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ENGROSSED SUBSTITUTE HOUSE BILL 1569

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State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Braddock, Prentice, Franklin, Locke, Morris, Sprenkle, Anderson, Nelson, Jacobsen, Belcher, Rasmussen, Wineberry, Brekke, Cole, Peery, R. Fisher, Spanel, Cantwell, Valle, Riley, Phillips and Paris).

Read first time February 28, 1991.

1 AN ACT Relating to establishment and financing of a community-based  
2 long-term care and support services system for functionally disabled  
3 persons; amending RCW 74.09.510 and 74.09.700; reenacting and amending  
4 RCW 74.09.520; adding a new chapter to Title 70 RCW; adding new  
5 sections to chapter 74.09 RCW; adding a new section to chapter 71A.12  
6 RCW; creating new sections; prescribing penalties; making  
7 appropriations; providing effective dates; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and  
10 cited as the omnibus community-based long-term care secured benefit  
11 act.

12 NEW SECTION. **Sec. 2.** PURPOSE AND INTENT. It is the purpose and  
13 intent of the legislature, through this chapter, to organize the  
14 foundation for financing and providing community-based long-term care

1 and support services through an integrated, comprehensive system that  
2 promotes human dignity and recognizes the individuality of all  
3 functionally disabled persons. This system shall be available,  
4 accessible, and responsive to all citizens based upon an assessment of  
5 their functional disabilities. The legislature recognizes that  
6 families, volunteers, and community organizations are absolutely  
7 essential for delivery of effective and efficient community-based long-  
8 term care and support services and it is a purpose of this chapter to  
9 support and strengthen that private and public service infrastructure.  
10 It is further a purpose of this chapter to provide secured benefit  
11 assurance in perpetuity without requiring family or program beneficiary  
12 impoverishment for service eligibility.

13 NEW SECTION. **Sec. 3.** DEFINITIONS. Unless the context clearly  
14 requires otherwise, the definitions in this section apply throughout  
15 this chapter.

16 (1) "Administrative entity" means an agency of state, regional, or  
17 local government or a private nonprofit organization that has entered  
18 into an agreement with the board to administer any part of the program.

19 (2) "Board" means the community-based long-term care secured  
20 benefit program board.

21 (3) "Committee" means the community-based long-term care secured  
22 benefit program policy advisory committee established pursuant to  
23 section 6 of this act.

24 (4) "Community-based long-term care and support services" means  
25 services and support provided to program beneficiaries in accordance  
26 with section 9 of this act.

27 (5) "Federal poverty level" means the annual poverty guidelines  
28 determined annually by the United States department of health and human  
29 services, or its successor agency.

1 (6) "Functionally disabled person" means a person who, because of  
2 a recognized chronic physical or mental condition or disease: (a)  
3 Needs care, support, supervision, or monitoring to perform activities  
4 of daily living or instrumental activities of daily living; or (b)  
5 needs support to ameliorate or compensate for the effect of the chronic  
6 physical or mental condition or disease.

7 (7) "Habilitation service" means services to assist persons in  
8 acquiring and maintaining life skills and to raise, maintain, or  
9 support their levels of physical, mental, social, and vocational  
10 functioning. "Habilitation services" shall not include major  
11 rehabilitative services to assist persons in regaining previously  
12 existing bodily functions and life skills.

13 (8) "Program" means the community-based long-term care secured  
14 benefit program established by this chapter.

15 (9) "Program beneficiary" means a person who has been determined to  
16 be functionally disabled and eligible to receive services through the  
17 program.

18 PART I

19 ADMINISTRATION OF THE COMMUNITY-BASED  
20 LONG-TERM CARE SECURED BENEFIT PROGRAM

21 NEW SECTION. **Sec. 4.** INTENT REGARDING PROGRAM ADMINISTRATION. It  
22 is the intent of the legislature that administration of the program  
23 includes active participation by program beneficiaries, their families,  
24 and communities in public discussions, service planning, decision  
25 making, and service delivery. An independent board, representing  
26 payors and functionally disabled persons, shall administer this chapter  
27 within statutory guidelines established by the legislature.  
28 Administrative entities shall encourage creativity, innovation, and

1 community involvement in the development and implementation of  
2 services. Information systems shall be developed to assess program  
3 outcomes and to assure state-wide adherence to baseline levels of  
4 service availability and quality. A simplified, independent  
5 inspection, monitoring and correction function shall be established  
6 within the system.

7 NEW SECTION. **Sec. 5.** ESTABLISHMENT AND POWERS OF BOARD. (1) The  
8 community-based long-term care secured benefit program board is hereby  
9 established. The board shall be composed of five members appointed by  
10 the governor. The members of the board shall be representative of  
11 public payors, private payors, and functionally disabled persons. The  
12 chairperson of the board shall be chosen by the vote of a majority of  
13 the members of the board.

14 (2) The governor shall appoint the initial members of the board to  
15 staggered terms not to exceed eight years, with three members of the  
16 board serving at least four years. Members appointed thereafter shall  
17 serve four-year terms, and may serve for up to two terms. Members of  
18 the board shall be compensated in accordance with RCW 43.03.250 and  
19 shall be reimbursed for their travel expenses while on official  
20 business in accordance with RCW 43.03.050 and 43.03.060. Meetings of  
21 the board shall be at the call of the chairperson.

22 (3) The board shall have the following powers and duties:

23 (a) To plan, design, and administer a regionally operated system of  
24 community-based long-term care and support services that provides a  
25 coordinated system of care and support for functionally disabled  
26 persons through regional administrative entities, using family,  
27 volunteer, and community resources to the greatest extent possible, in  
28 which functionally disabled persons and resources are directed toward

1 the least restrictive and least costly service appropriate for each  
2 such person;

3 (b) To manage the current expense account and reserve account of  
4 the secured benefit fund established by section 20 of this act;

5 (c) To administer program benefits, and to determine the scope of  
6 community-based long-term care and support services covered by the  
7 program in accordance with section 9 of this act;

8 (i) In determining the scope of services, the board shall maintain  
9 the financial integrity of the secured benefit fund;

10 (ii) The board shall define the scope of transportation services  
11 that can be funded by the program in accordance with section 9 of this  
12 act. In defining the scope of transportation services, the board shall  
13 consider the appropriate role of paratransit systems;

14 (d) To develop uniform functional disability assessments that  
15 accurately measure the abilities and disabilities of functionally  
16 disabled persons of all ages, and determine the entity or entities  
17 responsible for conducting such assessments;

18 (e) To develop performance standards, to the extent not  
19 specifically established by this chapter, based upon the  
20 recommendations of the long-term care commission and its technical  
21 advisory committees, with input from functionally disabled persons,  
22 their families, long-term care service providers, and administrators.  
23 Performance standards shall emphasize outcomes, rather than the manner  
24 in which services are administered. Performance standards shall, to the  
25 greatest extent practicable, promote leveraging of family and community  
26 resources available to each program beneficiary and shall include  
27 consideration of the extent to which each program beneficiary's plan of  
28 care builds on the support available to that individual from their  
29 family and the community;

1 (f) To administer and adjust program beneficiary cost-sharing as  
2 necessary, in accordance with section 10 of this act;

3 (g) To engage in quality assurance activities in accordance with  
4 section 7 of this act;

5 (h) To develop payment and cost control mechanisms for community-  
6 based long-term care and support services;

7 (i) To design and administer a long-term care information system in  
8 accordance with section 16 of this act;

9 (j) To develop mechanisms to assure that the program is coordinated  
10 with the acute health care services system and the vocational  
11 rehabilitation services system;

12 (k) To coordinate with other relevant entities to plan for  
13 development of an appropriately trained long-term care work force;

14 (l) To contract with and monitor administrative model projects in  
15 accordance with section 14 of this act;

16 (m) To delegate its authority, when deemed appropriate by the  
17 board, to other public or private entities; and

18 (n) To adopt rules pursuant to chapter 34.05 RCW necessary to carry  
19 out the responsibilities established in this chapter.

20 (4) The board shall employ staff as necessary to fulfill its  
21 responsibilities and duties. The program director and up to five other  
22 employees are exempt from state civil service law, chapter 41.06 RCW.  
23 Remaining staff are subject to the state civil service law, chapter  
24 41.06 RCW. In addition, the board may contract with third parties for  
25 services necessary to carry out its responsibilities and duties to the  
26 extent not prohibited by RCW 41.06.380.

27 NEW SECTION. **Sec. 6.** ESTABLISHMENT OF POLICY ADVISORY COMMITTEE.

28 (1) The community-based long-term care secured benefit program policy  
29 advisory committee is hereby established. The committee shall be

1 composed of thirteen members appointed by the board. Committee  
2 membership shall be geographically balanced, ethnically and culturally  
3 diverse, and representative of persons with differing types of  
4 functional disabilities. At least half of the members shall be  
5 functionally disabled persons or their advocates, who shall not be paid  
6 long-term care services providers.

7 (2) The committee shall:

8 (a) Advise the board regarding planning and administration of the  
9 program; and

10 (b) Review and comment upon state policies, programs, and actions  
11 that affect program beneficiaries, with the intent of assuring maximum  
12 coordination with long-term care and support services, and maximum  
13 responsiveness to the needs of program beneficiaries.

14 (3) The committee shall meet at least quarterly. Committee members  
15 shall be reimbursed for travel expenses pursuant to RCW 43.03.050 and  
16 43.03.060.

17 NEW SECTION. **Sec. 7.** QUALITY ASSURANCE. (1) The board is  
18 responsible for quality assurance activities relating to licensing,  
19 monitoring, and enforcement of performance standards applicable to  
20 administrative entities. The department of health shall be responsible  
21 for licensing and monitoring community-based long-term care and support  
22 service providers. In its quality assurance activities, the board  
23 shall emphasize review of service outcomes, rather than the manner in  
24 which services are administered.

25 (2) Quality assurance activities shall include but not be limited  
26 to:

27 (a) Establishment of licensure and certification requirements for  
28 and monitoring of administrative entities. The department of health  
29 shall administer existing licensing and monitoring programs for

1 community-based long-term care and support service providers, and their  
2 employees. The board may request that licensing standards be developed  
3 by the legislature or the department of health for community-based  
4 long-term care and support services that are not regulated under  
5 existing statutes or rules.

6 (b) Monitoring and investigation of performance by administrative  
7 entities and community-based long-term care and support service  
8 providers, and their employees, including the establishment of  
9 mechanisms to receive and respond to reports of abuse, neglect,  
10 malpractice, misfeasance, and contractual violations by such entities  
11 and providers;

12 (c) Imposition of sanctions against administrative entities for  
13 abuse, neglect, malpractice, misfeasance, and contractual violations,  
14 which shall include withholding or requiring the withholding of  
15 payment, terminating or requiring the termination of contracts,  
16 injunctive remedies, civil penalties, receivership, and referral for  
17 prosecution; and

18 (d) Retrospective monitoring of data gathered through the  
19 information system established by section 16 of this act.

20 (3) The board shall provide for an independent office of the  
21 inspector general to assist in carrying out the quality assurance  
22 powers and duties established in this section, which office shall  
23 report directly to the board and which shall annually report to the  
24 legislature on the quality of community-based long-term care and  
25 support services provided to functionally disabled persons.

26 (4) By petition to the board, a program beneficiary may initiate,  
27 or intervene in, any proceeding in which the board is taking an  
28 enforcement action against an administrative entity or community-based  
29 long-term care provider serving the program beneficiary.



1 (5) Contracts with administrative entities shall specify the  
2 quality assurance activities that will be undertaken by the  
3 administrative entity. Such activities shall include monitoring of  
4 contracts between administrative entities and community-based long-term  
5 care and support services providers, establishment of program  
6 beneficiary complaint resolution mechanisms, and other activities  
7 deemed appropriate by the board.

8 PART II

9 COMMUNITY-BASED LONG-TERM CARE SERVICES

10 NEW SECTION. **Sec. 8.** INTENT REGARDING SERVICES. It is the intent  
11 of sections 9 through 11 of this act relating to community-based long-  
12 term care and support services that such services be defined as  
13 noninstitutional services that are primarily habilitative which would  
14 allow program beneficiaries to live and otherwise function in their  
15 community as independently as practicable. Although these services do  
16 not include nursing homes, state institutions, or health care  
17 facilities, it is necessary that these functions be coordinated with  
18 the community-based long-term care system. Technical, demographic, and  
19 cultural changes make it impossible to prescribe a complete list of  
20 services or define by program the array of services that could meet the  
21 intent and purposes of this chapter. It is the intent of this section  
22 to include those services commonly considered "community-based," and to  
23 allow flexibility in defining new or additional services that will  
24 contribute to the purpose and intent of this chapter. It is recognized  
25 that uniform systems of assessment and case management are essential  
26 for monitoring equity and quality in service delivery, measuring  
27 outcomes, and assuring the most effective use of public and private  
28 expenditures. It is recognized that availability of services does not

1 guarantee their use, and that aggressive targeting and outreach, and  
2 culturally and linguistically accessible and appropriate services, are  
3 necessary to assure that services are available to the most  
4 dispossessed in our communities.

5 NEW SECTION. **Sec. 9.** COMMUNITY-BASED LONG-TERM CARE AND SUPPORT  
6 SERVICES. (1) The services available to program beneficiaries shall  
7 include, at a minimum, those services included in subsection (2) of  
8 this section and provided in accordance with subsection (3) of this  
9 section. Community-based long-term care and support services may be  
10 provided in a nonresidential setting, a program beneficiary's home, or  
11 other residential settings not specifically excluded pursuant to  
12 subsection (4) of this section.

13 (2) Community-based long-term care and support services shall  
14 include at least the following services:

15 (a) Public education;

16 (b) Telephone information and assistance, including screening and  
17 possible referral for case management assessment;

18 (c) Gatekeeper, or other outreach component;

19 (d) Case management, which shall include:

20 (i) A multidimensional assessment of the functionally disabled  
21 person's health and long-term care needs. No cost-sharing shall be  
22 imposed for this modality;

23 (ii) Development of a comprehensive care plan negotiated by the  
24 program beneficiary and his or her case manager, which meets minimum  
25 standards established by the board to prevent overly subjective  
26 determinations of service needs, and which is subject to an appeal  
27 mechanism that provides an opportunity for informal review prior to a  
28 fair hearing;

1 (iii) Initiation, coordination, and monitoring of all long-term  
2 care services needed by a program beneficiary, including those services  
3 not funded by the program;

4 (iv) Involvement of each program beneficiary's family and other  
5 support systems; and

6 (v) Reassessment and service termination;

7 (e) Personal and household assistance services to assist  
8 individuals with activities of daily living and instrumental activities  
9 of daily living;

10 (f) Respite care and family support services necessary to maintain  
11 the program beneficiary in his or her family home;

12 (g) Nursing services;

13 (h) Day care and day health care for functionally disabled persons;

14 (i) Mental health day treatment and other mental health counseling;

15 (j) Habilitation services; and

16 (k) Transportation services, to the extent that the administrative  
17 entity can demonstrate positive planning by the community through the  
18 use of a local option tax or other method to provide paratransit or  
19 specialized transportation services to program beneficiaries.

20 (3) Each functionally disabled person's participation in a  
21 functional assessment performed by an entity designated by the board  
22 pursuant to section 5 of this act shall be a precondition to receipt of  
23 all long-term care services, including those long-term care services  
24 not provided through the program.

25 (4) Services performed by the following institutions shall not be  
26 funded by the secured benefit fund, except as provided in subsection

27 (5) of this section:

28 (a) Nursing homes licensed pursuant to chapter 18.51 RCW;

29 (b) State institutions for developmentally disabled persons,  
30 defined as residential habilitation centers in chapter 71A.20 RCW; and

1 (c) State institutions for mentally ill persons, including but not  
2 limited to Eastern State Hospital and Western State Hospital.

3 (5) The board may establish criteria for funding community-based  
4 long-term care and support services provided in a nursing home or other  
5 health care facility, to the extent that use of such settings is cost-  
6 effective and offers appropriate high quality services to program  
7 beneficiaries.

8 (6) In determining whether services not explicitly included  
9 pursuant to subsection (2) of this section or excluded pursuant to  
10 subsection (4) of this section can be offered through the program, the  
11 board shall consider the following criteria:

12 (a) Protection of the financial integrity of the secured benefit  
13 fund established in section 20 of this act;

14 (b) The extent to which the service is consistent with the intent  
15 and purposes of this chapter;

16 (c) The extent to which the service supports individual dignity and  
17 independence;

18 (d) The needs of individual local communities;

19 (e) The effectiveness and efficiency of the service; and

20 (f) The extent of local community and volunteer participation in  
21 providing the service.

22 NEW SECTION. **Sec. 10.** PROGRAM BENEFICIARY COST-SHARING. (1) The  
23 board shall establish a sliding fee scale to determine a program  
24 beneficiary's contribution to the cost of community-based long-term  
25 care and support services provided to him or her through the program.  
26 The sliding fee scale shall be designed to generate a minimum of twenty  
27 percent of operating costs of the new system. Sliding fee and other  
28 program beneficiary cost sharing payments shall not be imposed prior to  
29 state-wide implementation of the program unless a program beneficiary

1 resides within a county served by a regional administrative model  
2 project and cost sharing payments for community-based long-term care  
3 and support services that program beneficiary is receiving are not  
4 prohibited by federal law.

5 (2) The sliding fee scale shall:

6 (a) Base the level of a program beneficiary's contribution on that  
7 individual's gross household income, giving appropriate consideration  
8 to family size. In determining gross household income, the income of  
9 an applicant's spouse shall be considered available to the applicant,  
10 and the income of a minor applicant's parents shall be considered  
11 available to that minor. The board shall define "income" and other  
12 relevant criteria by rule;

13 (b) Provide that for program beneficiaries with gross household  
14 income below one hundred fifty percent of the federal poverty level,  
15 cost-sharing shall not have the effect of discouraging appropriate use  
16 of necessary community-based long-term care and support services;

17 (c) Provide for limits on annual cost-sharing obligation for each  
18 program beneficiary's household.

19 (3) To affect community-based long-term care and support service  
20 utilization, the board may establish copayments or deductibles which:

21 (a) May be imposed in lieu of the sliding fee scale for program  
22 beneficiaries requiring small amounts of community-based long-term care  
23 and support services; and

24 (b) Shall not have the effect of discouraging appropriate use of  
25 necessary community-based long-term care and support services for  
26 program beneficiaries with gross household incomes below one hundred  
27 fifty percent of the federal poverty level.

28 NEW SECTION. **Sec. 11.** RIGHT TO REFUSE SERVICES. Nothing  
29 contained in this chapter shall be construed to require a program

1 beneficiary to accept services, except to the extent provided otherwise  
2 by chapters 71.05, 11.88, and 11.92 RCW.

3 PART III

4 IMPLEMENTING THE NEW COMMUNITY-BASED

5 LONG-TERM CARE SYSTEM

6 NEW SECTION. **Sec. 12.** INTENT RELATING TO IMPLEMENTATION. It is  
7 the intent of the legislature that state-wide community-based long-term  
8 care and support services be modeled through regional pilot projects  
9 that will test various administrative structures. Lessons learned  
10 through the pilot projects will be applied to development of the state-  
11 wide community-based system. During the initial phase, additional  
12 community-based long-term care and support services will be provided  
13 through medicaid and other expansions using revenue from the secured  
14 benefit fund to serve unmet needs.

15 NEW SECTION. **Sec. 13.** IMPLEMENTATION. (1) The board shall adopt  
16 a schedule for the orderly development of the delivery of services and  
17 availability of the program to functionally disabled residents of the  
18 state, giving full consideration to the results of the evaluation of  
19 administrative model projects conducted in accordance with section 14  
20 of this act.

21 (2) Based upon knowledge gained from the administrative model  
22 projects established pursuant to section 14 of this act, current  
23 categorical long-term care systems shall merge into the program on a  
24 fixed future date, to be determined by the board after authorization by  
25 the legislature. Upon merger of these categorical systems, the needs  
26 of all disability groups shall be equitably addressed through the  
27 program, regardless of the administrative model adopted by the board.

1        NEW SECTION.    **Sec. 14.**    REGIONAL ADMINISTRATIVE MODEL PROJECTS.

2    (1) Regional administrative model projects shall plan, coordinate, and  
3    administer community-based long-term care and support services for a  
4    designated region composed of one or more counties with a total  
5    population of at least forty thousand.

6        (2) Regional administrative model projects shall satisfy the  
7    following criteria:

8        (a) Have the support of the county authority for the county or  
9    counties included in the project site;

10       (b) Build upon support available to each program beneficiary from  
11    the individual's family, community, and local business;

12       (c) Existing regional and local advisory councils, such as councils  
13    on aging, developmental disabilities, and mental health established  
14    under state or federal law, and multicultural and multi-ethnic groups  
15    will be involved in the proposed long-term care delivery system;

16       (d) Services to minimize the effects of degenerative and  
17    debilitating conditions that result in a loss of independence will be  
18    offered. Such a plan might include a mechanism to support people who  
19    are at risk of rapid deterioration without support;

20       (e) Identify mechanisms that will be used to coordinate services  
21    with the acute health care and vocational rehabilitation systems;

22       (f) Identify mechanisms to coordinate services with regional  
23    support networks established pursuant to chapter 71.24 RCW, including,  
24    but not limited to, formal interagency agreements detailing the roles  
25    and responsibilities of the regional support network and the regional  
26    administrative model project in meeting the needs of persons whose  
27    functional disability is related in whole or in part to mental illness;

28       (g) Transportation needs will be assessed and addressed;

29       (h) Identify mechanisms that will be used to control nursing costs;

1 (i) Provide directly or by contract case management services that  
2 include:

3 (i) A multidimensional assessment of the functionally disabled  
4 person's health and long-term care needs. No cost-sharing shall be  
5 imposed for this modality;

6 (ii) Development of a comprehensive care plan negotiated by the  
7 program beneficiary and his or her case manager, which meets minimum  
8 standards established by the board to prevent overly subjective  
9 determinations of service needs, and which is subject to an appeal  
10 mechanism that provides an opportunity for informal review prior to a  
11 fair hearing;

12 (iii) Initiation, coordination, and monitoring of all long-term  
13 care services needed by a program beneficiary, including those services  
14 not funded by the program;

15 (iv) Involvement of each program beneficiary's family and other  
16 support systems; and

17 (v) Reassessment and service termination;

18 (j) Include mechanisms to ensure access to culturally and  
19 linguistically appropriate services by minority and limited English  
20 speaking populations.

21 (3) In contracting for regional administrative model project sites,  
22 the board shall:

23 (i) Utilize competitive bidding procedures;

24 (ii) Issue planning grants and contracts to operate regional  
25 administrative model projects in no more than five sites. To the  
26 greatest extent possible, giving consideration to applications received  
27 and an applicant's ability to comply with relevant performance  
28 standards:

29 (A) Two sites shall be comprised of more than one county west of  
30 the Cascade mountains;



1 (B) One site shall be comprised of a single county west of the  
2 Cascade mountains;

3 (C) One site shall be comprised of more than one county east of the  
4 Cascade mountains; and

5 (D) One site shall be comprised of a single county east of the  
6 Cascade mountains.

7 Planning grants shall have a duration of July 1, 1992, through June  
8 30, 1993. Contracts to operate regional administrative model projects  
9 shall have a duration of three years, beginning on or after July 1,  
10 1993;

11 (iii) To the greatest extent possible, contract for a diversity of  
12 case management models. At least one of the models shall utilize a  
13 case management model in which the case manager authorizes and manages  
14 services within budgeted funds.

15 (iv) Include remedies in the contracts for failure to comply with  
16 the terms of the contract, including intermediate remedies in addition  
17 to termination of a contract.

18 NEW SECTION. **Sec. 15.** EVALUATION OF REGIONAL ADMINISTRATIVE MODEL  
19 PROJECTS. The board shall develop criteria to evaluate the success and  
20 failure of the regional administrative model projects established  
21 pursuant to section 14 of this act in meeting the intent and purposes  
22 of this chapter. The board shall contract with an independent entity  
23 to evaluate:

24 (1) The regional administrative model projects using the criteria  
25 developed pursuant to this section; and

26 (2) The actions taken by the board to implement this chapter giving  
27 consideration to this chapter's intent and purposes.

28 A report detailing the results of the evaluation shall be submitted  
29 to the governor and appropriate committees of the legislature no later

1 than three years following initiation of the regional administrative  
2 model projects.

3 NEW SECTION. **Sec. 16.** INFORMATION SYSTEM. The board shall design  
4 and administer a long-term care information system. In designing the  
5 information system, the board shall pursue the following objectives:

6 (1) Use of a single common identifier for each functionally  
7 disabled person using long-term care services;

8 (2) Ability to track each functionally disabled person's use of  
9 long-term care services;

10 (3) Protection of confidentiality for functionally disabled persons  
11 using long-term care services; and

12 (4) Access to nonconfidential information relating to available  
13 long-term care services, training information for caregivers, and  
14 service utilization and cost data for planners and policymakers.

15 NEW SECTION. **Sec. 17.** ADMINISTRATION OF LONG-TERM CARE SERVICES  
16 PENDING STATE-WIDE IMPLEMENTATION OF PROGRAM. Pending merger of  
17 current categorical long-term care systems into the program as provided  
18 in section 13 of this act, other than in the regional administrative  
19 model project sites, current long-term care services administration  
20 shall continue. During this period, subject to board approval,  
21 agencies administering community-based long-term care and support  
22 services may make administrative changes consistent with the intent and  
23 purposes of this chapter and as otherwise authorized by law.

24 PART IV  
25 FINANCING COMMUNITY-BASED  
26 LONG-TERM CARE SERVICES

1        NEW SECTION.    **Sec. 18.**    INTENT RELATING TO FINANCING.    Recognizing  
2    that financial stability is essential to success of a comprehensive  
3    long-term care system and that current and future demands are exceeding  
4    available financial resources, a dedicated fund comprised of state  
5    general funds, matching federal funds, public insurance funds, and  
6    sliding fee contributions by program beneficiaries shall be  
7    established.    The legislature recognizes that development and  
8    implementation of the program will involve significant cooperation and  
9    partnership between Washington state and the federal government.    It is  
10   the intent of the legislature that a minimum of fifty percent of annual  
11   revenues generated by public insurance on or after January 1, 1995, be  
12   held in an ongoing trust account that will accrue principal and  
13   interest until at least the year 2010 and then be expended only for  
14   services eligible under this chapter.

15        NEW SECTION.    **Sec. 19.**    FEDERAL/STATE RELATIONSHIP.    The board  
16   shall identify and request federal statutory waivers necessary to allow  
17   federal funds currently used for community-based long-term care and  
18   support services to be deposited into the secured benefit fund and  
19   expended as provided in this chapter.

20        NEW SECTION.    **Sec. 20.**    FINANCING.    (1) The secured benefit fund is  
21   created in the state treasury.    All receipts from sources specified in  
22   this section shall be deposited in the fund.    Moneys in the fund may be  
23   spent only after appropriation and may be used only for carrying out  
24   the purposes of this chapter.

25        (2) The secured benefit fund shall consist of:

26        (a) The insurance contributions specified in this section and  
27   payable by each employer as defined in RCW 50.04.080 and an amount  
28   equivalent to the insurance contributions specified in this section

1 payable by each corporate officer, partner in a partnership, sole  
2 proprietor, or individual who is an employee for whom an insurance  
3 contribution is not required under Title 50 RCW or who earns self-  
4 employment or partnership income which is essentially equivalent to  
5 wages as defined in RCW 50.04.320. The department of revenue shall  
6 provide to the employment security department such taxpayer  
7 registration information as requested to assist the employment security  
8 department in the identification of persons subject to this section;

9 (b) Legislative appropriations for general fund-state spending for  
10 community-based long-term care and support services;

11 (c) Federal funds received by the state as payment for community-  
12 based long-term care and support services, including but not limited to  
13 the medicare program, Title XVIII of the federal social security act,  
14 and the medicaid program, Title XIX of the federal social security act;  
15 and

16 (d) Program beneficiary cost-sharing as provided in section 10 of  
17 this act.

18 (3) Moneys in the secured benefit fund shall be held as follows:

19 (a) Fifty percent of the annual revenues from public insurance  
20 contributions under subsection (2)(a) of this section collected for  
21 calendar years beginning on or after January 1, 1995, shall be held in  
22 a trust account, to be invested by the state investment board. Such  
23 revenues shall remain in the trust account, until the year 2010, at  
24 which time the board may transfer moneys to the current expenditure  
25 account as it deems necessary; and

26 (b) All of the revenues from contributions under subsection (2)(a)  
27 of this section collected for calendar years 1992, 1993, and 1994, and  
28 fifty percent of the revenues from contributions under subsection  
29 (2)(a) of this section collected for calendar years beginning on or  
30 after January 1, 1995, and the remainder of funds deposited in the

1 fund, shall be held in a current expenditure account and a reserve  
2 account to support the current expenditure account, at a level to be  
3 determined by the board. Funds held in the current expenditure account  
4 shall constitute the global budget for program services.

5 (4)(a) Insurance contributions under subsection (2)(a) of this  
6 section shall become due and be paid under rules adopted by the  
7 commissioner of the employment security department. Contributions  
8 shall be collected on a semi-annual basis, with the first period  
9 consisting of the six calendar months ending June 30, and the second  
10 period consisting of the six calendar months ending December 31, of  
11 each calendar year. Up to one-half of the contribution may be deducted  
12 from the remuneration of individuals in the employ of the employer.  
13 Any deduction greater than one-half from individuals is in violation of  
14 this section and is unlawful, and is subject to penalty under Title 50  
15 RCW for an unlawful deduction.

16 (b) For employers described in RCW 50.44.010 and 50.44.030 who have  
17 properly elected to make payments in lieu of contributions, employers  
18 who are required to make payments in lieu of contributions, and  
19 employers paying contributions under RCW 50.44.035, the contributions  
20 shall be paid according to rules adopted by the commissioner.

21 (c) The insurance contribution of each corporate officer, partner  
22 in a partnership, sole proprietor, or individual who is an employee for  
23 whom an insurance contribution is not required under Title 50 RCW or  
24 who earns self-employment or partnership income which is essentially  
25 equivalent to wages as defined in RCW 50.04.320 shall be determined  
26 according to rules adopted by the commissioner of the employment  
27 security department. The rules shall include provisions that require  
28 contributions on remuneration that is comparable to the wages subject  
29 to contributions under subsection (5) of this section. If the  
30 individual's remuneration is subject to contribution under more than

1 one subsection of this section, the total remuneration subject to  
2 contribution shall not exceed fifty-three thousand four hundred dollars  
3 annually, as provided in subsection (5) of this section.

4 (5)(a) The amount of wages subject to insurance contributions under  
5 subsection (2)(a) of this section shall be fifty-three thousand four  
6 hundred dollars annually, except that no contribution shall be paid on  
7 wages of any individual earning wages of less than two thousand dollars  
8 per calendar quarter. The contribution rate applicable to wages paid  
9 shall be:

10 (i) 0.10 percent for the period of January 1, 1992, through  
11 December 31, 1992;

12 (ii) 0.20 percent for the period of January 1, 1993, through  
13 December 31, 1993;

14 (iii) 0.30 percent for the period of January 1, 1994, through  
15 December 31, 1994;

16 (iv) 0.40 percent for the period of January 1, 1995, through  
17 December 31, 1995; and

18 (v) 0.50 percent for any calendar year that begins on or after  
19 January 1, 1996.

20 (b) "Wages" under this subsection shall include all remuneration  
21 for contribution purposes as defined under RCW 50.04.320.

22 (6) In the payment of any insurance contribution under this  
23 section, a fractional part of a cent shall be disregarded unless it  
24 amounts to one-half cent or more, in which case it shall be increased  
25 to one cent.

26 (7) Late reports or contributions, and penalties and interest shall  
27 be determined and administered as provided under Title 50 RCW. In  
28 administering this section, the commissioner of the employment security  
29 department shall have the same authority as is provided for

1 administering and enforcing the collection of contributions under Title  
2 50 RCW.

3 NEW SECTION. **Sec. 21.** PRIVATE LONG-TERM CARE INSURANCE. The  
4 private long-term care insurance commission is hereby established. The  
5 commission shall be composed of seven members who shall be appointed by  
6 the insurance commissioner. Commission members shall be reimbursed for  
7 travel expenses pursuant to RCW 43.03.050 and 43.03.060.

8 (2) The commission shall review and make recommendations regarding  
9 the role of long-term care insurance in the new system. The commission  
10 shall report its recommendations to the board, the insurance  
11 commissioner, and appropriate committees of the legislature on or  
12 before December 1, 1992.

13 NEW SECTION. **Sec. 22.** IN-MIGRATION. (1) The legislature intends  
14 that the program be available to established residents of Washington  
15 state.

16 (2) To discourage relocation of functionally disabled persons from  
17 other states into Washington to obtain program benefits, the board  
18 shall require, as condition of receipt of program benefits by  
19 functionally disabled persons who have not resided in Washington state  
20 for a continuous period of twelve months prior to their application for  
21 program benefits, that these individuals pay a monthly premium for  
22 program benefits actuarially determined based upon the level and type  
23 of benefits available through the program.

24 PART V

25 TRANSITION PERIOD PENDING FULL IMPLEMENTATION OF THE PROGRAM

1        NEW SECTION.    **Sec. 23.**    The legislature recognizes that state-wide  
2 implementation of the community-based long-term care secured benefit  
3 program will require four to five years, to allow completion of  
4 necessary coordination with the federal government and sufficient  
5 testing of regional administrative models. It is the intent of the  
6 legislature that, during the transition from enactment and initial  
7 collection of insurance contributions pursuant to section 20 of this  
8 act, to state-wide implementation, such insurance contributions for  
9 calendar years 1992, 1993, and 1994, and up to fifty percent of such  
10 insurance contributions for calendar years beginning 1995, be made  
11 available for expansion of community-based long-term care and support  
12 services that support families, communities, individuals, and agencies  
13 providing community-based long-term care and support services to  
14 functionally disabled persons. The legislature further intends that  
15 expenses for regional model administrative projects, including  
16 administration, monitoring, data collection, and evaluation also be  
17 derived from these insurance contributions. The service expansions  
18 authorized by this act shall be temporary measures pending state-wide  
19 implementation of the community-based long-term care secured benefit  
20 program, at which time such expansions shall be incorporated, in whole  
21 or in part, into the state-wide program.

22        NEW SECTION.    **Sec. 24.**    (1) During the transitional period from the  
23 effective date of this section until state-wide implementation of the  
24 program, the legislature shall appropriate, and the executive shall  
25 administer, all community-based long-term care funds except those  
26 necessary to administer and provide services through regional  
27 administrative model projects, and matching funds and program  
28 beneficiary cost sharing collected through such projects.



1 (2) Regional model administrative project funds shall be  
2 administered by the board. Regional model administrative projects  
3 shall receive funding for the number of functionally disabled persons  
4 in the county or counties served by the project in an amount equal to  
5 the per capita community-based long-term care expenditures for  
6 functionally disabled persons currently receiving state and federally  
7 funded services, and such additional funds determined by the board to  
8 be necessary for administration of the projects, including monitoring,  
9 data collection, and evaluation.

10 (3) Upon completion and evaluation of the regional administrative  
11 model projects and enactment of legislation establishing the state-wide  
12 administrative structure of the program, all community-based long-term  
13 care funds shall be deposited into the secured benefit fund pursuant to  
14 section 20 of this act and administered by the board.

15 **Sec. 25.** RCW 74.09.510 and 1989 1st ex.s. c 10 s 8 are each  
16 amended to read as follows:

17 Medical assistance may be provided in accordance with eligibility  
18 requirements established by the department of social and health  
19 services, as defined in the social security Title XIX state plan for  
20 mandatory categorically needy persons and: (1) Individuals who would  
21 be eligible for cash assistance except for their institutional status;  
22 (2) individuals who are under twenty-one years of age, who would be  
23 eligible for aid to families with dependent children, but do not  
24 qualify as dependent children and who are in (a) foster care, (b)  
25 subsidized adoption, (c) an intermediate care facility or an  
26 intermediate care facility for the mentally retarded, or (d) inpatient  
27 psychiatric facilities; (3) the aged, blind, and disabled who: (a)  
28 Receive only a state supplement, or (b) would not be eligible for cash  
29 assistance if they were not institutionalized; (4) individuals who

1 would be eligible for but choose not to receive cash assistance; (5)  
2 individuals who are enrolled in managed health care systems, who have  
3 otherwise lost eligibility for medical assistance, but who have not  
4 completed a current six-month enrollment in a managed health care  
5 system, and who are eligible for federal financial participation under  
6 Title XIX of the social security act; (6) children and pregnant women  
7 allowed by federal statute for whom funding is appropriated; (7)  
8 disabled children eighteen years of age or younger who require a level  
9 of care provided in a hospital, nursing home, or intermediate care  
10 facility for the mentally retarded and can be cared for in the  
11 community for less than the cost of such institutional care, if such a  
12 child would be eligible for medical assistance if he or she were in a  
13 medical institution; and ~~((+7))~~ (8) other individuals eligible for  
14 medical services under RCW 74.09.035 and 74.09.700 for whom federal  
15 financial participation is available under Title XIX of the social  
16 security act.

17 **Sec. 26.** RCW 74.09.520 and 1990 c 33 s 594 and 1990 c 25 s 1 are  
18 each reenacted and amended to read as follows:

19 (1) The term "medical assistance" may include the following care  
20 and services: (a) Inpatient hospital services; (b) outpatient hospital  
21 services; (c) other laboratory and x-ray services; (d) skilled nursing  
22 home services; (e) physicians' services, which shall include prescribed  
23 medication and instruction on birth control devices; (f) medical care,  
24 or any other type of remedial care as may be established by the  
25 secretary; (g) home health care services; (h) private duty nursing  
26 services; (i) dental services; (j) physical therapy and related  
27 services; (k) prescribed drugs, dentures, and prosthetic devices; and  
28 eyeglasses prescribed by a physician skilled in diseases of the eye or  
29 by an optometrist, whichever the individual may select; (l) personal

1 care services, as provided in this section; (m) hospice services; (n)  
2 community-supported living arrangements for developmentally disabled  
3 persons; (o) other diagnostic, screening, preventive, and  
4 rehabilitative services; and ~~((+o))~~ (p) like services when furnished  
5 to a handicapped child by a school district as part of an  
6 individualized education program established pursuant to RCW  
7 28A.155.010 through 28A.155.100. For the purposes of this section, the  
8 department may not cut off any prescription medications, oxygen  
9 supplies, respiratory services, or other life-sustaining medical  
10 services or supplies.

11 "Medical assistance," notwithstanding any other provision of law,  
12 shall not include routine foot care, or dental services delivered by  
13 any health care provider, that are not mandated by Title XIX of the  
14 social security act unless there is a specific appropriation for these  
15 services. Services included in an individualized education program for  
16 a handicapped child under RCW 28A.155.010 through 28A.155.100 shall not  
17 qualify as medical assistance prior to the implementation of the  
18 funding process developed under RCW 74.09.524.

19 (2) The department shall amend the state plan for medical  
20 assistance under Title XIX of the federal social security act to  
21 include personal care services, as defined in 42 C.F.R. 440.170(f), in  
22 the categorically needy program.

23 (3) The department shall adopt, amend, or rescind such  
24 administrative rules as are necessary to ensure that Title XIX personal  
25 care services are provided to eligible persons in conformance with  
26 federal regulations.

27 (a) These administrative rules shall include financial eligibility  
28 indexed according to the requirements of the social security act  
29 providing for medicaid eligibility.

1 (b) The rules shall require clients be assessed as having a medical  
2 condition requiring assistance with personal care tasks. Plans of care  
3 must be approved by a physician and reviewed by a nurse every ninety  
4 days.

5 (4) The department shall design and implement a means to assess the  
6 level of functional disability of persons eligible for personal care  
7 services under this section. The personal care services benefit shall  
8 be provided to the extent funding is available according to the  
9 assessed level of functional disability. Any reductions in services  
10 made necessary for funding reasons should be accomplished in a manner  
11 that assures that priority for maintaining services is given to persons  
12 with the greatest need as determined by the assessment of functional  
13 disability.

14 (5) The department shall report to the appropriate fiscal  
15 committees of the legislature on the utilization and associated costs  
16 of the personal care option under Title XIX of the federal social  
17 security act, as defined in 42 C.F.R. 440.170(f), in the categorically  
18 needy program. This report shall be submitted by January 1, 1990, and  
19 submitted on a yearly basis thereafter.

20 (6) Effective July 1, 1989, the department shall offer hospice  
21 services in accordance with available funds. The department shall  
22 provide a complete accounting of the costs of providing hospice  
23 services under this section by December 20, 1990. The report shall  
24 include an assessment of cost savings which may result by providing  
25 hospice to persons who otherwise would use hospitals, nursing homes, or  
26 more expensive care. The hospice benefit under this section shall  
27 terminate on June 30, 1991, unless extended by the legislature.

28 **Sec. 27.** RCW 74.09.700 and 1989 c 87 s 3 are each amended to read  
29 as follows:

1 (1) To the extent of available funds, medical care may be provided  
2 under the limited casualty program to persons not otherwise eligible  
3 for medical assistance or medical care services who are medically needy  
4 as defined in the social security Title XIX state plan and medical  
5 indigents in accordance with medical eligibility requirements  
6 established by the department. This includes residents of skilled  
7 nursing homes, intermediate care facilities, and intermediate care  
8 facilities for the mentally retarded who are aged, blind, or disabled  
9 as defined in Title XVI of the federal social security act and whose  
10 income exceeds three hundred percent of the federal supplement security  
11 income benefit level.

12 (2) Determination of the amount, scope, and duration of medical  
13 coverage under the limited casualty program shall be the responsibility  
14 of the department, subject to the following:

15 (a) Only inpatient hospital services; outpatient hospital and rural  
16 health clinic services; physicians' and clinic services; prescribed  
17 drugs, dentures, prosthetic devices, and eyeglasses; skilled nursing  
18 home services, intermediate care facility services, and intermediate  
19 care facility services for the mentally retarded; home health services;  
20 other laboratory and x-ray services; rehabilitative services; medically  
21 necessary transportation; and other services for which funds are  
22 specifically provided in the omnibus appropriations act shall be  
23 covered;

24 (b) Personal care and hospice services shall be covered for persons  
25 who are medically needy as defined in the social security Title XIX  
26 state plan;

27 (c) Persons who are medically indigent and are not eligible for a  
28 federal aid program shall satisfy a deductible of not less than one  
29 hundred dollars nor more than five hundred dollars in any twelve-month  
30 period;

1       (~~(e)~~) (d) Medical care services provided to the medically  
2 indigent and received no more than seven days prior to the date of  
3 application shall be retroactively certified and approved for payment  
4 on behalf of a person who was otherwise eligible at the time the  
5 medical services were furnished: PROVIDED, That eligible persons who  
6 fail to apply within the seven-day time period for medical reasons or  
7 other good cause may be retroactively certified and approved for  
8 payment.

9       (3) The department shall establish standards of assistance and  
10 resource and income exemptions. All nonexempt income and resources of  
11 limited casualty program recipients shall be applied against the cost  
12 of their medical care services.

13       NEW SECTION. Sec. 28. A new section is added to chapter 74.09 RCW  
14 to read as follows:

15       The department shall make the following changes in the community  
16 options program entry system program waiver, to the extent such changes  
17 are permissible under section 1915(c) of the federal social security  
18 act, to increase that program's ability to meet the community-based  
19 long-term care needs of functionally disabled persons who would  
20 otherwise require nursing-home care:

21       (1) Cover services such as assisted living housing units, adult day  
22 care, respite care, home-delivered meals, home modifications, and  
23 electronic emergency response systems;

24       (2) Change the monthly service expenditure lid so that, in the  
25 aggregate, the cost of services to recipients does not exceed the cost  
26 of nursing-home care, rather than applying such test to each such  
27 individual recipient; and

1 (3) Provide that the personal maintenance costs that are covered  
2 with a recipient's own income are no longer counted against the monthly  
3 service expenditure lid on the cost of their care plan.

4 NEW SECTION. **Sec. 29.** A new section is added to chapter 71A.12  
5 RCW to read as follows:

6 For each developmentally disabled person who is moved from a  
7 residential habilitation center into the community, a biennial amount  
8 adjusted for inflation equivalent to the amount of state funds that  
9 would have been spent to care for that individual in the residential  
10 habilitation center shall be deposited into the secured benefit fund  
11 established pursuant to section 20 of this act, to finance long-term  
12 care services in the community where the individual resides.

13 NEW SECTION. **Sec. 30.** A new section is added to chapter 74.09 RCW  
14 to read as follows:

15 The department shall make every practicable effort to develop, in  
16 cooperation with one or more health maintenance organizations  
17 registered pursuant to chapter 48.46 RCW, a request for a demonstration  
18 waiver under the federal social security act to establish a social  
19 health maintenance organization.

20 NEW SECTION. **Sec. 31.** SEVERABILITY. If any provision of this act  
21 or its application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 32.** EFFECTIVE DATE. (1) Sections 1 through 22,  
25 24, and 31 of this act are necessary for the immediate preservation of  
26 the public peace, health, or safety, or support of the state government

1 and its existing public institutions, and shall take effect July 1,  
2 1991.

3 (2) Sections 23, 25 through 30, and 36 of this act shall take  
4 effect July 1, 1992.

5 NEW SECTION. **Sec. 33.** Part and section headings as used in  
6 this act do not constitute any part of the law.

7 NEW SECTION. **Sec. 34.** Sections 1 through 22, 24, and 31 of  
8 this act shall constitute a new chapter in Title 70 RCW.

9 NEW SECTION. **Sec. 35.** The sum of ..... dollars (the  
10 essential requirements level of state funding), or as much thereof as  
11 may be necessary, is appropriated for the biennium ending June 30,  
12 1993, from the general fund to the community-based long-term care  
13 secured benefit program board for the purposes of sections 1 through 22  
14 and 24 of this act.

15 NEW SECTION. **Sec. 36.** The sum of ..... dollars, or as much  
16 thereof as may be available in the secured benefit fund from public  
17 contributions deposited pursuant to section 20 of this act for the  
18 period of January 1, 1992, through June 30, 1993, after deducting  
19 planning grants for regional administrative model projects pursuant to  
20 section 14 of this act, is appropriated for the period beginning July  
21 1, 1992, and ending June 30, 1993, from the secured benefit fund to the  
22 department of social and health services, to carry out sections 23 and  
23 25 through 30 of this act.

24 (1) Of this amount, ..... dollars is provided solely for the  
25 medicaid expansions provided in sections 25 through 28 of this act.



1           (2) Remaining funds shall be appropriated for community-based long-  
2 term care and support services as determined in the biennial operating  
3 budget.