

2 **SB 5827 - H AMD 623 Adopted 4-19-91 as Amended by 624**
3 By Representative Braddock

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 18.51.050 and 1989 c 372 s 1 are each amended to read
8 as follows:

9 Upon receipt of an application for license, the department shall
10 issue a license if the applicant and the nursing home facilities meet
11 the requirements established under this chapter, except that the
12 department shall issue a temporary license to a court-appointed
13 receiver for a period not to exceed six months from the date of
14 appointment. Prior to the issuance or renewal of the license, the
15 licensee shall pay a license fee as established by the department. No
16 fee shall be required of government operated institutions or court-
17 appointed receivers. All licenses issued under the provisions of this
18 chapter shall expire on a date to be set by the department, but no
19 license issued pursuant to this chapter shall exceed thirty-six months
20 in duration. When a change of ownership occurs, the entity becoming
21 the licensed operating entity of the facility shall pay a fee
22 established by the department at the time of application for the
23 license. The previously determined date of license expiration shall
24 not change. (~~The department shall conduct, without charge to the~~
25 ~~nursing homes, one annual licensing and certification survey per~~
26 ~~calendar year and one postsurvey visit.~~

27 ~~For all additional surveys required beyond the first postsurvey~~
28 ~~visit, nursing homes shall pay an inspection fee of twelve dollars per~~

1 ~~bed to the department. The inspection fee shall be due within thirty~~
2 ~~days of the completion date of the postsurvey.))~~ The department shall
3 establish license fees at an amount adequate to reimburse the
4 department in full for all costs of its licensing activities for
5 nursing homes, adjusted to cover the department's cost of reimbursing
6 such fees through medicaid.

7 All applications and fees for renewal of the license shall be
8 submitted to the department not later than thirty days prior to the
9 date of expiration of the license. All applications and fees for
10 change of ownership licenses shall be submitted to the department not
11 later than sixty days before the date of the proposed change of
12 ownership. Each license shall be issued only to the operating entity
13 and those persons named in the license application. The license is
14 valid only for the operation of the facility at the location specified
15 in the license application. Licenses are not transferable or
16 assignable. Licenses shall be posted in a conspicuous place on the
17 licensed premises."

18 **"Sec. 2.** RCW 74.46.660 and 1980 c 177 s 66 are each amended to
19 read as follows:

20 In order to participate in the prospective cost-related
21 reimbursement system established by this chapter, the person or legal
22 organization responsible for operation of a facility shall:

23 (1) Obtain a state certificate of need and/or federal capital
24 expenditure review (section 1122) approval pursuant to chapter 70.38
25 RCW and Part 100, Title 42 CFR where required;

26 (2) Hold the appropriate current license;

27 (3) Hold current Title XIX certification;

28 (4) Hold a current contract to provide services under this chapter;

29 ((and))

1 (5) Comply with all provisions of the contract and all application
2 regulations, including but not limited to the provisions of this
3 chapter; and

4 (6) Obtain and maintain medicare certification, under Title XVIII
5 of the social security act, 42 U.S.C. Sec. 1395, as amended, for no
6 less than fifteen percent of the facility's licensed beds."

7 "Sec. 3. RCW 74.46.210 and 1980 c 177 s 21 are each amended to
8 read as follows:

9 (~~All necessary and ordinary expenses a contractor incurs in~~
10 ~~providing care services will be allowable costs.~~) All documented
11 costs that are ordinary, necessary, and related to the care of medical
12 care recipients and are not expressly unallowable will be allowable
13 costs. These expenses include:

14 (1) Meeting licensing and certification standards;

15 (2) Meeting standards of providing regular room, nursing,
16 ancillary, and dietary services, as established by department rule and
17 regulation pursuant to chapter 211, Laws of 1979 ex. sess.; and

18 (3) Fulfilling accounting and reporting requirements imposed by
19 this chapter."

20 "Sec. 4. RCW 74.46.410 and 1989 c 372 s 2 are each amended to read
21 as follows:

22 (1) Costs will be unallowable if they are not documented,
23 necessary, ordinary, and related to the provision of care services to
24 authorized patients.

25 (2) Unallowable costs include, but are not limited to, the
26 following:

27 (a) Costs of items or services not covered by the medical care
28 program. Costs of such items or services will be unallowable even if

1 they are indirectly reimbursed by the department as the result of an
2 authorized reduction in patient contribution;

3 (b) Costs of services and items provided to recipients which are
4 covered by the department's medical care program but not included in
5 care services established by the department under this chapter;

6 (c) Costs associated with a capital expenditure subject to section
7 1122 approval (part 100, Title 42 C.F.R.) if the department found it
8 was not consistent with applicable standards, criteria, or plans. If
9 the department was not given timely notice of a proposed capital
10 expenditure, all associated costs will be unallowable up to the date
11 they are determined to be reimbursable under applicable federal
12 regulations;

13 (d) Costs associated with a construction or acquisition project
14 requiring certificate of need approval pursuant to chapter 70.38 RCW if
15 such approval was not obtained;

16 (e) Interest costs other than those provided by RCW 74.46.290 on
17 and after the effective date of RCW 74.46.530;

18 (f) Salaries or other compensation of owners, officers, directors,
19 stockholders, and others associated with the contractor or home office,
20 except compensation paid for service related to patient care;

21 (g) Costs in excess of limits or in violation of principles set
22 forth in this chapter;

23 (h) Costs resulting from transactions or the application of
24 accounting methods which circumvent the principles of the cost-related
25 reimbursement system set forth in this chapter;

26 (i) Costs applicable to services, facilities, and supplies
27 furnished by a related organization in excess of the lower of the cost
28 to the related organization or the price of comparable services,
29 facilities, or supplies purchased elsewhere;

1 (j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX
2 recipients are allowable if the debt is related to covered services, it
3 arises from the recipient's required contribution toward the cost of
4 care, the provider can establish that reasonable collection efforts
5 were made, the debt was actually uncollectible when claimed as
6 worthless, and sound business judgment established that there was no
7 likelihood of recovery at any time in the future;

8 (k) Charity and courtesy allowances;

9 (l) Cash, assessments, or other contributions, excluding dues, to
10 charitable organizations, professional organizations, trade
11 associations, or political parties, and costs incurred to improve
12 community or public relations;

13 (m) Vending machine expenses;

14 (n) Expenses for barber or beautician services not included in
15 routine care;

16 (o) Funeral and burial expenses;

17 (p) Costs of gift shop operations and inventory;

18 (q) Personal items such as cosmetics, smoking materials, newspapers
19 and magazines, and clothing, except those used in patient activity
20 programs;

21 (r) Fund-raising expenses, except those directly related to the
22 patient activity program;

23 (s) Penalties and fines;

24 (t) Expenses related to telephones, televisions, radios, and
25 similar appliances in patients' private accommodations;

26 (u) Federal, state, and other income taxes;

27 (v) Costs of special care services except where authorized by the
28 department;

29 (w) Expenses of key-man insurance and other insurance or retirement
30 plans not made available to all employees;

- 1 (x) Expenses of profit-sharing plans;
- 2 (y) Expenses related to the purchase and/or use of private or
3 commercial airplanes which are in excess of what a prudent contractor
4 would expend for the ordinary and economic provision of such a
5 transportation need related to patient care;
- 6 (z) Personal expenses and allowances of owners or relatives;
- 7 (aa) All expenses of maintaining professional licenses or
8 membership in professional organizations;
- 9 (bb) Costs related to agreements not to compete;
- 10 (cc) Amortization of goodwill;
- 11 (dd) Expenses related to vehicles which are in excess of what a
12 prudent contractor would expend for the ordinary and economic provision
13 of transportation needs related to patient care;
- 14 (ee) Legal and consultant fees in connection with a fair hearing
15 against the department where a decision is rendered in favor of the
16 department or where otherwise the determination of the department
17 stands;
- 18 (ff) Legal and consultant fees of a contractor or contractors in
19 connection with a lawsuit against the department;
- 20 (gg) Lease acquisition costs and other intangibles not related to
21 patient care;
- 22 (hh) All rental or lease costs other than those provided in RCW
23 74.46.300 on and after the effective date of RCW 74.46.510 and
24 74.46.530;
- 25 (ii) Postsurvey charges incurred by the facility as a result of
26 subsequent inspections under RCW 18.51.050 which occur beyond the first
27 postsurvey visit during the certification survey calendar year;
- 28 (jj) Costs and fees otherwise allowable for legal services, whether
29 purchased, allocated by a home office, regional office or management
30 company, or performed by the contractor or employees of the contractor,

1 in excess of the eighty-fifth percentile of such costs reported by all
2 contractors for the most recent cost report period: PROVIDED, That this
3 limit shall not apply if a contractor has not exceeded this percentile
4 in any of the preceding three annual cost report periods;

5 (kk) Costs and fees otherwise allowable for accounting and
6 bookkeeping services, whether purchased, allocated by a home office,
7 regional office or management company, or performed by the contractor
8 or employees of the contractor, in excess of the eighty-fifth
9 percentile of such costs reported by all contractors for the most
10 recent cost report period: PROVIDED, That this limit shall not apply
11 if a contractor has not exceeded this percentile in any of the
12 preceding three annual cost report periods;

13 (ll) Compensation paid for any purchased nursing care services,
14 including registered nurse, licensed practical nurse, and nurse
15 assistant services, obtained through service contract arrangement in
16 excess of the amount of compensation paid for such hours of nursing
17 care service had they been paid at the average hourly wage, including
18 related taxes and benefits, for in-house nursing care staff of like
19 classification at the same nursing facility, as reported in the most
20 recent cost report period;

21 (mm) For all partial or whole rate periods after July 17, 1984, and
22 before July 1, 1993, costs of land and depreciable assets that cannot
23 be reimbursed under the Deficit Reduction Act of 1984 and implementing
24 state statutory and regulatory provisions."

25 "Sec. 5. RCW 74.46.481 and 1990 c 207 s 1 are each amended to read
26 as follows:

27 (1) The nursing services cost center shall include all costs
28 related to the direct provision of nursing and related care, including
29 fringe benefits and payroll taxes for the nursing and related care

1 personnel. For rates effective for state fiscal year 1984, the
2 department shall adopt by administrative rule a definition of "related
3 care" which shall incorporate, but not exceed services reimbursable as
4 of June 30, 1983. For rates effective for state fiscal year 1985, the
5 definition of related care shall include ancillary care. For rates
6 effective after June 30, 1991, nursing services costs, as reimbursed
7 within this chapter and as tested for reasonableness within this
8 section, shall not include costs of any purchased nursing care
9 services, including registered nurse, licensed practical nurse, and
10 nurse assistant services, obtained through service contract arrangement
11 in excess of the amount of compensation paid for such hours of nursing
12 care service had they been paid at the average hourly wage, including
13 related taxes and benefits, for in-house nursing care staff of like
14 classification at the same nursing facility, as reported in the most
15 recent cost report period.

16 (2) The department shall adopt by administrative rules a method for
17 establishing a nursing services cost center rate consistent with the
18 principles stated in this section.

19 (3) Utilizing regression or other statistical technique, the
20 department shall determine a reasonable limit on facility nursing staff
21 taking into account facility patient characteristics. For purposes of
22 this section, facility nursing staff refers to registered nurses,
23 licensed practical nurses and nursing assistants employed by the
24 facility or obtained through temporary labor contract arrangements.
25 Effective January 1, 1988, the hours associated with the training of
26 nursing assistants and the supervision of that training for nursing
27 assistants shall not be included in the calculation of facility nursing
28 staff. In selecting a measure of patient characteristics, the
29 department shall take into account:

1 (a) The correlation between alternative measures and facility
2 nursing staff; and

3 (b) The cost of collecting information for and computation of a
4 measure.

5 If regression is used, the limit shall be set at predicted nursing
6 staff plus 1.75 regression standard errors. If another statistical
7 method is utilized, the limit shall be set at a level corresponding to
8 1.75 standard errors above predicted staffing computed according to a
9 regression procedure.

10 (4) No facility shall receive reimbursement for nursing staff
11 levels in excess of the limit, except that, if a facility was
12 reimbursed for a nursing staff level in excess of the limit as of June
13 30, 1983, the facility may chose to continue to receive its June, 1983
14 nursing services rate plus any adjustments in rates, such as
15 adjustments for economic trends, made available to all facilities.
16 However, nursing staff levels established under subsection (3) of this
17 section shall not apply to the nursing services cost center
18 reimbursement rate for the pilot facility especially designed to meet
19 the needs of persons living with AIDS as defined by RCW 70.24.017 and
20 specifically authorized for this purpose under the 1989 amendment to
21 the Washington state health plan [1989 1st ex.s. c 9]. The
22 reasonableness limit established pursuant to this subsection shall
23 remain in effect for the period July 1, 1983 through June 30, 1985. At
24 that time the department may revise the measure of patient
25 characteristics or method used to establish the limit.

26 (5) The department shall select an index of cost increase relevant
27 to the nursing and related services cost area. In the absence of a
28 more representative index, the department shall use the medical care
29 component index as maintained by the United States bureau of labor
30 statistics.

1 (6) If a facility's nursing staff level is below the limit
2 specified in subsection (3) of this section, the department shall
3 determine the percentage increase for all items included in the nursing
4 services cost center between the facility's most recent cost reporting
5 period and the next prior cost reporting period.

6 (a) If the percentage cost increase for a facility is below the
7 increase in the selected index for the same time period, the facility's
8 reimbursement rate in the nursing services cost center shall equal the
9 facility's cost from the most recent cost reporting period plus any
10 allowance for inflation provided by legislative appropriation.

11 (b) If the percentage cost increase for a facility exceeds the
12 increase in the selected index, the department shall limit the cost
13 used for setting the facility's rate in the nursing services cost area
14 to a level reflecting the increase in the selected index.

15 (7) If the facility's nursing staff level exceeds the
16 reasonableness limit established in subsection (3) of this section, the
17 department shall determine the increase for all items included in the
18 nursing services cost center between the facility's most recent cost
19 reporting period and the next prior cost reporting period.

20 (a) If the percentage cost increase for a facility is below the
21 increase in the index selected pursuant to subsection (5) of this
22 section, the facility's reimbursement rate in the nursing cost center
23 shall equal the facility's cost from the most recent cost reporting
24 period adjusted downward to reflect the limit on nursing staff, plus
25 any allowance for inflation provided by legislative appropriation
26 subject to the provisions of subsection (4) of this section.

27 (b) If the percentage cost increase for a facility exceeds the
28 increase in the selected index, the department shall limit the cost
29 used for setting the facility's rate in the nursing services cost
30 center to a level reflecting the nursing staff limit and the cost

1 increase limit, subject to the provisions of subsection (4) of this
2 section, plus any allowance for inflation provided by legislative
3 appropriation.

4 (8) Prospective rates for the nursing services cost center, for
5 state fiscal year 1992 only, shall not be subject to the cost growth
6 index lid in subsections (5), (6), and (7) of this section. The lid
7 shall apply for state fiscal year 1991 rate setting and all state
8 fiscal years subsequent to fiscal year 1992.

9 (9) The department is authorized to determine on a systematic basis
10 facilities with unmet patient care service needs. The department may
11 increase the nursing services cost center prospective rate for a
12 facility beyond the level determined in accordance with subsection (6)
13 of this section if the facility's actual and reported nursing staffing
14 is one standard error or more below predicted staffing as determined
15 according to the method selected pursuant to subsection (3) of this
16 section and the facility has unmet patient care service needs:
17 PROVIDED, That prospective rate increases authorized by this subsection
18 shall be funded only from legislative appropriations made for this
19 purpose and the increases shall be conditioned on specified
20 improvements in patient care at such facilities.

21 (~~(9)~~) (10) The department shall establish a method for
22 identifying patients with exceptional care requirements and a method
23 for establishing or negotiating on a consistent basis rates for such
24 patients.

25 (~~(10)~~) (11) The department, in consultation with interested
26 parties, shall adopt rules to establish the criteria the department
27 will use in reviewing any requests by a contractor for a prospective
28 rate adjustment to be used to increase the number of nursing staff.
29 These rules shall also specify the time period for submission and
30 review of staffing requests: PROVIDED, That a decision on a staffing

1 request shall not take longer than sixty days from the date the
2 department receives such a complete request. In establishing the
3 criteria, the department may consider, but is not limited to, the
4 following:

- 5 (a) Increases in acuity levels of contractors' residents;
- 6 (b) Staffing patterns for similar facilities;
- 7 (c) Physical plant of contractor; and
- 8 (d) Survey, inspection of care, and department consultation
9 results."

10 "Sec. 6. RCW 74.46.530 and 1985 c 361 s 17 are each amended to
11 read as follows:

12 (1) The department shall establish for individual facilities return
13 on investment allowances composed of two parts: A financing allowance
14 and a variable return allowance.

15 (a) The financing allowance shall be determined by multiplying the
16 net invested funds of each facility by .11, and dividing by the
17 contractor's total patient days. If a capitalized addition or
18 retirement of an asset will result in a different licensed bed capacity
19 during the ensuing period, the prior period total patient days used in
20 computing the financing and variable return allowances shall be
21 adjusted to the anticipated patient day level.

22 (b) In computing the portion of net invested funds representing the
23 net book value of tangible fixed assets, the same assets, depreciation
24 bases, lives, and methods referred to in RCW 74.46.330, 74.46.350,
25 74.46.360, and 74.46.370, including owned and leased assets, shall be
26 utilized, except that the capitalized cost of land upon which the
27 facility is located and such other contiguous land which is reasonable
28 and necessary for use in the regular course of providing patient care
29 shall also be included. Subject to provisions and limitations

1 contained in this chapter, for land purchased by owners or lessors
2 before July 18, 1984, capitalized cost of land shall be the buyer's
3 capitalized cost. For all partial or whole rate periods after July 17,
4 1984, and before July 1, 1993, if the land is purchased after July 17,
5 1984, capitalized cost shall be that of the owner of record on July 17,
6 1984, or buyer's capitalized cost, whichever is lower. In the case of
7 leased facilities where the net invested funds are unknown or the
8 contractor is unable to provide necessary information to determine net
9 invested funds, the secretary shall have the authority to determine an
10 amount for net invested funds based on an appraisal conducted according
11 to RCW 74.46.360(1).

12 (c) In determining the variable return allowance:

13 (i) The department will first rank all facilities in numerical
14 order from highest to lowest according to their average per diem
15 allowable costs for the sum of the administration and operations and
16 property cost centers for the previous cost report period.

17 (ii) The department shall then compute the variable return
18 allowance by multiplying the appropriate percentage amounts, which
19 shall not be less than one percent and not greater than four percent,
20 by the total prospective rate for each facility, as determined in RCW
21 74.46.450 through 74.46.510. However, commencing with the rate
22 effective July 1, 1992, and for all subsequent rate periods, the
23 percentage to be multiplied by the total prospective rate for each
24 facility shall be zero, one, two, or three percent. The percentage
25 amounts will be based on groupings of facilities according to the
26 rankings as established in subparagraph (1)(b)(i) of this section.
27 Those groups of facilities with lower per diem costs shall receive
28 higher percentage amounts than those with higher per diem costs.

29 (d) The sum of the financing allowance and the variable return
30 allowance shall be the return on investment for each facility, and

1 shall be added to the prospective rates of each contractor as
2 determined in RCW 74.46.450 through 74.46.510.

3 (e) In the case of a facility which was leased by the contractor as
4 of January 1, 1980, in an arm's-length agreement, which continues to be
5 leased under the same lease agreement, and for which the annualized
6 lease payment, plus any interest and depreciation expenses associated
7 with contractor-owned assets, for the period covered by the prospective
8 rates, divided by the contractor's total patient days, minus the
9 property cost center determined according to RCW 74.46.510, is more
10 than the return on investment allowance determined according to
11 subsection (1)(d) of this section, the following shall apply:

12 (i) The financing allowance shall be recomputed substituting the
13 fair market value of the assets as of January 1, 1982, as determined by
14 the department of general administration through an appraisal
15 procedure, less accumulated depreciation on the lessor's assets since
16 January 1, 1982, for the net book value of the assets in determining
17 net invested funds for the facility. A determination by the department
18 of general administration of fair market value shall be final unless
19 the procedure used to make such determination is shown to be arbitrary
20 and capricious.

21 (ii) The sum of the financing allowance computed under subsection
22 (1)(e)(i) of this section and the variable allowance shall be compared
23 to the annualized lease payment, plus any interest and depreciation
24 expenses associated with contractor-owned assets, for the period
25 covered by the prospective rates, divided by the contractor's total
26 patient days, minus the property cost center rate determined according
27 to RCW 74.46.510. The lesser of the two amounts shall be called the
28 alternate return on investment allowance.

29 (iii) The return on investment allowance determined according to
30 subsection (1)(d) of this section or the alternate return on investment

1 allowance, whichever is greater, shall be the return on investment
2 allowance for the facility and shall be added to the prospective rates
3 of the contractor as determined in RCW 74.46.450 through 74.46.510.

4 (f) In the case of a facility which was leased by the contractor as
5 of January 1, 1980, in an arm's-length agreement, if the lease is
6 renewed or extended pursuant to a provision of the lease, the treatment
7 provided in subsection (1)(e) of this section shall be applied except
8 that in the case of renewals or extensions made subsequent to April 1,
9 1985, reimbursement for the annualized lease payment shall be no
10 greater than the reimbursement for the annualized lease payment for the
11 last year prior to the renewal or extension of the lease.

12 (2) In the event that the department of health and human services
13 disallows the application of the return on investment allowances to
14 nonprofit facilities, the department shall modify the measurements of
15 net invested funds used for computing individual facility return on
16 investment allowances as follows: Net invested funds for each
17 nonprofit facility shall be multiplied by one minus the ratio of equity
18 funds to the net invested funds of all nonprofit facilities.

19 (3) Each biennium, beginning in 1985, the secretary shall review
20 the adequacy of return on investment allowances in relation to
21 anticipated requirements for maintaining, reducing, or expanding
22 nursing care capacity. The secretary shall report the results of such
23 review to the legislature and make recommendations for adjustments in
24 the return on investment rates utilized in this section, if
25 appropriate."

26 "**Sec. 7.** RCW 74.46.360 and 1989 c 372 s 14 are each amended to
27 read as follows:

28 (1) For all partial or whole rate periods after December 31, 1984,
29 and before July 1, 1993, the cost basis of land and depreciation base

1 of depreciable assets shall be the historical cost of the contractor or
2 lessor, when the assets are leased by the contractor, in acquiring the
3 asset in an arm's-length transaction and preparing it for use, less
4 goodwill, and less accumulated depreciation, if applicable, which has
5 been incurred during periods that the assets have been used in or as a
6 facility by any contractor, such accumulated depreciation to be
7 measured in accordance with subsections (2), (3), and (4) of this
8 section and RCW 74.46.350 and 74.46.370. If the department challenges
9 the historical cost of an asset, or if the contractor cannot or will
10 not provide the historical costs, the department will have the
11 department of general administration, through an appraisal procedure,
12 determine the fair market value of the assets at the time of purchase.
13 The cost basis of land and depreciation base of ((the)) depreciable
14 assets will not exceed such fair market value.

15 (2) The historical cost of depreciable and nondepreciable donated
16 assets, or of depreciable and nondepreciable assets received through
17 testate or intestate distribution, shall be the lesser of:

18 (a) Fair market value at the date of donation or death; or

19 (b) The historical cost base of the owner last contracting with the
20 department, if any.

21 (3) Estimated salvage value of acquired, donated, or inherited
22 assets shall be deducted from historical cost where the straight-line
23 or sum-of-the-years' digits method of depreciation is used.

24 (4) (a) Where land or depreciable assets are acquired that were
25 used in the medical care program subsequent to January 1, 1980, the
26 cost basis or depreciation base of the assets will not exceed the net
27 book value which did exist or would have existed had the assets
28 continued in use under the previous contract with the department;
29 except that depreciation shall not be assumed to accumulate during
30 periods when the assets were not in use in or as a facility.

1 (b) The provisions of (a) of this subsection shall not apply to the
2 most recent arm's-length acquisition if it occurs at least ten years
3 after the ownership of the assets has been previously transferred in an
4 arm's-length transaction nor to the first arm's-length acquisition that
5 occurs after January 1, 1980, for facilities participating in the
6 medical care program prior to January 1, 1980. The new cost basis or
7 depreciation base for such acquisitions shall not exceed the fair
8 market value of the assets as determined by the department of general
9 administration through an appraisal procedure. A determination by the
10 department of general administration of fair market value shall be
11 final unless the procedure used to make such determination is shown to
12 be arbitrary and capricious. For all partial or whole rate periods
13 after July 17, 1984, this subsection is inoperative for any transfer of
14 ownership of any asset, depreciable or nondepreciable, occurring on or
15 after July 18, 1984, leaving (a) of this subsection to apply alone to
16 such transfers: PROVIDED, HOWEVER, That this subsection shall apply to
17 transfers of ownership of assets occurring prior to January 1, 1985, if
18 the costs of such assets have never been reimbursed under medicaid cost
19 reimbursement on an owner-operated basis or as a related-party lease:
20 PROVIDED FURTHER, That for any contractor that can document in writing
21 an enforceable agreement for the purchase of a nursing home dated prior
22 to July 18, 1984, and submitted to the department prior to January 1,
23 1988, the cost basis of allowable land and the depreciation base of the
24 nursing home, for rates established after July 18, 1984, shall not
25 exceed the fair market value of the assets at the date of purchase as
26 determined by the department of general administration through an
27 appraisal procedure. For medicaid cost reimbursement purposes, an
28 agreement to purchase a nursing home dated prior to July 18, 1984, is
29 enforceable, even though such agreement contains no legal description

1 of the real property involved, notwithstanding the statute of frauds or
2 any other provision of law.

3 (c) The provisions of (a) and (b) of this subsection shall not
4 apply to an arm's-length transaction that occurs on or after July 1,
5 1993. The valuation of capital assets, for the purposes of determining
6 payment rates for nursing facilities, will not be increased (as
7 measured from the date of acquisition by the seller to the date of the
8 change of ownership) solely as a result of a change of ownership, by
9 more than the lesser of:

10 (i) One-half of the percentage increases (as measured over the same
11 period of time or, if necessary, as extrapolated retrospectively by the
12 secretary) in the dodge construction index systems costs for nursing
13 homes, applied to the aggregate with respect to those facilities which
14 have undergone a change of ownership during the fiscal year; or

15 (ii) One-half of the percentage increase (as measured over the same
16 period of time) in the consumer price index for all urban consumers
17 (United States city average).

18 (d) In the case of land or depreciable assets leased by the same
19 contractor since January 1, 1980, in an arm's-length lease, and
20 purchased by the lessee/contractor, the lessee/contractor shall have
21 the option:

22 (i) To have the provisions of subsection (b) of this section apply
23 to the purchase; or

24 (ii) To have the reimbursement for property and return on
25 investment continue to be calculated pursuant to the provisions
26 contained in RCW 74.46.530(1) (e) and (f) based upon the provisions of
27 the lease in existence on the date of the purchase, but only if the
28 purchase date meets one of the following criteria:

1 (A) The purchase date is after the lessor has declared bankruptcy
2 or has defaulted in any loan or mortgage held against the leased
3 property;

4 (B) The purchase date is within one year of the lease expiration or
5 renewal date contained in the lease;

6 (C) The purchase date is after a rate setting for the facility in
7 which the reimbursement rate set pursuant to this chapter no longer is
8 equal to or greater than the actual cost of the lease; or

9 (D) The purchase date is within one year of any purchase option in
10 existence on January 1, 1988.

11 ~~((d))~~ (e) For all rate periods past or future where land or
12 depreciable assets are acquired from a related organization, the
13 contractor's cost basis and depreciation base shall not exceed the base
14 the related organization had or would have had under a contract with
15 the department.

16 ~~((e))~~ (f) Where the land or depreciable asset is a donation or
17 distribution between related organizations, the cost basis or
18 depreciation base shall be the lesser of (i) fair market value, less
19 salvage value, or (ii) the cost basis or depreciation base the related
20 organization had or would have had for the asset under a contract with
21 the department."

22 "Sec. 8. RCW 74.46.700 and 1980 c 177 s 70 are each amended to
23 read as follows:

24 ~~((1))~~ Each ~~((contractor))~~ nursing home shall establish and
25 maintain, as a service to the ~~((medical care recipient))~~ resident, a
26 bookkeeping system incorporated into the business records for all
27 ~~((recipient))~~ resident moneys entrusted to the contractor and received
28 by the facility for the ~~((recipient))~~ resident.

29 ~~((2) Such system will apply to a recipient who is:~~

1 ~~(a) Incapable of handling his or her own money and the department~~
2 ~~or the recipient's guardian, relative, or physician makes written~~
3 ~~request of the facility to accept this responsibility; or~~

4 ~~(b) Capable of handling his or her own money, but requests the~~
5 ~~facility in writing to accept this responsibility.~~

6 ~~(3) The written requests provided in subsection (2) of this section~~
7 ~~shall be maintained by the contractor in the recipient's file.~~

8 ~~(4) The recipient must be given at least a quarterly reporting of~~
9 ~~all financial transactions in his or her trust account. The~~
10 ~~representative payee, the guardian, and/or other designated agents of~~
11 ~~the recipient must be sent a copy of said reporting on the same basis~~
12 ~~as the recipient.))~~

13 The department shall adopt rules to ensure that resident personal
14 funds handled by the facility are maintained by each nursing home in a
15 manner that is, at a minimum, consistent with federal requirements."

16 "NEW SECTION. **Sec. 9.** The following acts or parts of acts are
17 each repealed:

18 (1) RCW 74.46.710 and 1983 1st ex.s. c 67 s 37 & 1980 c 177 s 71;

19 (2) RCW 74.46.720 and 1983 1st ex.s. c 67 s 38 & 1980 c 177 s 72;

20 (3) RCW 74.46.730 and 1980 c 177 s 73;

21 (4) RCW 74.46.740 and 1980 c 177 s 74;

22 (5) RCW 74.46.750 and 1980 c 177 s 75; and

23 (6) RCW 74.46.760 and 1985 c 7 s 149 & 1980 c 177 s 76."

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25 By Representative Braddock

26

27 On page 1, line 1 of the title, after "homes;" strike the remainder
28 of the title and insert "amending RCW 18.51.050, 74.46.660, 74.46.210,

1 74.46.410, 74.46.481, 74.46.530, 74.46.360, and 74.46.700; and
2 repealing RCW 74.46.710, 74.46.720, 74.46.730, 74.46.740, 74.46.750,
3 and 74.46.760."