 8: CFC Forecast Beds for Nursing Homes <sup>22</sup>				
Forecast Comparisons (Fiscal Year Averages)					Forecast Comparisons (Fiscal Year Averages)				
Fiscal Year	Feb-20 Forecast	Jun-20 Forecast	Feb to Jun Difference	Percent Difference	Fiscal Year	Feb-20 Forecast	Jun-20 Forecast	Feb to Jun Difference	Percent Difference
2020	59,862	59,826	-35	-0.1%	2020	9,396	9,414	18	0.2%
2021	62,264	62,434	170	0.3%	2021	9,192	9,401	209	2.3%
2022		64,885			2022		9,392		
2023		67,321			2023		9,368		

The workgroup finds that, given the historical reliability of the CFC projections, as well as the consistency with use in the state budgets, using the CFC to build a funding model for the State LTC Ombuds Program is recommended.

## Calculating Salary, Benefits and Overhead

To calculate the funding model, the workgroup examined the total expenses of the LTC Ombuds Program in federal fiscal year 2019, including costs for regional staff, state staff and legal counsel. According to the 2018-2019 Ombuds Reporting Tool, the program was staffed by 25.55 FTEs in 2019. The funding sources include federal funds under the Older American's Act, state general fund appropriations, federal or state grant awards, and local funding sources such as county awards, private or corporate grants/donations, Title IIIB, and Senior Citizens Service Act (SCSA) funds to Area Agencies on Aging.

The total expenses for the LTC Ombuds Program in 2019 (\$2,149,195) divided by 25.55 FTE results in an average of \$84,282 per full-time LTC ombuds. The costs per ombuds also include advertising, education,

20 Washington State Caseload Forecast Council, "Home", <https://www.cfc.wa.gov/default.htm>

21 Caseload Forecast Council: June 17, 2020

22 Caseload Forecast Council: June 17, 2020

conference and meeting costs, consultant costs, and other administrative costs essential to the functioning of the State and regional ombuds programs. The salary average also includes the costs of approximately \$126,000 per year for legal counsel services, contracted to two private attorneys.

## Sample Funding Model for 2021

Applying the funding model elements discussed above, the funding equation is as follows:

$$\text{Funding LTCOP} = \left( \frac{74,277 \text{ beds}}{2,000 \text{ beds}} \right) * \$84,282 = (37.1 \text{ FTE}) * \$84,282 = \$3,130,107$$

This equation provides the approximate amount needed to fund and staff long-term care in 2021. This model does not consider differences in staffing and capital needs from region to region, but instead attempts to demonstrate the costs needed to fully staff the program so that long-term care residents can be adequately served. The value of volunteer LTC ombuds is also not captured in this model. Volunteers are discussed in more detail in the following section.

Given the State LTC Ombuds Program 2019 annual budget of \$2,149,195, and the total recommended funding amount of \$3,103,107, we can see the State LTC Ombuds Program is approximately \$1 million underfunded.

## The Recommended Plan to Fund LTC Ombuds Programs

The workgroup recommends that the Washington State Legislature increase the appropriation to the LTC Ombuds Program to help reduce the \$1 million gap in funding. The work done by the LTC Ombuds Program is essential, and increased allocations would allow the program to fulfill its mandate to advocate for, protect, and promote the rights of residents of nursing homes, adult family homes, and assisted living facilities. To supplement these allocations, the State Ombuds would continue to pursue private and federal grants.

In addition, if the LTC Ombuds staffing level is increased the State Ombuds would work with regional programs to determine whether or not it is cost effective to apply for Medicaid Administrative funding to supplement regional programs.<sup>23</sup> At this time, both state and regional Ombuds do not have the amount of staff available to make Medicaid claiming cost-effective. The administrative work of applying for Medicaid funding takes a significant amount of time, and the Department of Social and Health Services (DSHS) suggests that the time and energy spent applying for this funding with the limited staff available would be greater than the amount of funding received for many regions. However, if LTC ombuds staffing increased, there may be enough staff to apply for Medicaid funding and continue providing ombuds services to LTC residents in the community.

It is worth noting that the IOM study which recommends one full time paid ombuds per 2,000 beds does not account for the work of volunteer LTC ombuds or the staff time required to provide oversight, training and management of these volunteers. In Washington, volunteer LTC ombuds contribute thousands of volunteer hours working with residents of long-term care facilities each year. While some regional LTC ombuds programs have more volunteers than others, and the number of certified volunteer LTC ombuds has changed over time (as shown in Figure 5 on page 11), volunteers continue to be an essential part of the LTC Ombuds Program. Furthermore, as discussed on page 11, volunteers save a considerable amount of money for the state and regional LTC Ombuds Programs. Volunteers are an excellent return on investment; funding one full-time LTC ombuds allows for the impactful work of dozens of volunteer ombuds.

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23 \*LTC Ombuds claiming activities cannot be duplicative of survey and certification functions or Medicaid waiver required assurances.

Determining how to account for volunteers when funding long-term care ombuds programs in Washington requires further study. However, the workgroup strongly recommends increasing funds for full-time LTC ombuds to expand volunteer LTC ombuds programs, ensuring that all residents of long-term care homes receive the care and advocacy they need.

## Funding Methods Not Recommended

A review of other states' long-term care programs found that some levy a "bed tax" or "bed fee," in which an additional amount is charged to long-term care facilities per resident or per bed. While this is a reliable funding method, the workgroup concluded that they would not recommend a bed tax as part of a funding model, due to the impact on long-term care residents.

The proviso instructs Commerce to recommend a plan that serves all residents in long-term care equally, is reactive to changes in service costs, and is reactive to changes in number of residents and types of facilities served. After discussion, the workgroup determined that fees imposed upon facilities would likely be passed on to the long-term care residents. A bed tax would disproportionately impact low-income residents and their families, meaning that it would not serve all residents in long-term care equally. In addition, while a bed tax may be a more reliable source of funds than seeking appropriations from the legislature each year, imposing a bed tax on individuals in long-term care is in conflict with the mission of the LTC Ombuds Program to advocate for improvements in the long-term care system.

## Recommendations to the Legislature

### 1. Increase state funding to fully meet IOM guidelines

Increased funding will allow the LTCO to adequately serve all residents in long-term care. The legislature should also consider tying future increases to bed projections issued by the Caseload Forecast Council. This funding increase follows the Institute of Medicine (IOM) recommended formula: one full-time equivalent paid ombuds for every 2,000 licensed long-term care beds.

### 2. Extend and expand the working group to identify alternative funding mechanisms

A new workgroup should be commissioned and should include a representative from the Caseload Forecast Council as well as a representative of Residential Care Services at the Department of Social and Health Services (DSHS) who specializes in long-term care facility licensing and enforcement. This workgroup should focus on:

- Finding an alternative to a bed tax model that does not place additional costs on long-term care residents;
- Refining and updating the IOM recommended staffing formula to reflect the variety in needs from region to region. (The updated model should address proportions of complaints, different travel requirements based on regional geography, different sizes of facilities, and the impact of volunteer LTC ombuds);
- Investigating the feasibility of applying for Medicaid Administrative funds to supplement funding for regional LTC Ombuds Programs; and
- Investigating equity issues among different facility types and Medicaid and non-Medicaid residents.

## Appendix A: Definitions

- Long-term care - A range of services and supports necessary to meet health or personal care needs over an extended period of time. Most long-term care is not medical care, but rather assistance with the basic personal tasks of everyday life, sometimes called Activities of Daily Living (ADLs) such as bathing, dressing, eating, or transferring to or from a bed or chair. Other common long-term care services are assistance with everyday tasks, including grocery shopping, managing money, taking medication, etc.<sup>24</sup>
- Long-term care facilities - Are licensed by the Department of Health and Social services to provide ADL assistance and every day help with tasks. This includes nursing homes, assisted living facilities, and adult family homes.
  - Nursing home - any home, place or institution which operates or maintains facilities providing skilled nursing services, rehabilitative therapies, convalescent or chronic care, or both, for three or more unrelated patients who are unable properly to care for themselves. Nursing homes typically house many residents in a large facility and provide skilled nursing services twenty-fours.<sup>25</sup>
  - Assisted living facility - any home or other setting serving seven or more residents which is advertised, announced, or maintained for the express or implied purpose of providing housing and basic services, and assuming general responsibility for the safety and well-being of the residents.<sup>26</sup> Assisted living facilities typically house many residents in a large facility. Assisted living facilities can and do provide personal care services.
  - Adult family home - a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six (or in some cases eight) adults who are not related to the person or persons providing the services. Adult family homes are small facilities embedded in communities which arose in the 1970s as alternatives to nursing homes.<sup>27</sup>
- Long-Term Care Ombuds - Long-Term Care (LTC) Ombuds programs work to resolve problems related to the health, safety, welfare, and rights of individuals who live in LTC facilities, such as nursing homes, assisted living facilities, and other residential care communities. Ombuds programs promote policies and consumer protections to improve long-term services and supports at the facility, local, state, and national levels.<sup>28</sup>
- WA State Long-Term Care Ombuds Program - the Ombuds Office is headed by a full-time State LTC Ombuds who works with and advocates for LTC facility residents statewide. The State Ombuds designates staff and hundreds of volunteers as representatives to directly serve residents.

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24 Long Term Care.gov, "What is Long-Term Care?" <https://longtermcare.acl.gov/the-basics/what-is-long-term-care.html>

25 RCW 74.42.010 <https://app.leg.wa.gov/rcw/default.aspx?cite=74.42&full=true#74.42.010>

26 DSHS, " Compendium of Residential Care and Assisted Living Regulations and Policy: 2015 Edition" <https://aspe.hhs.gov/system/files/pdf/110636/15alcom-WA.pdf>

27 HB 1277 Adult Family Home Quality Assurance Panel, "Adult Family Home Quality Assurance Panel Report: Recommendations to the Governor and Legislature per ESHB 1277" <https://www.waOmbuds.org/files/2012/03/quality-assurance-panel-report-2012.pdf>

28 Administration for Community Living, "Long-Term Care Ombudsman Program" <https://acl.gov/programs/Protecting-Rights-and-Preventing-Abuse/Long-term-Care-Ombuds-Program>

## Appendix B: Full LTCOP by State Comparison Table<sup>29</sup>

State	# of Nursing Homes	# of Other Facilities	# of Facilities Total	% of Nursing Homes visited quarterly	# of Beds Total	Total Budget Reported	Certified Volunteers	Paid Staff FTE	Staff FTE Endorsed by IOM (1 FTE/2000)	Proportion of Actual Staff to Recommended Staff
Colorado	232	664	896	109.8%	44,747	\$3.4 M	16	40.75	22	185%
Maryland	230	239	469	100%	50,774	\$3.1 M	85	34.9	25	140%
South Carolina	268	492	760	106.3%	43,123	\$2.4 M	76	29.63	22	135%
Mississippi	212	200	412	98.1%	26,600	\$1.2 M	0	15.5	13	119%
Alabama	233	359	592	100.7%	38,258	\$1.7 M	0	21.5	19	113%
California	1,234	7237	8471	68.70%	302295	\$12.5 M	511	134.51	151	89%
Arkansas	239	191	430	100.8%	35,477	\$1.1 M	227	15.75	18	88%
Wisconsin	384	4083	4467	18.20%	91083	\$2.4 M	81	31	46	67%
Washington	230	3345	3575	29.6%	70,993	\$2.3 M	377	20.76	36	58%
Connecticut	216	239	455	17.6%	36,045	\$1.8 M	12	9	18	50%
Oregon	136	1896	2032	49.30%	45156	\$1.5 M	139	11	23	48%
Nebraska	223	285	508	78.9%	29,527	\$325,000	55	6.75	15	45%

<sup>29</sup> National Ombuds Resource Center, Administration on Community Living, Administration on Aging