

2 **E2SHB 2935** - S AMD - 1024  
3 By Senator West

4 ADOPTED 3/11/98

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

7 "Sec. 1. RCW 74.46.010 and 1980 c 177 s 1 are each amended to read  
8 as follows:

9 This chapter may be known and cited as the "nursing ((Homes  
10 Auditing and Cost Reimbursement Act of 1980)) facility medicaid payment  
11 system."

12 The purposes of this chapter are to specify the manner by which  
13 legislative appropriations for medicaid nursing facility services are  
14 to be allocated as payment rates among nursing facilities, and to set  
15 forth auditing, billing, and other administrative standards associated  
16 with payments to nursing home facilities.

17 **Sec. 2.** RCW 74.46.020 and 1995 1st sp.s. c 18 s 90 are each  
18 amended to read as follows:

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

21 (1) "Accrual method of accounting" means a method of accounting in  
22 which revenues are reported in the period when they are earned,  
23 regardless of when they are collected, and expenses are reported in the  
24 period in which they are incurred, regardless of when they are paid.

25 (2) (~~("Ancillary care" means those services required by the  
26 individual, comprehensive plan of care provided by qualified  
27 therapists.~~

28 ~~(3))~~ "Appraisal" means the process of estimating the fair market  
29 value or reconstructing the historical cost of an asset acquired in a  
30 past period as performed by a professionally designated real estate  
31 appraiser with no pecuniary interest in the property to be appraised.  
32 It includes a systematic, analytic determination and the recording and  
33 analyzing of property facts, rights, investments, and values based on  
34 a personal inspection and inventory of the property.

1        ~~((4))~~ (3) "Arm's-length transaction" means a transaction  
2 resulting from good-faith bargaining between a buyer and seller who are  
3 not related organizations and have adverse positions in the market  
4 place. Sales or exchanges of nursing home facilities among two or more  
5 parties in which all parties subsequently continue to own one or more  
6 of the facilities involved in the transactions shall not be considered  
7 as arm's-length transactions for purposes of this chapter. Sale of a  
8 nursing home facility which is subsequently leased back to the seller  
9 within five years of the date of sale shall not be considered as an  
10 arm's-length transaction for purposes of this chapter.

11        ~~((5))~~ (4) "Assets" means economic resources of the contractor,  
12 recognized and measured in conformity with generally accepted  
13 accounting principles.

14        ~~((6))~~ (5) "Audit" or "department audit" means an examination of  
15 the records of a nursing facility participating in the medicaid payment  
16 system, including but not limited to: The contractor's financial and  
17 statistical records, cost reports and all supporting documentation and  
18 schedules, receivables, and resident trust funds, to be performed as  
19 deemed necessary by the department and according to department rule.

20        (6) "Bad debts" means amounts considered to be uncollectible from  
21 accounts and notes receivable.

22        (7) (~~"Beds" means the number of set-up beds in the facility, not~~  
23 ~~to exceed the number of licensed beds.~~

24        ~~(8))~~ "Beneficial owner" means:

25        (a) Any person who, directly or indirectly, through any contract,  
26 arrangement, understanding, relationship, or otherwise has or shares:

27        (i) Voting power which includes the power to vote, or to direct the  
28 voting of such ownership interest; and/or

29        (ii) Investment power which includes the power to dispose, or to  
30 direct the disposition of such ownership interest;

31        (b) Any person who, directly or indirectly, creates or uses a  
32 trust, proxy, power of attorney, pooling arrangement, or any other  
33 contract, arrangement, or device with the purpose or effect of  
34 divesting himself or herself of beneficial ownership of an ownership  
35 interest or preventing the vesting of such beneficial ownership as part  
36 of a plan or scheme to evade the reporting requirements of this  
37 chapter;

38        (c) Any person who, subject to ~~((subparagraph))~~ (b) of this  
39 subsection, has the right to acquire beneficial ownership of such

1 ownership interest within sixty days, including but not limited to any  
2 right to acquire:

3 (i) Through the exercise of any option, warrant, or right;

4 (ii) Through the conversion of an ownership interest;

5 (iii) Pursuant to the power to revoke a trust, discretionary  
6 account, or similar arrangement; or

7 (iv) Pursuant to the automatic termination of a trust,  
8 discretionary account, or similar arrangement;

9 except that, any person who acquires an ownership interest or power  
10 specified in ~~((subparagraphs))~~ (c)(i), (ii), or (iii) of this  
11 ~~((subparagraph (c)))~~ subsection with the purpose or effect of changing  
12 or influencing the control of the contractor, or in connection with or  
13 as a participant in any transaction having such purpose or effect,  
14 immediately upon such acquisition shall be deemed to be the beneficial  
15 owner of the ownership interest which may be acquired through the  
16 exercise or conversion of such ownership interest or power;

17 (d) Any person who in the ordinary course of business is a pledgee  
18 of ownership interest under a written pledge agreement shall not be  
19 deemed to be the beneficial owner of such pledged ownership interest  
20 until the pledgee has taken all formal steps necessary which are  
21 required to declare a default and determines that the power to vote or  
22 to direct the vote or to dispose or to direct the disposition of such  
23 pledged ownership interest will be exercised; except that:

24 (i) The pledgee agreement is bona fide and was not entered into  
25 with the purpose nor with the effect of changing or influencing the  
26 control of the contractor, nor in connection with any transaction  
27 having such purpose or effect, including persons meeting the conditions  
28 set forth in ~~((subparagraph))~~ (b) of this subsection; and

29 (ii) The pledgee agreement, prior to default, does not grant to the  
30 pledgee:

31 (A) The power to vote or to direct the vote of the pledged  
32 ownership interest; or

33 (B) The power to dispose or direct the disposition of the pledged  
34 ownership interest, other than the grant of such power(s) pursuant to  
35 a pledge agreement under which credit is extended and in which the  
36 pledgee is a broker or dealer.

37 ~~((+9+))~~ (8) "Capitalization" means the recording of an expenditure  
38 as an asset.

1       ~~((10))~~ (9) "Case mix" means a measure of the intensity of care  
2 and services needed by the residents of a nursing facility or a group  
3 of residents in the facility.

4       (10) "Case mix index" means a number representing the average case  
5 mix of a nursing facility.

6       (11) "Case mix weight" means a numeric score that identifies the  
7 relative resources used by a particular group of a nursing facility's  
8 residents.

9       (12) "Contractor" means ~~((an))~~ a person or entity ~~((which~~  
10 contracts)) licensed under chapter 18.51 RCW to operate a medicare and  
11 medicaid certified nursing facility, responsible for operational  
12 decisions, and contracting with the department to provide services to  
13 ~~((medical care))~~ medicaid recipients residing in ((a)) the facility  
14 ~~((and which entity is responsible for operational decisions)).~~

15       ~~((11))~~ (13) "Default case" means no initial assessment has been  
16 completed for a resident and transmitted to the department by the  
17 cut-off date, or an assessment is otherwise past due for the resident,  
18 under state and federal requirements.

19       (14) "Department" means the department of social and health  
20 services (DSHS) and its employees.

21       ~~((12))~~ (15) "Depreciation" means the systematic distribution of  
22 the cost or other basis of tangible assets, less salvage, over the  
23 estimated useful life of the assets.

24       ~~((13))~~ (16) "Direct care" means nursing care and related care  
25 provided to nursing facility residents. Therapy care shall not be  
26 considered part of direct care.

27       (17) "Direct care supplies" means medical, pharmaceutical, and  
28 other supplies required for the direct ~~((nursing and ancillary))~~ care  
29 of ~~((medical care recipients))~~ a nursing facility's residents.

30       ~~((14))~~ (18) "Entity" means an individual, partnership,  
31 corporation, limited liability company, or any other association of  
32 individuals capable of entering enforceable contracts.

33       ~~((15))~~ (19) "Equity" means the net book value of all tangible and  
34 intangible assets less the recorded value of all liabilities, as  
35 recognized and measured in conformity with generally accepted  
36 accounting principles.

37       ~~((16))~~ (20) "Facility" or "nursing facility" means a nursing home  
38 licensed in accordance with chapter 18.51 RCW, excepting nursing homes  
39 certified as institutions for mental diseases, or that portion of a

1 multiservice facility licensed as a nursing home, or that portion of a  
2 hospital licensed in accordance with chapter 70.41 RCW which operates  
3 as a nursing home.

4 ~~((17))~~ (21) "Fair market value" means the replacement cost of an  
5 asset less observed physical depreciation on the date for which the  
6 market value is being determined.

7 ~~((18))~~ (22) "Financial statements" means statements prepared and  
8 presented in conformity with generally accepted accounting principles  
9 including, but not limited to, balance sheet, statement of operations,  
10 statement of changes in financial position, and related notes.

11 ~~((19))~~ (23) "Generally accepted accounting principles" means  
12 accounting principles approved by the financial accounting standards  
13 board (FASB).

14 ~~((20))~~ ~~"Generally accepted auditing standards" means auditing~~  
15 ~~standards approved by the American institute of certified public~~  
16 ~~accountants (AICPA).~~

17 ~~(21))~~ (24) "Goodwill" means the excess of the price paid for a  
18 nursing facility business over the fair market value of all ~~((other))~~  
19 net identifiable ~~((7))~~ tangible ~~((7))~~ and intangible assets acquired, as  
20 measured in accordance with generally accepted accounting principles.

21 ~~((22))~~ (25) "Grouper" means a computer software product that  
22 groups individual nursing facility residents into case mix  
23 classification groups based on specific resident assessment data and  
24 computer logic.

25 (26) "Historical cost" means the actual cost incurred in acquiring  
26 and preparing an asset for use, including feasibility studies,  
27 architect's fees, and engineering studies.

28 ~~((23))~~ (27) "Imprest fund" means a fund which is regularly  
29 replenished in exactly the amount expended from it.

30 ~~((24))~~ (28) "Joint facility costs" means any costs which  
31 represent resources which benefit more than one facility, or one  
32 facility and any other entity.

33 ~~((25))~~ (29) "Lease agreement" means a contract between two  
34 parties for the possession and use of real or personal property or  
35 assets for a specified period of time in exchange for specified  
36 periodic payments. Elimination (due to any cause other than death or  
37 divorce) or addition of any party to the contract, expiration, or  
38 modification of any lease term in effect on January 1, 1980, or  
39 termination of the lease by either party by any means shall constitute

1 a termination of the lease agreement. An extension or renewal of a  
2 lease agreement, whether or not pursuant to a renewal provision in the  
3 lease agreement, shall be considered a new lease agreement. A strictly  
4 formal change in the lease agreement which modifies the method,  
5 frequency, or manner in which the lease payments are made, but does not  
6 increase the total lease payment obligation of the lessee, shall not be  
7 considered modification of a lease term.

8 ~~((+26+))~~ (30) "Medical care program" or "medicaid program" means  
9 medical assistance, including nursing care, provided under RCW  
10 74.09.500 or authorized state medical care services.

11 ~~((+27+))~~ (31) "Medical care recipient," "medicaid recipient," or  
12 "recipient" means an individual determined eligible by the department  
13 for the services provided ~~((in))~~ under chapter 74.09 RCW.

14 ~~((+28+))~~ (32) "Minimum data set" means the overall data component  
15 of the resident assessment instrument, indicating the strengths, needs,  
16 and preferences of an individual nursing facility resident.

17 (33) "Net book value" means the historical cost of an asset less  
18 accumulated depreciation.

19 ~~((+29+))~~ (34) "Net invested funds" means the net book value of  
20 tangible fixed assets employed by a contractor to provide services  
21 under the medical care program, including land, buildings, and  
22 equipment as recognized and measured in conformity with generally  
23 accepted accounting principles, plus an allowance for working capital  
24 which shall be five percent of the product of the per patient day rate  
25 multiplied by the prior calendar year reported total patient days of  
26 each contractor.

27 ~~((+30+))~~ (35) "Operating lease" means a lease under which rental or  
28 lease expenses are included in current expenses in accordance with  
29 generally accepted accounting principles.

30 ~~((+31+))~~ (36) "Owner" means a sole proprietor, general or limited  
31 partners, members of a limited liability company, and beneficial  
32 interest holders of five percent or more of a corporation's outstanding  
33 stock.

34 ~~((+32+))~~ (37) "Ownership interest" means all interests beneficially  
35 owned by a person, calculated in the aggregate, regardless of the form  
36 which such beneficial ownership takes.

37 ~~((+33+))~~ (38) "Patient day" or "resident day" means a calendar day  
38 of care provided to a nursing facility resident, regardless of payment  
39 source, which will include the day of admission and exclude the day of

1 discharge; except that, when admission and discharge occur on the same  
2 day, one day of care shall be deemed to exist. A "~~(client day)~~  
3 medicaid day" or "recipient day" means a calendar day of care provided  
4 to a ~~((medical care))~~ medicaid recipient determined eligible by the  
5 department for services provided under chapter 74.09 RCW, subject to  
6 the same conditions regarding admission and discharge applicable to a  
7 patient day or resident day of care.

8 ~~((34))~~ (39) "Professionally designated real estate appraiser"  
9 means an individual who is regularly engaged in the business of  
10 providing real estate valuation services for a fee, and who is deemed  
11 qualified by a nationally recognized real estate appraisal educational  
12 organization on the basis of extensive practical appraisal experience,  
13 including the writing of real estate valuation reports as well as the  
14 passing of written examinations on valuation practice and theory, and  
15 who by virtue of membership in such organization is required to  
16 subscribe and adhere to certain standards of professional practice as  
17 such organization prescribes.

18 ~~((35))~~ (40) "Qualified therapist" means:

19 ~~((An activities specialist who has specialized education,~~  
20 ~~training, or experience as specified by the department;~~

21 ~~(b) An audiologist who is eligible for a certificate of clinical~~  
22 ~~competence in audiology or who has the equivalent education and~~  
23 ~~clinical experience;~~

24 ~~(e))~~ A mental health professional as defined by chapter 71.05 RCW;

25 ~~((d))~~ (b) A mental retardation professional who is ~~((either a~~  
26 ~~qualified therapist or))~~ a therapist approved by the department who has  
27 had specialized training or one year's experience in treating or  
28 working with the mentally retarded or developmentally disabled;

29 ~~((e) A social worker who is a graduate of a school of social work;~~

30 ~~(f))~~ (c) A speech pathologist who is eligible for a certificate of  
31 clinical competence in speech pathology or who has the equivalent  
32 education and clinical experience;

33 ~~((g))~~ (d) A physical therapist as defined by chapter 18.74 RCW;

34 ~~((h))~~ (e) An occupational therapist who is a graduate of a  
35 program in occupational therapy, or who has the equivalent of such  
36 education or training; and

37 ~~((i))~~ (f) A respiratory care practitioner certified under chapter  
38 18.89 RCW.

1       (~~(36)~~) "Questioned costs" means those costs which have been  
2 determined in accordance with generally accepted accounting principles  
3 but which may constitute disallowed costs or departures from the  
4 provisions of this chapter or rules and regulations adopted by the  
5 department.

6       (~~(37)~~) (41) "Rate" or "rate allocation" means the medicaid per-  
7 patient-day payment amount for medicaid patients calculated in  
8 accordance with the allocation methodology set forth in part E of this  
9 chapter.

10       (42) "Real property," whether leased or owned by the contractor,  
11 means the building, allowable land, land improvements, and building  
12 improvements associated with a nursing facility.

13       (43) "Rebased rate" or "cost-rebased rate" means a facility-  
14 specific component rate assigned to a nursing facility for a particular  
15 rate period established on desk-reviewed, adjusted costs reported for  
16 that facility covering at least six months of a prior calendar year  
17 designated as a year to be used for cost rebasing payment rate  
18 allocations under the provisions of this chapter.

19       (~~(38)~~) (44) "Records" means those data supporting all financial  
20 statements and cost reports including, but not limited to, all general  
21 and subsidiary ledgers, books of original entry, and transaction  
22 documentation, however such data are maintained.

23       (~~(39)~~) (45) "Related organization" means an entity which is under  
24 common ownership and/or control with, or has control of, or is  
25 controlled by, the contractor.

26       (a) "Common ownership" exists when an entity is the beneficial  
27 owner of five percent or more ownership interest in the contractor and  
28 any other entity.

29       (b) "Control" exists where an entity has the power, directly or  
30 indirectly, significantly to influence or direct the actions or  
31 policies of an organization or institution, whether or not it is  
32 legally enforceable and however it is exercisable or exercised.

33       (~~(40)~~) (46) "Related care" means only those services that are  
34 directly related to providing direct care to nursing facility  
35 residents. These services include, but are not limited to, nursing  
36 direction and supervision, medical direction, medical records, pharmacy  
37 services, activities, and social services.

38       (47) "Resident assessment instrument," including federally approved  
39 modifications for use in this state, means a federally mandated,



1 comprehensive nursing facility resident care planning and assessment  
2 tool, consisting of the minimum data set and resident assessment  
3 protocols.

4 (48) "Resident assessment protocols" means those components of the  
5 resident assessment instrument that use the minimum data set to trigger  
6 or flag a resident's potential problems and risk areas.

7 (49) "Resource utilization groups" means a case mix classification  
8 system that identifies relative resources needed to care for an  
9 individual nursing facility resident.

10 (50) "Restricted fund" means those funds the principal and/or  
11 income of which is limited by agreement with or direction of the donor  
12 to a specific purpose.

13 ~~((41))~~ (51) "Secretary" means the secretary of the department of  
14 social and health services.

15 ~~((42))~~ (52) "Support services" means food, food preparation,  
16 dietary, housekeeping, and laundry services provided to nursing  
17 facility residents.

18 (53) "Therapy care" means those services required by a nursing  
19 facility resident's comprehensive assessment and plan of care, that are  
20 provided by qualified therapists, or support personnel under their  
21 supervision, including related costs as designated by the department.

22 (54) "Title XIX" or "medicaid" means the 1965 amendments to the  
23 social security act, P.L. 89-07, as amended and the medicaid program  
24 administered by the department.

25 ~~((43) "Physical plant capital improvement" means a capitalized~~  
26 ~~improvement that is limited to an improvement to the building or the~~  
27 ~~related physical plant.))~~

28 **Sec. 3.** RCW 74.46.040 and 1985 c 361 s 4 are each amended to read  
29 as follows:

30 (1) Not later than March 31<sup>st</sup> of each year, each contractor shall  
31 submit to the department an annual cost report for the period from  
32 January 1<sup>st</sup> through December 31<sup>st</sup> of the preceding year.

33 (2) Not later than one hundred twenty days following the  
34 termination or assignment of a contract, the terminating or assigning  
35 contractor shall submit to the department a cost report for the period  
36 from January 1<sup>st</sup> through the date the contract was terminated or  
37 assigned.

1 (3) Two extensions of not more than thirty days each may be granted  
2 by the department upon receipt of a written request setting forth the  
3 circumstances which prohibit the contractor from compliance with a  
4 report due date; except, that the ((secretary)) department shall  
5 establish the grounds for extension in rule ((and regulation)). Such  
6 request must be received by the department at least ten days prior to  
7 the due date.

8 **Sec. 4.** RCW 74.46.050 and 1985 c 361 s 5 are each amended to read  
9 as follows:

10 (1) If the cost report is not properly completed or if it is not  
11 received by the due date, all or part of any payments due under the  
12 contract may be withheld by the department until such time as the  
13 required cost report is properly completed and received.

14 (2) The department may impose civil fines, or take adverse rate  
15 action against contractors and former contractors who do not submit  
16 properly completed cost reports by the applicable due date. The  
17 department is authorized to adopt rules addressing fines and adverse  
18 rate actions including procedures, conditions, and the magnitude and  
19 frequency of fines.

20 **Sec. 5.** RCW 74.46.060 and 1985 c 361 s 6 are each amended to read  
21 as follows:

22 (1) Cost reports shall be prepared in a standard manner and form,  
23 as determined by the department(~~(, which shall provide for an itemized~~  
24 ~~list of allowable costs and a preliminary settlement report)~~). Costs  
25 reported shall be determined in accordance with generally accepted  
26 accounting principles, the provisions of this chapter, and such  
27 additional rules ((and regulations as are)) established by the  
28 ((secretary)) department. In the event of conflict, rules adopted and  
29 instructions issued by the department take precedence over generally  
30 accepted accounting principles.

31 (2) The records shall be maintained on the accrual method of  
32 accounting and agree with or be reconcilable to the cost report. All  
33 revenue and expense accruals shall be reversed against the appropriate  
34 accounts unless they are received or paid, respectively, within one  
35 hundred twenty days after the accrual is made. However, if the  
36 contractor can document a good faith billing dispute with the supplier  
37 or vendor, the period may be extended, but only for those portions of

1 billings subject to good faith dispute. Accruals for vacation,  
2 holiday, sick pay, payroll, and real estate taxes may be carried for  
3 longer periods, provided the contractor follows generally accepted  
4 accounting principles and pays this type of accrual when due.

5 **Sec. 6.** RCW 74.46.080 and 1985 c 361 s 7 are each amended to read  
6 as follows:

7 (1) All records supporting the required cost reports, as well as  
8 trust funds established by RCW 74.46.700, shall be retained by the  
9 contractor for a period of four years following the filing of such  
10 reports at a location in the state of Washington specified by the  
11 contractor. ~~((All records supporting the cost reports and financial~~  
12 ~~statements filed with the department before May 20, 1985, shall be~~  
13 ~~retained by the contractor for four years following their filing.))~~

14 (2) The department may direct supporting records to be retained for  
15 a longer period if there remain unresolved questions on the cost  
16 reports. All such records shall be made available upon demand to  
17 authorized representatives of the department, the office of the state  
18 auditor, and the United States department of health and human services.

19 ~~((+2))~~ (3) When a contract is terminated or assigned, all payments  
20 due the terminating or assigning contractor will be withheld until  
21 accessibility and preservation of the records within the state of  
22 Washington are assured.

23 **Sec. 7.** RCW 74.46.090 and 1985 c 361 s 8 are each amended to read  
24 as follows:

25 The department will retain the required cost reports for a period  
26 of one year after final settlement or reconciliation, or the period  
27 required under chapter 40.14 RCW, whichever is longer. Resident  
28 assessment information and records shall be retained as provided  
29 elsewhere in statute or by department rule.

30 **Sec. 8.** RCW 74.46.100 and 1985 c 361 s 9 are each amended to read  
31 as follows:

32 ~~((The principles inherent within RCW 74.46.105 and 74.46.130 are))~~  
33 (1) The purposes of department audits under this chapter are to  
34 ascertain, through department audit of the financial and statistical  
35 records of the contractor's nursing facility operation, that:

1       (~~((1) To ascertain, through department audit, that the~~) (a)  
2 Allowable costs for each year for each medicaid nursing facility are  
3 accurately reported(~~(, thereby providing a valid basis for future rate~~  
4 ~~determination))~~);

5       (~~((2) To ascertain, through department audits of the cost reports,~~  
6 ~~that)) (b) Cost reports ((properly)) accurately reflect the true  
7 financial condition, revenues, expenditures, equity, beneficial  
8 ownership, related party status, and records of the contractor(~~(,~~  
9 ~~particularly as they pertain to related organizations and beneficial~~  
10 ~~ownership, thereby providing a valid basis for the determination of~~  
11 ~~return as specified by this chapter))~~);~~

12       (~~((3) To ascertain, through department audit that compliance with~~  
13 ~~the accounting and auditing provisions of this chapter and the rules~~  
14 ~~and regulations of the department as they pertain to these accounting~~  
15 ~~and auditing provisions is proper and consistent)) (c) The contractor's  
16 revenues, expenditures, and costs of the building, land, land  
17 improvements, building improvements, and movable and fixed equipment  
18 are recorded in compliance with department requirements, instructions,  
19 and generally accepted accounting principles; and~~

20       (~~((4) To ascertain, through department audits, that)) (d) The  
21 responsibility of the contractor has been met in the maintenance and  
22 disbursement of patient trust funds.~~

23       (2) The department shall examine the submitted cost report, or a  
24 portion thereof, of each contractor for each nursing facility for each  
25 report period to determine if the information is correct, complete,  
26 reported in conformance with department instructions and generally  
27 accepted accounting principles, the requirements of this chapter, and  
28 rules as the department may adopt. The department shall determine the  
29 scope of the examination.

30       (3) If the examination finds that the cost report is incorrect or  
31 incomplete, the department may make adjustments to the reported  
32 information for purposes of establishing component rate allocations or  
33 in determining amounts to be recovered in direct care, therapy care,  
34 and support services under section 10 (3) and (4) of this act or in any  
35 component rate resulting from undocumented or misreported costs. A  
36 schedule of the adjustments shall be provided to the contractor,  
37 including dollar amount and explanations for the adjustments.  
38 Adjustments shall be subject to review if desired by the contractor  
39 under the appeals or exception procedure established by the department.

1       (4) Examinations of resident trust funds and receivables shall be  
2 reported separately and in accordance with the provisions of this  
3 chapter and rules adopted by the department.

4       (5) The contractor shall:

5       (a) Provide access to the nursing facility, all financial and  
6 statistical records, and all working papers that are in support of the  
7 cost report, receivables, and resident trust funds. To ensure  
8 accuracy, the department may require the contractor to submit for  
9 departmental review any underlying financial statements or other  
10 records, including income tax returns, relating to the cost report  
11 directly or indirectly;

12       (b) Prepare a reconciliation of the cost report with (i) applicable  
13 federal income and federal and state payroll tax returns; and (ii) the  
14 records for the period covered by the cost report;

15       (c) Make available to the department's auditor an individual or  
16 individuals to respond to questions and requests for information from  
17 the auditor. The designated individual or individuals shall have  
18 sufficient knowledge of the issues, operations, or functions to provide  
19 accurate and reliable information.

20       (6) If an examination discloses material discrepancies,  
21 undocumented costs, or mishandling of resident trust funds, the  
22 department may open or reopen one or both of the two preceding cost  
23 report or resident trust fund periods, whether examined or unexamined,  
24 for indication of similar discrepancies, undocumented costs, or  
25 mishandling of resident trust funds.

26       (7) Any assets, liabilities, revenues, or expenses reported as  
27 allowable that are not supported by adequate documentation in the  
28 contractor's records shall be disallowed. Documentation must show both  
29 that costs reported were incurred during the period covered by the  
30 report and were related to resident care, and that assets reported were  
31 used in the provision of resident care.

32       (8) When access is required at the facility or at another location  
33 in the state, the department shall notify a contractor of its intent to  
34 examine all financial and statistical records, and all working papers  
35 that are in support of the cost report, receivables, and resident trust  
36 funds.

37       (9) The department is authorized to assess civil fines and take  
38 adverse rate action if a contractor, or any of its employees, does not  
39 allow access to the contractor's nursing facility records.

1       (10) Part B of this chapter, and rules adopted by the department  
2 pursuant thereto prior to January 1, 1998, shall continue to govern the  
3 medicaid nursing facility audit process for periods prior to January 1,  
4 1997, as if these statutes and rules remained in full force and effect.

5       NEW SECTION. Sec. 9. (1) The department shall reconcile medicaid  
6 resident days to billed days and medicaid payments for each medicaid  
7 nursing facility for the preceding calendar year, or for that portion  
8 of the calendar year the provider's contract was in effect.

9       (2) The contractor shall make any payment owed the department,  
10 determined by the process of reconciliation, by the process of  
11 settlement at the lower of cost or rate in direct care, therapy care,  
12 and support services component rate allocations, as authorized in this  
13 chapter, within sixty days after notification and demand for payment is  
14 sent to the contractor.

15       (3) The department shall make any payment due the contractor within  
16 sixty days after it determines the underpayment exists and notification  
17 is sent to the contractor.

18       (4) Interest at the rate of one percent per month accrues against  
19 the department or the contractor on an unpaid balance existing sixty  
20 days after notification is sent to the contractor. Accrued interest  
21 shall be adjusted back to the date it began to accrue if the payment  
22 obligation is subsequently revised after administrative or judicial  
23 review.

24       (5) The department is authorized to withhold funds from the  
25 contractor's payment for services, and to take all other actions  
26 authorized by law, to recover amounts due and payable from the  
27 contractor, including any accrued interest. Neither a timely filed  
28 request to pursue any administrative appeals or exception procedure  
29 that the department may establish in rule, nor commencement of judicial  
30 review as may be available to the contractor in law, to contest a  
31 payment obligation determination shall delay recovery from the  
32 contractor or payment to the contractor.

33       NEW SECTION. Sec. 10. (1) Contractors shall be required to submit  
34 with each annual nursing facility cost report a proposed settlement  
35 report showing underspending or overspending in each component rate  
36 during the cost report year on a per-resident day basis. The  
37 department shall accept or reject the proposed settlement report,

1 explain any adjustments, and issue a revised settlement report if  
2 needed.

3 (2) Contractors shall not be required to refund payments made in  
4 the operations, property, and return on investment component rates in  
5 excess of the adjusted costs of providing services corresponding to  
6 these components.

7 (3) The facility will return to the department any overpayment  
8 amounts in each of the direct care, therapy care, and support services  
9 rate components that the department identifies following the audit and  
10 settlement procedures as described in this chapter, provided that the  
11 contractor may retain any overpayment that does not exceed 1.0% of the  
12 facility's direct care, therapy care, and support services component  
13 rate. However, no overpayments may be retained in a cost center to  
14 which savings have been shifted to cover a deficit, as provided in  
15 subsection (4) of this section. Facilities that are not in substantial  
16 compliance for more than ninety days, and facilities that provide  
17 substandard quality of care at any time, during the period for which  
18 settlement is being calculated, will not be allowed to retain any  
19 amount of overpayment in the facility's direct care, therapy care, and  
20 support services component rate. The terms "not in substantial  
21 compliance" and "substandard quality of care" shall be defined by  
22 federal survey regulations.

23 (4) Determination of unused rate funds, including the amounts of  
24 direct care, therapy care, and support services to be recovered, shall  
25 be done separately for each component rate, and neither costs nor rate  
26 payments shall be shifted from one component rate or corresponding  
27 service area to another in determining the degree of underspending or  
28 recovery, if any. However, in computing a preliminary or final  
29 settlement, savings in the support services cost center may be shifted  
30 to cover a deficit in the direct care or therapy cost centers up to the  
31 amount of any savings. Not more than twenty percent of the rate in a  
32 cost center may be shifted.

33 (5) Total and component payment rates assigned to a nursing  
34 facility, as calculated and revised, if needed, under the provisions of  
35 this chapter and those rules as the department may adopt, shall  
36 represent the maximum payment for nursing facility services rendered to  
37 medicaid recipients for the period the rates are in effect. No  
38 increase in payment to a contractor shall result from spending above  
39 the total payment rate or in any rate component.

1 (6) RCW 74.46.150 through 74.46.180, and rules adopted by the  
2 department prior to the effective date of this section, shall continue  
3 to govern the medicaid settlement process for periods prior to October  
4 1, 1998, as if these statutes and rules remained in full force and  
5 effect.

6 (7) For calendar year 1998, the department shall calculate split  
7 settlements covering January 1, 1998, through September 30, 1998, and  
8 October 1, 1998, through December 31, 1998. For the period beginning  
9 October 1, 1998, rules specified in this chapter shall apply. The  
10 department shall, by rule, determine the division of calendar year 1998  
11 adjusted costs for settlement purposes.

12 **Sec. 11.** RCW 74.46.190 and 1995 1st sp.s. c 18 s 96 are each  
13 amended to read as follows:

14 (1) The substance of a transaction will prevail over its form.

15 (2) All documented costs which are ordinary, necessary, related to  
16 care of medical care recipients, and not expressly unallowable under  
17 this chapter or department rule, are to be allowable. Costs of  
18 providing ((ancillary)) therapy care are allowable, subject to any  
19 applicable ((cost-center)) limit contained in this chapter, provided  
20 documentation establishes the costs were incurred for medical care  
21 recipients and other sources of payment to which recipients may be  
22 legally entitled, such as private insurance or medicare, were first  
23 fully utilized.

24 ~~((Costs applicable to services, facilities, and supplies~~  
25 ~~furnished to the provider by related organizations are allowable but at~~  
26 ~~the cost to the related organization, provided they do not exceed the~~  
27 ~~price of comparable services, facilities, or supplies that could be~~  
28 ~~purchased elsewhere.~~

29 ~~((4) Beginning January 1, 1985,))~~ The payment for property usage is  
30 to be independent of ownership structure and financing arrangements.

31 ~~((5) Beginning July 1, 1995,))~~ (4) Allowable costs shall not  
32 include costs reported by a ~~((nursing care provider))~~ contractor for a  
33 prior period to the extent such costs, due to statutory exemption, will  
34 not be incurred by the nursing facility in the period to be covered by  
35 the rate.

36 (5) Any costs deemed allowable under this chapter are subject to  
37 the provisions of section 18 of this act. The allowability of a cost



1 shall not be construed as creating a legal right or entitlement to  
2 reimbursement of the cost.

3 **Sec. 12.** RCW 74.46.220 and 1980 c 177 s 22 are each amended to  
4 read as follows:

5 (1) Costs applicable to services, facilities, and supplies  
6 furnished by a related organization to the contractor shall be  
7 allowable only to the extent they do not exceed the lower of the cost  
8 to the related organization or the price of comparable services,  
9 facilities, or supplies purchased elsewhere.

10 (2) Documentation of costs to the related organization shall be  
11 made available to the ~~((auditor at the time and place the records~~  
12 ~~relating to the entity are audited))~~ department. Payments to or for  
13 the benefit of the related organization will be disallowed where the  
14 cost to the related organization cannot be documented.

15 **Sec. 13.** RCW 74.46.230 and 1993 sp.s. c 13 s 3 are each amended to  
16 read as follows:

17 (1) The necessary and ordinary one-time expenses directly incident  
18 to the preparation of a newly constructed or purchased building by a  
19 contractor for operation as a licensed facility shall be allowable  
20 costs. These expenses shall be limited to start-up and organizational  
21 costs incurred prior to the admission of the first patient.

22 (2) Start-up costs shall include, but not be limited to,  
23 administrative and nursing salaries, utility costs, taxes, insurance,  
24 repairs and maintenance, and training; except, that they shall exclude  
25 expenditures for capital assets. These costs will be allowable in the  
26 ~~((administrative))~~ operations cost center if they are amortized over a  
27 period of not less than sixty months beginning with the month in which  
28 the first patient is admitted for care.

29 (3) Organizational costs are those necessary, ordinary, and  
30 directly incident to the creation of a corporation or other form of  
31 business of the contractor including, but not limited to, legal fees  
32 incurred in establishing the corporation or other organization and fees  
33 paid to states for incorporation; except, that they do not include  
34 costs relating to the issuance and sale of shares of capital stock or  
35 other securities. Such organizational costs will be allowable in the  
36 ~~((administrative))~~ operations cost center if they are amortized over a

1 period of not less than sixty months beginning with the month in which  
2 the first patient is admitted for care.

3 **Sec. 14.** RCW 74.46.270 and 1983 1st ex.s. c 67 s 13 are each  
4 amended to read as follows:

5 (1) The contractor shall disclose to the department:

6 (a) The nature and purpose of all costs which represent allocations  
7 of joint facility costs; and

8 (b) The methodology of the allocation utilized.

9 (2) Such disclosure shall demonstrate that:

10 (a) The services involved are necessary and nonduplicative; and

11 (b) Costs are allocated in accordance with benefits received from  
12 the resources represented by those costs.

13 (3) Such disclosure shall be made not later than September ((30,  
14 1980,)) 30th for the following calendar year ((and not later than  
15 September 30th for each year thereafter)); except that a new contractor  
16 shall submit the first year's disclosure ((together with the  
17 submissions required by RCW 74.46.670. Where a contractor will make  
18 neither a change in the joint costs to be incurred nor in the  
19 allocation methodology, the contractor may certify that no change will  
20 be made in lieu of the disclosure required in subsection (1) of this  
21 section)) at least sixty days prior to the date the new contract  
22 becomes effective.

23 (4) The department shall ((approve such methodology not later  
24 than)) by December 31st, ((1980, and not later than December 31st for  
25 each year thereafter)) for all disclosures that are complete and timely  
26 submitted, either approve or reject the disclosure. The department may  
27 request additional information or clarification.

28 (5) Acceptance of a disclosure or approval of a joint cost  
29 methodology by the department may not be construed as a determination  
30 that the allocated costs are allowable in whole or in part. However,  
31 joint facility costs not disclosed, allocated, and reported in  
32 conformity with this section and department rules are unallowable.

33 (6) An approved methodology may be revised or amended subject to  
34 approval as provided in rules and regulations adopted by the  
35 department.

36 **Sec. 15.** RCW 74.46.280 and 1993 sp.s. c 13 s 4 are each amended to  
37 read as follows:

1 (1) Management fees will be allowed only if:

2 (a) A written management agreement both creates a principal/agent  
3 relationship between the contractor and the manager, and sets forth the  
4 items, services, and activities to be provided by the manager; and

5 (b) Documentation demonstrates that the services contracted for  
6 were actually delivered.

7 (2) To be allowable, fees must be for necessary, nonduplicative  
8 services.

9 (3) A management fee paid to or for the benefit of a related  
10 organization will be allowable to the extent it does not exceed the  
11 lower of the actual cost to the related organization of providing  
12 necessary services related to patient care under the agreement or the  
13 cost of comparable services purchased elsewhere. Where costs to the  
14 related organization represent joint facility costs, the measurement of  
15 such costs shall comply with RCW 74.46.270.

16 (4) A copy of the agreement must be received by the department at  
17 least sixty days before it is to become effective. A copy of any  
18 amendment to a management agreement must also be received by the  
19 department at least thirty days in advance of the date it is to become  
20 effective. Failure to meet these deadlines will result in the  
21 unallowability of cost incurred more than sixty days prior to  
22 submitting a management agreement and more than thirty days prior to  
23 submitting an amendment.

24 (5) The scope of services to be performed under a management  
25 agreement cannot be so extensive that the manager or managing entity is  
26 substituted for the contractor in fact, substantially relieving the  
27 contractor/licensee of responsibility for operating the facility.

28 **Sec. 16.** RCW 74.46.300 and 1980 c 177 s 30 are each amended to  
29 read as follows:

30 Rental or lease costs under arm's-length operating leases of office  
31 equipment shall be allowable to the extent the cost is necessary and  
32 ordinary. The department may adopt rules to limit the allowability of  
33 office equipment leasing expenses.

34 **Sec. 17.** RCW 74.46.410 and 1995 1st sp.s. c 18 s 97 are each  
35 amended to read as follows:

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

4 (2) Unallowable costs include, but are not limited to, the  
5 following:

6 (a) Costs of items or services not covered by the medical care  
7 program. Costs of such items or services will be unallowable even if  
8 they are indirectly reimbursed by the department as the result of an  
9 authorized reduction in patient contribution;

10 (b) Costs of services and items provided to recipients which are  
11 covered by the department's medical care program but not included in  
12 (~~care—services~~) the medicaid per-resident day payment rate  
13 established by the department under this chapter;

14 (c) Costs associated with a capital expenditure subject to section  
15 1122 approval (part 100, Title 42 C.F.R.) if the department found it  
16 was not consistent with applicable standards, criteria, or plans. If  
17 the department was not given timely notice of a proposed capital  
18 expenditure, all associated costs will be unallowable up to the date  
19 they are determined to be reimbursable under applicable federal  
20 regulations;

21 (d) Costs associated with a construction or acquisition project  
22 requiring certificate of need approval, or exemption from the  
23 requirements for certificate of need for the replacement of existing  
24 nursing home beds, pursuant to chapter 70.38 RCW if such approval or  
25 exemption was not obtained;

26 (e) Interest costs other than those provided by RCW 74.46.290 on  
27 and after January 1, 1985;

28 (f) Salaries or other compensation of owners, officers, directors,  
29 stockholders, partners, principals, participants, and others associated  
30 with the contractor or its home office, including all board of  
31 directors' fees for any purpose, except reasonable compensation paid  
32 for service related to patient care;

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

35 (h) Costs resulting from transactions or the application of  
36 accounting methods which circumvent the principles of the (~~cost—~~  
37 ~~related reimbursement~~) payment system set forth in this chapter;

38 (i) Costs applicable to services, facilities, and supplies  
39 furnished by a related organization in excess of the lower of the cost

1 to the related organization or the price of comparable services,  
2 facilities, or supplies purchased elsewhere;

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

10 (k) Charity and courtesy allowances;

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

15 (m) Vending machine expenses;

16 (n) Expenses for barber or beautician services not included in  
17 routine care;

18 (o) Funeral and burial expenses;

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

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

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

25 (s) Penalties and fines;

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

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

29 (v) Costs of special care services except where authorized by the  
30 department;

31 (w) Expenses of an employee benefit not in fact made available to  
32 all employees on an equal or fair basis, for example, key-man insurance  
33 and other insurance or retirement plans ((not made available to all  
34 employees));

35 (x) Expenses of profit-sharing plans;

36 (y) Expenses related to the purchase and/or use of private or  
37 commercial airplanes which are in excess of what a prudent contractor  
38 would expend for the ordinary and economic provision of such a  
39 transportation need related to patient care;

1 (z) Personal expenses and allowances of owners or relatives;  
2 (aa) All expenses of maintaining professional licenses or  
3 membership in professional organizations;  
4 (bb) Costs related to agreements not to compete;  
5 (cc) Amortization of goodwill, lease acquisition, or any other  
6 intangible asset, whether related to resident care or not, and whether  
7 recognized under generally accepted accounting principles or not;  
8 (dd) Expenses related to vehicles which are in excess of what a  
9 prudent contractor would expend for the ordinary and economic provision  
10 of transportation needs related to patient care;  
11 (ee) Legal and consultant fees in connection with a fair hearing  
12 against the department where a decision is rendered in favor of the  
13 department or where otherwise the determination of the department  
14 stands;  
15 (ff) Legal and consultant fees of a contractor or contractors in  
16 connection with a lawsuit against the department;  
17 (gg) Lease acquisition costs ((and)), goodwill, the cost of bed  
18 rights, or any other ((intangibles not related to patient care))  
19 intangible assets;  
20 (hh) All rental or lease costs other than those provided in RCW  
21 74.46.300 on and after January 1, 1985;  
22 (ii) Postsurvey charges incurred by the facility as a result of  
23 subsequent inspections under RCW 18.51.050 which occur beyond the first  
24 postsurvey visit during the certification survey calendar year;  
25 (jj) Compensation paid for any purchased nursing care services,  
26 including registered nurse, licensed practical nurse, and nurse  
27 assistant services, obtained through service contract arrangement in  
28 excess of the amount of compensation paid for such hours of nursing  
29 care service had they been paid at the average hourly wage, including  
30 related taxes and benefits, for in-house nursing care staff of like  
31 classification at the same nursing facility, as reported in the most  
32 recent cost report period;  
33 (kk) For all partial or whole rate periods after July 17, 1984,  
34 costs of land and depreciable assets that cannot be reimbursed under  
35 the Deficit Reduction Act of 1984 and implementing state statutory and  
36 regulatory provisions;  
37 (ll) Costs reported by the contractor for a prior period to the  
38 extent such costs, due to statutory exemption, will not be incurred by  
39 the contractor in the period to be covered by the rate;

1 (mm) Costs of outside activities, for example, costs allocated to  
2 the use of a vehicle for personal purposes or related to the part of a  
3 facility leased out for office space;

4 (nn) Travel expenses outside the states of Idaho, Oregon, and  
5 Washington and the province of British Columbia. However, travel to or  
6 from the home or central office of a chain organization operating a  
7 nursing facility is allowed whether inside or outside these areas if  
8 the travel is necessary, ordinary, and related to resident care;

9 (oo) Moving expenses of employees in the absence of demonstrated,  
10 good-faith effort to recruit within the states of Idaho, Oregon, and  
11 Washington, and the province of British Columbia;

12 (pp) Depreciation in excess of four thousand dollars per year for  
13 each passenger car or other vehicle primarily used by the  
14 administrator, facility staff, or central office staff;

15 (qq) Costs for temporary health care personnel from a nursing pool  
16 not registered with the secretary of the department of health;

17 (rr) Payroll taxes associated with compensation in excess of  
18 allowable compensation of owners, relatives, and administrative  
19 personnel;

20 (ss) Costs and fees associated with filing a petition for  
21 bankruptcy;

22 (tt) All advertising or promotional costs, except reasonable costs  
23 of help wanted advertising;

24 (uu) Outside consultation expenses required to meet department-  
25 required minimum data set completion proficiency;

26 (vv) Interest charges assessed by any department or agency of this  
27 state for failure to make a timely refund of overpayments and interest  
28 expenses incurred for loans obtained to make the refunds;

29 (ww) All home office or central office costs, whether on or off the  
30 nursing facility premises, and whether allocated or not to specific  
31 services, in excess of the median of those adjusted costs for all  
32 facilities reporting such costs for the most recent report period; and

33 (xx) Tax expenses that a nursing facility has never incurred.

34 NEW SECTION. Sec. 18. A new section, to be codified as RCW  
35 74.46.421, is added to chapter 74.46 RCW to read as follows:

36 (1) The purpose of part E of this chapter is to determine nursing  
37 facility medicaid payment rates that, in the aggregate for all

1 participating nursing facilities, are in accordance with the biennial  
2 appropriations act.

3 (2)(a) The department shall use the nursing facility medicaid  
4 payment rate methodologies described in this chapter to determine  
5 initial component rate allocations for each medicaid nursing facility.

6 (b) The initial component rate allocations shall be subject to  
7 adjustment as provided in this section in order to assure that the  
8 state-wide average payment rate to nursing facilities is less than or  
9 equal to the state-wide average payment rate specified in the biennial  
10 appropriations act.

11 (3) Nothing in this chapter shall be construed as creating a legal  
12 right or entitlement to any payment that (a) has not been adjusted  
13 under this section or (b) would cause the state-wide average payment  
14 rate to exceed the state-wide average payment rate specified in the  
15 biennial appropriations act.

16 (4)(a) The state-wide average payment rate for any state fiscal  
17 year under the nursing facility medicaid payment system, weighted by  
18 patient days, shall not exceed the annual state-wide weighted average  
19 nursing facility payment rate identified for that fiscal year in the  
20 biennial appropriations act.

21 (b) If the department determines that the weighted average nursing  
22 facility payment rate calculated in accordance with this chapter is  
23 likely to exceed the weighted average nursing facility payment rate  
24 identified in the biennial appropriations act, then the department  
25 shall adjust all nursing facility payment rates proportional to the  
26 amount by which the weighted average rate allocations would otherwise  
27 exceed the budgeted rate amount. Any such adjustments shall only be  
28 made prospectively, not retrospectively, and shall be applied  
29 proportionately to each component rate allocation for each facility.

30 NEW SECTION. **Sec. 19.** (1) Effective October 1, 1998, nursing  
31 facility medicaid payment rate allocations shall be facility-specific  
32 and shall have six components: Direct care, therapy care, support  
33 services, operations, property, and return on investment. The  
34 department shall establish and adjust each of these components, as  
35 provided in this section and elsewhere in this chapter, for each  
36 medicaid nursing facility in this state.



1 (2) All component rate allocations shall be based upon a minimum  
2 facility occupancy of eighty-five percent of licensed beds, regardless  
3 of how many beds are set up or in use.

4 (3) Information and data sources used in determining medicaid  
5 payment rate allocations, including formulas, procedures, cost report  
6 periods, resident assessment instrument formats, resident assessment  
7 methodologies, and resident classification and case mix weighting  
8 methodologies, may be substituted or altered from time to time as  
9 determined by the department.

10 (4)(a) Direct care component rate allocations shall be established  
11 using adjusted cost report data covering at least six months. Adjusted  
12 cost report data from 1996 will be used for October 1, 1998, through  
13 June 30, 2001, direct care component rate allocations; adjusted cost  
14 report data from 1999 will be used for July 1, 2001, through June 30,  
15 2004, direct care component rate allocations.

16 (b) Direct care component rate allocations based on 1996 cost  
17 report data shall be adjusted annually for economic trends and  
18 conditions by a factor or factors defined in the biennial  
19 appropriations act. A different economic trends and conditions  
20 adjustment factor or factors may be defined in the biennial  
21 appropriations act for facilities whose direct care component rate is  
22 set equal to their adjusted June 30, 1998, rate, as provided in section  
23 25(5)(k) of this act.

24 (c) Direct care component rate allocations based on 1999 cost  
25 report data shall be adjusted annually for economic trends and  
26 conditions by a factor or factors defined in the biennial  
27 appropriations act. A different economic trends and conditions  
28 adjustment factor or factors may be defined in the biennial  
29 appropriations act for facilities whose direct care component rate is  
30 set equal to their adjusted June 30, 1998, rate, as provided in section  
31 25(5)(k) of this act.

32 (5)(a) Therapy care component rate allocations shall be established  
33 using adjusted cost report data covering at least six months. Adjusted  
34 cost report data from 1996 will be used for October 1, 1998, through  
35 June 30, 2001, therapy care component rate allocations; adjusted cost  
36 report data from 1999 will be used for July 1, 2001, through June 30,  
37 2004, therapy care component rate allocations.

1 (b) Therapy care component rate allocations shall be adjusted  
2 annually for economic trends and conditions by a factor or factors  
3 defined in the biennial appropriations act.

4 (6)(a) Support services component rate allocations shall be  
5 established using adjusted cost report data covering at least six  
6 months. Adjusted cost report data from 1996 shall be used for October  
7 1, 1998, through June 30, 2001, support services component rate  
8 allocations; adjusted cost report data from 1999 shall be used for July  
9 1, 2001, through June 30, 2004, support services component rate  
10 allocations.

11 (b) Support services component rate allocations shall be adjusted  
12 annually for economic trends and conditions by a factor or factors  
13 defined in the biennial appropriations act.

14 (7)(a) Operations component rate allocations shall be established  
15 using adjusted cost report data covering at least six months. Adjusted  
16 cost report data from 1996 shall be used for October 1, 1998, through  
17 June 30, 2001, operations component rate allocations; adjusted cost  
18 report data from 1999 shall be used for July 1, 2001, through June 30,  
19 2004, operations component rate allocations.

20 (b) Operations component rate allocations shall be adjusted  
21 annually for economic trends and conditions by a factor or factors  
22 defined in the biennial appropriations act.

23 (8) For July 1, 1998, through September 30, 1998, a facility's  
24 property and return on investment component rates shall be the  
25 facility's June 30, 1998, property and return on investment component  
26 rates, without increase. For October 1, 1998, through June 30, 1999,  
27 a facility's property and return on investment component rates shall be  
28 rebased utilizing 1997 adjusted cost report data covering at least six  
29 months of data.

30 (9) Total payment rates under the nursing facility medicaid payment  
31 system shall not exceed facility rates charged to the general public  
32 for comparable services.

33 (10) Medicaid contractors shall pay to all facility staff a minimum  
34 wage of the greater of five dollars and fifteen cents per hour or the  
35 federal minimum wage.

36 (11) The department shall establish in rule procedures, principles,  
37 and conditions for determining component rate allocations for  
38 facilities in circumstances not directly addressed by this chapter,  
39 including but not limited to: The need to prorate inflation for

1 partial-period cost report data, newly constructed facilities, existing  
2 facilities entering the medicaid program for the first time or after a  
3 period of absence from the program, existing facilities with expanded  
4 new bed capacity, existing medicaid facilities following a change of  
5 ownership of the nursing facility business, facilities banking beds or  
6 converting beds back into service, facilities having less than six  
7 months of either resident assessment, cost report data, or both, under  
8 the current contractor prior to rate setting, and other circumstances.

9 (12) The department shall establish in rule procedures, principles,  
10 and conditions, including necessary threshold costs, for adjusting  
11 rates to reflect capital improvements or new requirements imposed by  
12 the department or the federal government. Any such rate adjustments  
13 are subject to the provisions of section 18 of this act.

14 NEW SECTION. **Sec. 20.** The department shall disclose to any member  
15 of the public all rate-setting information consistent with requirements  
16 of state and federal laws.

17 **Sec. 21.** RCW 74.46.475 and 1985 c 361 s 13 are each amended to  
18 read as follows:

19 (1) The department shall analyze the submitted cost report or a  
20 portion thereof of each contractor for each report period to determine  
21 if the information is correct, complete, ~~((and))~~ reported in  
22 conformance with department instructions and generally accepted  
23 accounting principles, the requirements of this chapter, and such rules  
24 ~~((and regulations))~~ as the ~~((secretary))~~ department may adopt. If the  
25 analysis finds that the cost report is incorrect or incomplete, the  
26 department may make adjustments to the reported information for  
27 purposes of establishing ~~((reimbursement))~~ payment rate~~((s))~~  
28 allocations. A schedule of such adjustments shall be provided to  
29 contractors and shall include an explanation for the adjustment and the  
30 dollar amount of the adjustment. Adjustments shall be subject to  
31 review and appeal as provided in this chapter.

32 (2) The department shall accumulate data from properly completed  
33 cost reports, in addition to assessment data on each facility's  
34 resident population characteristics, for use in:

- 35 (a) Exception profiling; and  
36 (b) Establishing rates.

1 (3) The department may further utilize such accumulated data for  
2 analytical, statistical, or informational purposes as necessary.

3 NEW SECTION. **Sec. 22.** (1) The department shall employ the  
4 resource utilization group III case mix classification methodology.  
5 The department shall use the forty-four group index maximizing model  
6 for the resource utilization group III grouper version 5.10, but the  
7 department may revise or update the classification methodology to  
8 reflect advances or refinements in resident assessment or  
9 classification, subject to federal requirements.

10 (2) A default case mix group shall be established for cases in  
11 which the resident dies or is discharged for any purpose prior to  
12 completion of the resident's initial assessment. The default case mix  
13 group and case mix weight for these cases shall be designated by the  
14 department.

15 (3) A default case mix group may also be established for cases in  
16 which there is an untimely assessment for the resident. The default  
17 case mix group and case mix weight for these cases shall be designated  
18 by the department.

19 NEW SECTION. **Sec. 23.** (1) Each case mix classification group  
20 shall be assigned a case mix weight. The case mix weight for each  
21 resident of a nursing facility for each calendar quarter shall be based  
22 on data from resident assessment instruments completed for the resident  
23 and weighted by the number of days the resident was in each case mix  
24 classification group. Days shall be counted as provided in this  
25 section.

26 (2) The case mix weights shall be based on the average minutes per  
27 registered nurse, licensed practical nurse, and certified nurse aide,  
28 for each case mix group, and using the health care financing  
29 administration of the United States department of health and human  
30 services 1995 nursing facility staff time measurement study stemming  
31 from its multistate nursing home case mix and quality demonstration  
32 project. Those minutes shall be weighted by state-wide ratios of  
33 registered nurse to certified nurse aide, and licensed practical nurse  
34 to certified nurse aide, wages, including salaries and benefits, which  
35 shall be based on 1995 cost report data for this state.

36 (3) The case mix weights shall be determined as follows:

1 (a) Set the certified nurse aide wage weight at 1.000 and calculate  
2 wage weights for registered nurse and licensed practical nurse average  
3 wages by dividing the certified nurse aide average wage into the  
4 registered nurse average wage and licensed practical nurse average  
5 wage;

6 (b) Calculate the total weighted minutes for each case mix group in  
7 the resource utilization group III classification system by multiplying  
8 the wage weight for each worker classification by the average number of  
9 minutes that classification of worker spends caring for a resident in  
10 that resource utilization group III classification group, and summing  
11 the products;

12 (c) Assign a case mix weight of 1.000 to the resource utilization  
13 group III classification group with the lowest total weighted minutes  
14 and calculate case mix weights by dividing the lowest group's total  
15 weighted minutes into each group's total weighted minutes and rounding  
16 weight calculations to the third decimal place.

17 (4) The case mix weights in this state may be revised if the health  
18 care financing administration updates its nursing facility staff time  
19 measurement studies. The case mix weights shall be revised, but only  
20 when direct care component rates are cost-rebased as provided in  
21 subsection (5) of this section, to be effective on the July 1st  
22 effective date of each cost-rebased direct care component rate.  
23 However, the department may revise case mix weights more frequently if,  
24 and only if, significant variances in wage ratios occur among direct  
25 care staff in the different caregiver classifications identified in  
26 this section.

27 (5) Case mix weights shall be revised when direct care component  
28 rates are cost-rebased every three years as provided in section  
29 19(4)(a) of this act.

30 NEW SECTION. **Sec. 24.** (1) From individual case mix weights for  
31 the applicable quarter, the department shall determine two average case  
32 mix indexes for each medicaid nursing facility, one for all residents  
33 in the facility, known as the facility average case mix index, and one  
34 for medicaid residents, known as the medicaid average case mix index.

35 (2)(a) In calculating a facility's two average case mix indexes for  
36 each quarter, the department shall include all residents or medicaid  
37 residents, as applicable, who were physically in the facility during  
38 the quarter in question (January 1st through March 31st, April 1st

1 through June 30th, July 1st through September 30th, or October 1st  
2 through December 31st).

3 (b) The facility average case mix index shall exclude all default  
4 cases as defined in this chapter. However, the medicaid average case  
5 mix index shall include all default cases.

6 (3) Both the facility average and the medicaid average case mix  
7 indexes shall be determined by multiplying the case mix weight of each  
8 resident, or each medicaid resident, as applicable, by the number of  
9 days, as defined in this section and as applicable, the resident was at  
10 each particular case mix classification or group, and then averaging.

11 (4)(a) In determining the number of days a resident is classified  
12 into a particular case mix group, the department shall determine a  
13 start date for calculating case mix grouping periods as follows:

14 (i) If a resident's initial assessment for a first stay or a return  
15 stay in the nursing facility is timely completed and transmitted to the  
16 department by the cutoff date under state and federal requirements and  
17 as described in subsection (5) of this section, the start date shall be  
18 the later of either the first day of the quarter or the resident's  
19 facility admission or readmission date;

20 (ii) If a resident's significant change, quarterly, or annual  
21 assessment is timely completed and transmitted to the department by the  
22 cutoff date under state and federal requirements and as described in  
23 subsection (5) of this section, the start date shall be the date the  
24 assessment is completed;

25 (iii) If a resident's significant change, quarterly, or annual  
26 assessment is not timely completed and transmitted to the department by  
27 the cutoff date under state and federal requirements and as described  
28 in subsection (5) of this section, the start date shall be the due date  
29 for the assessment.

30 (b) If state or federal rules require more frequent assessment, the  
31 same principles for determining the start date of a resident's  
32 classification in a particular case mix group set forth in subsection  
33 (4)(a) of this section shall apply.

34 (c) In calculating the number of days a resident is classified into  
35 a particular case mix group, the department shall determine an end date  
36 for calculating case mix grouping periods as follows:

37 (i) If a resident is discharged before the end of the applicable  
38 quarter, the end date shall be the day before discharge;

1 (ii) If a resident is not discharged before the end of the  
2 applicable quarter, the end date shall be the last day of the quarter;

3 (iii) If a new assessment is due for a resident or a new assessment  
4 is completed and transmitted to the department, the end date of the  
5 previous assessment shall be the earlier of either the day before the  
6 assessment is due or the day before the assessment is completed by the  
7 nursing facility.

8 (5) The cutoff date for the department to use resident assessment  
9 data, for the purposes of calculating both the facility average and the  
10 medicaid average case mix indexes, and for establishing and updating a  
11 facility's direct care component rate, shall be one month and one day  
12 after the end of the quarter for which the resident assessment data  
13 applies.

14 (6) A threshold of ninety percent, as described and calculated in  
15 this subsection, shall be used to determine the case mix index each  
16 quarter. The threshold shall also be used to determine which  
17 facilities' costs per case mix unit are included in determining the  
18 ceiling, floor, and price. If the facility does not meet the ninety  
19 percent threshold, the department may use an alternate case mix index  
20 to determine the facility average and medicaid average case mix indexes  
21 for the quarter. The threshold is a count of unique minimum data set  
22 assessments, and it shall include resident assessment instrument  
23 tracking forms for residents discharged prior to completing an initial  
24 assessment. The threshold is calculated by dividing the count of  
25 unique minimum data set assessments by the average census for each  
26 facility. A daily census shall be reported by each nursing facility as  
27 it transmits assessment data to the department. The department shall  
28 compute a quarterly average census based on the daily census. If no  
29 census has been reported by a facility during a specified quarter, then  
30 the department shall use the facility's licensed beds as the  
31 denominator in computing the threshold.

32 (7)(a) Although the facility average and the medicaid average case  
33 mix indexes shall both be calculated quarterly, the facility average  
34 case mix index will be used only every three years in combination with  
35 cost report data as specified by sections 19 and 25 of this act, to  
36 establish a facility's allowable cost per case mix unit. A facility's  
37 medicaid average case mix index shall be used to update a nursing  
38 facility's direct care component rate quarterly.

1 (b) The facility average case mix index used to establish each  
2 nursing facility's direct care component rate shall be based on an  
3 average of calendar quarters of the facility's average case mix  
4 indexes.

5 (i) For October 1, 1998, direct care component rates, the  
6 department shall use an average of facility average case mix indexes  
7 from the four calendar quarters of 1997.

8 (ii) For July 1, 2001, direct care component rates, the department  
9 shall use an average of facility average case mix indexes from the four  
10 calendar quarters of 1999.

11 (c) The medicaid average case mix index used to update or  
12 recalibrate a nursing facility's direct care component rate quarterly  
13 shall be from the calendar quarter commencing six months prior to the  
14 effective date of the quarterly rate. For example, October 1, 1998,  
15 through December 31, 1998, direct care component rates shall utilize  
16 case mix averages from the April 1, 1998, through June 30, 1998,  
17 calendar quarter, and so forth.

18 NEW SECTION. **Sec. 25.** (1) The direct care component rate  
19 allocation corresponds to the provision of nursing care for one  
20 resident of a nursing facility for one day, including direct care  
21 supplies. Therapy services and supplies, which correspond to the  
22 therapy care component rate, shall be excluded. The direct care  
23 component rate includes elements of case mix determined consistent with  
24 the principles of this section and other applicable provisions of this  
25 chapter.

26 (2) Beginning October 1, 1998, the department shall determine and  
27 update quarterly for each nursing facility serving medicaid residents  
28 a facility-specific per-resident day direct care component rate  
29 allocation, to be effective on the first day of each calendar quarter.  
30 In determining direct care component rates the department shall  
31 utilize, as specified in this section, minimum data set resident  
32 assessment data for each resident of the facility, as transmitted to,  
33 and if necessary corrected by, the department in the resident  
34 assessment instrument format approved by federal authorities for use in  
35 this state.

36 (3) The department may question the accuracy of assessment data for  
37 any resident and utilize corrected or substitute information, however  
38 derived, in determining direct care component rates. The department is



1 authorized to impose civil fines and to take adverse rate actions  
2 against a contractor, as specified by the department in rule, in order  
3 to obtain compliance with resident assessment and data transmission  
4 requirements and to ensure accuracy.

5 (4) Cost report data used in setting direct care component rate  
6 allocations shall be 1996 and 1999, for rate periods as specified in  
7 section 19(4)(a) of this act.

8 (5) Beginning October 1, 1998, the department shall rebase each  
9 nursing facility's direct care component rate allocation as described  
10 in section 19 of this act, adjust its direct care component rate  
11 allocation for economic trends and conditions as described in section  
12 19 of this act, and update its medicaid average case mix index,  
13 consistent with the following:

14 (a) Reduce total direct care costs reported by each nursing  
15 facility for the applicable cost report period specified in section  
16 19(4)(a) of this act to reflect any department adjustments, and to  
17 eliminate reported resident therapy costs and adjustments, in order to  
18 derive the facility's total allowable direct care cost;

19 (b) Divide each facility's total allowable direct care cost by its  
20 adjusted resident days for the same report period, increased if  
21 necessary to a minimum occupancy of eighty-five percent; that is, the  
22 greater of actual or imputed occupancy at eighty-five percent of  
23 licensed beds, to derive the facility's allowable direct care cost per  
24 resident day;

25 (c) Adjust the facility's per resident day direct care cost by the  
26 applicable factor specified in section 19(4) (b) and (c) of this act to  
27 derive its adjusted allowable direct care cost per resident day;

28 (d) Divide each facility's adjusted allowable direct care cost per  
29 resident day by the facility average case mix index for the applicable  
30 quarters specified by section 24(7)(b) of this act to derive the  
31 facility's allowable direct care cost per case mix unit;

32 (e) Divide nursing facilities into two peer groups: Those located  
33 in metropolitan statistical areas as determined and defined by the  
34 United States office of management and budget or other appropriate  
35 agency or office of the federal government, and those not located in a  
36 metropolitan statistical area;

37 (f) Array separately the allowable direct care cost per case mix  
38 unit for all metropolitan statistical area and for all nonmetropolitan

1 statistical area facilities, and determine the median allowable direct  
2 care cost per case mix unit for each peer group;

3 (g) Except as provided in (k) of this subsection, from October 1,  
4 1998, through June 30, 2000, determine each facility's quarterly direct  
5 care component rate as follows:

6 (i) Any facility whose allowable cost per case mix unit is less  
7 than eighty-five percent of the facility's peer group median  
8 established under (f) of this subsection shall be assigned a cost per  
9 case mix unit equal to eighty-five percent of the facility's peer group  
10 median, and shall have a direct care component rate allocation equal to  
11 the facility's assigned cost per case mix unit multiplied by that  
12 facility's medicaid average case mix index from the applicable quarter  
13 specified in section 24(7)(c) of this act;

14 (ii) Any facility whose allowable cost per case mix unit is greater  
15 than one hundred fifteen percent of the peer group median established  
16 under (f) of this subsection shall be assigned a cost per case mix unit  
17 equal to one hundred fifteen percent of the peer group median, and  
18 shall have a direct care component rate allocation equal to the  
19 facility's assigned cost per case mix unit multiplied by that  
20 facility's medicaid average case mix index from the applicable quarter  
21 specified in section 24(7)(c) of this act;

22 (iii) Any facility whose allowable cost per case mix unit is  
23 between eighty-five and one hundred fifteen percent of the peer group  
24 median established under (f) of this subsection shall have a direct  
25 care component rate allocation equal to the facility's allowable cost  
26 per case mix unit multiplied by that facility's medicaid average case  
27 mix index from the applicable quarter specified in section 24(7)(c) of  
28 this act;

29 (h) Except as provided in (k) of this subsection, from July 1,  
30 2000, through June 30, 2002, determine each facility's quarterly direct  
31 care component rate as follows:

32 (i) Any facility whose allowable cost per case mix unit is less  
33 than ninety percent of the facility's peer group median established  
34 under (f) of this subsection shall be assigned a cost per case mix unit  
35 equal to ninety percent of the facility's peer group median, and shall  
36 have a direct care component rate allocation equal to the facility's  
37 assigned cost per case mix unit multiplied by that facility's medicaid  
38 average case mix index from the applicable quarter specified in section  
39 24(7)(c) of this act;

1 (ii) Any facility whose allowable cost per case mix unit is greater  
2 than one hundred ten percent of the peer group median established under  
3 (f) of this subsection shall be assigned a cost per case mix unit equal  
4 to one hundred ten percent of the peer group median, and shall have a  
5 direct care component rate allocation equal to the facility's assigned  
6 cost per case mix unit multiplied by that facility's medicaid average  
7 case mix index from the applicable quarter specified in section  
8 24(7)(c) of this act;

9 (iii) Any facility whose allowable cost per case mix unit is  
10 between ninety and one hundred ten percent of the peer group median  
11 established under (f) of this subsection shall have a direct care  
12 component rate allocation equal to the facility's allowable cost per  
13 case mix unit multiplied by that facility's medicaid average case mix  
14 index from the applicable quarter specified in section 24(7)(c) of this  
15 act;

16 (i) From July 1, 2002, through June 30, 2004, determine each  
17 facility's quarterly direct care component rate as follows:

18 (i) Any facility whose allowable cost per case mix unit is less  
19 than ninety-five percent of the facility's peer group median  
20 established under (f) of this subsection shall be assigned a cost per  
21 case mix unit equal to ninety-five percent of the facility's peer group  
22 median, and shall have a direct care component rate allocation equal to  
23 the facility's assigned cost per case mix unit multiplied by that  
24 facility's medicaid average case mix index from the applicable quarter  
25 specified in section 24(7)(c) of this act;

26 (ii) Any facility whose allowable cost per case mix unit is greater  
27 than one hundred five percent of the peer group median established  
28 under (f) of this subsection shall be assigned a cost per case mix unit  
29 equal to one hundred five percent of the peer group median, and shall  
30 have a direct care component rate allocation equal to the facility's  
31 assigned cost per case mix unit multiplied by that facility's medicaid  
32 average case mix index from the applicable quarter specified in section  
33 24(7)(c) of this act;

34 (iii) Any facility whose allowable cost per case mix unit is  
35 between ninety-five and one hundred five percent of the peer group  
36 median established under (f) of this subsection shall have a direct  
37 care component rate allocation equal to the facility's allowable cost  
38 per case mix unit multiplied by that facility's medicaid average case

1 mix index from the applicable quarter specified in section 24(7)(c) of  
2 this act;

3 (j) Beginning July 1, 2004, determine each facility's quarterly  
4 direct care component rate by multiplying the facility's peer group  
5 median allowable direct care cost per case mix unit by that facility's  
6 medicaid average case mix index from the applicable quarter as  
7 specified in section 24(7)(c) of this act.

8 (k)(i) Between October 1, 1998, and June 30, 2000, the department  
9 shall compare each facility's direct care component rate allocation  
10 calculated under (g) of this subsection with the facility's nursing  
11 services component rate in effect on June 30, 1998, less therapy costs,  
12 plus any exceptional care offsets as reported on the cost report,  
13 adjusted for economic trends and conditions as provided in section 19  
14 of this act. A facility shall receive the higher of the two rates;

15 (ii) Between July 1, 2000, and June 30, 2002, the department shall  
16 compare each facility's direct care component rate allocation  
17 calculated under (h) of this subsection with the facility's direct care  
18 component rate in effect on June 30, 2000. A facility shall receive  
19 the higher of the two rates.

20 (6) The direct care component rate allocations calculated in  
21 accordance with this section shall be adjusted to the extent necessary  
22 to comply with section 18 of this act. If the department determines  
23 that the weighted average rate allocations for all rate components for  
24 all facilities is likely to exceed the weighted average total rate  
25 specified in the state biennial appropriations act, the department  
26 shall adjust the rate allocations calculated in this section  
27 proportional to the amount by which the total weighted average rate  
28 allocations would otherwise exceed the budgeted level. Such  
29 adjustments shall only be made prospectively, not retrospectively.

30 NEW SECTION. **Sec. 26.** (1) The therapy care component rate  
31 allocation corresponds to the provision of medicaid one-on-one therapy  
32 provided by a qualified therapist as defined in this chapter, including  
33 therapy supplies and therapy consultation, for one day for one medicaid  
34 resident of a nursing facility. The therapy care component rate  
35 allocation for October 1, 1998, through June 30, 2001, shall be based  
36 on adjusted therapy costs and days from calendar year 1996. The  
37 therapy component rate allocation for July 1, 2001, through June 30,  
38 2004, shall be based on adjusted therapy costs and days from calendar

1 year 1999. The therapy care component rate shall be adjusted for  
2 economic trends and conditions as specified in section 19(5)(b) of this  
3 act, and shall be determined in accordance with this section.

4 (2) In rebasing, as provided in section 19(5)(a) of this act, the  
5 department shall take from the cost reports of facilities the following  
6 reported information:

7 (a) Direct one-on-one therapy charges for all residents by payer  
8 including charges for supplies;

9 (b) The total units or modules of therapy care for all residents by  
10 type of therapy provided, for example, speech or physical. A unit or  
11 module of therapy care is considered to be fifteen minutes of one-on-  
12 one therapy provided by a qualified therapist or support personnel; and

13 (c) Therapy consulting expenses for all residents.

14 (3) The department shall determine for all residents the total cost  
15 per unit of therapy for each type of therapy by dividing the total  
16 adjusted one-on-one therapy expense for each type by the total units  
17 provided for that therapy type.

18 (4) The department shall divide medicaid nursing facilities in this  
19 state into two peer groups:

20 (a) Those facilities located within a metropolitan statistical  
21 area; and

22 (b) Those not located in a metropolitan statistical area.

23 Metropolitan statistical areas and nonmetropolitan statistical  
24 areas shall be as determined by the United States office of management  
25 and budget or other applicable federal office. The department shall  
26 array the facilities in each peer group from highest to lowest based on  
27 their total cost per unit of therapy for each therapy type. The  
28 department shall determine the median total cost per unit of therapy  
29 for each therapy type and add ten percent of median total cost per unit  
30 of therapy. The cost per unit of therapy for each therapy type at a  
31 nursing facility shall be the lesser of its cost per unit of therapy  
32 for each therapy type or the median total cost per unit plus ten  
33 percent for each therapy type for its peer group.

34 (5) The department shall calculate each nursing facility's therapy  
35 care component rate allocation as follows:

36 (a) To determine the allowable total therapy cost for each therapy  
37 type, the allowable cost per unit of therapy for each type of therapy  
38 shall be multiplied by the total therapy units for each type of  
39 therapy;

1 (b) The medicaid allowable one-on-one therapy expense shall be  
2 calculated taking the allowable total therapy cost for each therapy  
3 type times the medicaid percent of total therapy charges for each  
4 therapy type;

5 (c) The medicaid allowable one-on-one therapy expense for each  
6 therapy type shall be divided by total adjusted medicaid days to arrive  
7 at the medicaid one-on-one therapy cost per patient day for each  
8 therapy type;

9 (d) The medicaid one-on-one therapy cost per patient day for each  
10 therapy type shall be multiplied by total adjusted patient days for all  
11 residents to calculate the total allowable one-on-one therapy expense.  
12 The lesser of the total allowable therapy consultant expense for the  
13 therapy type or a reasonable percentage of allowable therapy consultant  
14 expense for each therapy type, as established in rule by the  
15 department, shall be added to the total allowable one-on-one therapy  
16 expense to determine the allowable therapy cost for each therapy type;

17 (e) The allowable therapy cost for each therapy type shall be added  
18 together, the sum of which shall be the total allowable therapy expense  
19 for the nursing facility;

20 (f) The total allowable therapy expense will be divided by the  
21 greater of adjusted total patient days from the cost report on which  
22 the therapy expenses were reported, or patient days at eighty-five  
23 percent occupancy of licensed beds. The outcome shall be the nursing  
24 facility's therapy care component rate allocation.

25 (6) The therapy care component rate allocations calculated in  
26 accordance with this section shall be adjusted to the extent necessary  
27 to comply with section 18 of this act. If the department determines  
28 that the weighted average rate allocations for all rate components for  
29 all facilities is likely to exceed the weighted average total rate  
30 specified in the state biennial appropriations act, the department  
31 shall adjust the rate allocations calculated in this section  
32 proportional to the amount by which the total weighted average rate  
33 allocations would otherwise exceed the budgeted level. Such  
34 adjustments shall only be made prospectively, not retrospectively.

35 NEW SECTION. **Sec. 27.** (1) The support services component rate  
36 allocation corresponds to the provision of food, food preparation,  
37 dietary, housekeeping, and laundry services for one resident for one  
38 day.

1 (2) Beginning October 1, 1998, the department shall determine each  
2 medicaid nursing facility's support services component rate allocation  
3 using cost report data specified by section 19(6) of this act.

4 (3) To determine each facility's support services component rate  
5 allocation, the department shall:

6 (a) Array facilities' adjusted support services costs per adjusted  
7 resident day for each facility from facilities' cost reports from the  
8 applicable report year, for facilities located within a metropolitan  
9 statistical area, and for those not located in any metropolitan  
10 statistical area and determine the median adjusted cost for each peer  
11 group;

12 (b) Set each facility's support services component rate at the  
13 lower of the facility's per resident day adjusted support services  
14 costs from the applicable cost report period or the adjusted median per  
15 resident day support services cost for that facility's peer group,  
16 either metropolitan statistical area or nonmetropolitan statistical  
17 area, plus ten percent; and

18 (c) Adjust each facility's support services component rate for  
19 economic trends and conditions as provided in section 19(6) of this  
20 act.

21 (4) The support services component rate allocations calculated in  
22 accordance with this section shall be adjusted to the extent necessary  
23 to comply with section 18 of this act. If the department determines  
24 that the weighted average rate allocations for all rate components for  
25 all facilities is likely to exceed the weighted average total rate  
26 specified in the state biennial appropriations act, the department  
27 shall adjust the rate allocations calculated in this section  
28 proportional to the amount by which the total weighted average rate  
29 allocations would otherwise exceed the budgeted level. Such  
30 adjustments shall only be made prospectively, not retrospectively.

31 NEW SECTION. **Sec. 28.** (1) The operations component rate  
32 allocation corresponds to the general operation of a nursing facility  
33 for one resident for one day, including but not limited to management,  
34 administration, utilities, office supplies, accounting and bookkeeping,  
35 minor building maintenance, minor equipment repairs and replacements,  
36 and other supplies and services, exclusive of direct care, therapy  
37 care, support services, property, and return on investment.

1 (2) Beginning October 1, 1998, the department shall determine each  
2 medicaid nursing facility's operations component rate allocation using  
3 cost report data specified by section 19(7)(a) of this act.

4 (3) To determine each facility's operations component rate the  
5 department shall:

6 (a) Array facilities' adjusted general operations costs per  
7 adjusted resident day for each facility from facilities' cost reports  
8 from the applicable report year, for facilities located within a  
9 metropolitan statistical area and for those not located in a  
10 metropolitan statistical area and determine the median adjusted cost  
11 for each peer group;

12 (b) Set each facility's operations component rate at the lower of  
13 the facility's per resident day adjusted operations costs from the  
14 applicable cost report period or the adjusted median per resident day  
15 general operations cost for that facility's peer group, metropolitan  
16 statistical area or nonmetropolitan statistical area; and

17 (c) Adjust each facility's operations component rate for economic  
18 trends and conditions as provided in section 19(7)(b) of this act.

19 (4) The operations component rate allocations calculated in  
20 accordance with this section shall be adjusted to the extent necessary  
21 to comply with section 18 of this act. If the department determines  
22 that the weighted average rate allocations for all rate components for  
23 all facilities is likely to exceed the weighted average total rate  
24 specified in the state biennial appropriations act, the department  
25 shall adjust the rate allocations calculated in this section  
26 proportional to the amount by which the total weighted average rate  
27 allocations would otherwise exceed the budgeted level. Such  
28 adjustments shall only be made prospectively, not retrospectively.

29 NEW SECTION. **Sec. 29.** (1) The property component rate allocation  
30 for each facility shall be determined by dividing the sum of the  
31 reported allowable prior period actual depreciation, subject to RCW  
32 74.46.310 through 74.46.380, adjusted for any capitalized additions or  
33 replacements approved by the department, and the retained savings from  
34 such cost center, by the greater of a facility's total resident days  
35 for the facility in the prior period or resident days as calculated on  
36 eighty-five percent facility occupancy. If a capitalized addition or  
37 retirement of an asset will result in a different licensed bed capacity  
38 during the ensuing period, the prior period total resident days used in



1 computing the property component rate shall be adjusted to anticipated  
2 resident day level.

3 (2) A nursing facility's property component rate allocation shall  
4 be rebased annually, effective July 1st or October 1st as applicable,  
5 in accordance with this section and this chapter.

6 (3) When a certificate of need for a new facility is requested, the  
7 department, in reaching its decision, shall take into consideration  
8 per-bed land and building construction costs for the facility which  
9 shall not exceed a maximum to be established by the secretary.

10 (4) For the purpose of calculating a nursing facility's property  
11 component rate, if a contractor elects to bank licensed beds or to  
12 convert banked beds to active service, under chapter 70.38 RCW, the  
13 department shall use the facility's anticipated resident occupancy  
14 level subsequent to the decrease or increase in licensed bed capacity.  
15 However, in no case shall the department use less than eighty-five  
16 percent occupancy of the facility's licensed bed capacity after banking  
17 or conversion.

18 (5) The property component rate allocations calculated in  
19 accordance with this section shall be adjusted to the extent necessary  
20 to comply with section 18 of this act. If the department determines  
21 that the weighted average rate allocations for all rate components for  
22 all facilities is likely to exceed the weighted average total rate  
23 specified in the state biennial appropriations act, the department  
24 shall adjust the rate allocations calculated in this section  
25 proportional to the amount by which the total weighted average rate  
26 allocations would otherwise exceed the budgeted level. Such  
27 adjustments shall only be made prospectively, not retrospectively.

28 NEW SECTION. Sec. 30. (1) The department shall establish for each  
29 medicaid nursing facility a return on investment component rate  
30 allocation composed of two parts: A financing allowance and a variable  
31 return allowance. The financing allowance part of a facility's return  
32 on investment component rate shall be rebased annually, effective July  
33 1st, in accordance with the provisions of this section and this  
34 chapter.

35 (a) The financing allowance shall be determined by multiplying the  
36 net invested funds of each facility by .10, and dividing by the greater  
37 of a nursing facility's total resident days from the most recent cost  
38 report period or resident days calculated on eighty-five percent

1 facility occupancy. If a capitalized addition or retirement of an  
2 asset will result in a different licensed bed capacity during the  
3 ensuing period, the prior period total resident days used in computing  
4 the financing and variable return allowances shall be adjusted to the  
5 anticipated resident day level.

6 (b) In computing the portion of net invested funds representing the  
7 net book value of tangible fixed assets, the same assets, depreciation  
8 bases, lives, and methods referred to in RCW 74.46.330, 74.46.350,  
9 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets,  
10 shall be utilized, except that the capitalized cost of land upon which  
11 the facility is located and such other contiguous land which is  
12 reasonable and necessary for use in the regular course of providing  
13 resident care shall also be included. Subject to provisions and  
14 limitations contained in this chapter, for land purchased by owners or  
15 lessors before July 18, 1984, capitalized cost of land shall be the  
16 buyer's capitalized cost. For all partial or whole rate periods after  
17 July 17, 1984, if the land is purchased after July 17, 1984,  
18 capitalized cost shall be that of the owner of record on July 17, 1984,  
19 or buyer's capitalized cost, whichever is lower. In the case of leased  
20 facilities where the net invested funds are unknown or the contractor  
21 is unable to provide necessary information to determine net invested  
22 funds, the secretary shall have the authority to determine an amount  
23 for net invested funds based on an appraisal conducted according to RCW  
24 74.46.360(1).

25 (c) In determining the variable return allowance:

26 (i) For the October 1, 1998, rate setting, the department, without  
27 utilizing peer groups, shall first rank all facilities in numerical  
28 order from highest to lowest according to their per resident day  
29 adjusted or audited, or both, allowable costs for nursing services,  
30 food, administration, and operational costs combined for the 1996  
31 calendar year cost report period.

32 (ii) The department shall then compute the variable return  
33 allowance by multiplying the appropriate percentage amounts, which  
34 shall not be less than one percent and not greater than four percent,  
35 by the sum of the facility's nursing services, food, administrative,  
36 and operational rate components. The percentage amounts will be based  
37 on groupings of facilities according to the rankings prescribed in  
38 (c)(i) of this subsection. Those groups of facilities with lower per

1 diem costs shall receive higher percentage amounts than those with  
2 higher per diem costs.

3 (d) The sum of the financing allowance and the variable return  
4 allowance shall be the return on investment rate for each facility, and  
5 shall be added to the prospective rates of each contractor as  
6 determined in sections 19 through 29 of this act.

7 (e) In the case of a facility that was leased by the contractor as  
8 of January 1, 1980, in an arm's-length agreement, which continues to be  
9 leased under the same lease agreement, and for which the annualized  
10 lease payment, plus any interest and depreciation expenses associated  
11 with contractor-owned assets, for the period covered by the prospective  
12 rates, divided by the contractor's total resident days, minus the  
13 property component rate allocation determined according to section 29  
14 of this act, is more than the return on investment rate determined  
15 according to (d) of this subsection, the following shall apply:

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

25 (ii) The sum of the financing allowance computed under (e)(i) of  
26 this subsection and the variable allowance shall be compared to the  
27 annualized lease payment, plus any interest and depreciation associated  
28 with contractor-owned assets, for the period covered by the prospective  
29 rates, divided by the contractor's total resident days, minus the  
30 property component rate determined according to section 29 of this act.  
31 The lesser of the two amounts shall be called the alternate return on  
32 investment rate.

33 (iii) The return on investment rate determined according to (d) of  
34 this subsection or the alternate return on investment rate, whichever  
35 is greater, shall be the return on investment rate for the facility and  
36 shall be added to the prospective rates of the contractor as determined  
37 in sections 19 through 29 of this act.

38 (f) In the case of a facility that was leased by the contractor as  
39 of January 1, 1980, in an arm's-length agreement, if the lease is

1 renewed or extended under a provision of the lease, the treatment  
2 provided in (e) of this subsection shall be applied, except that in the  
3 case of renewals or extensions made subsequent to April 1, 1985,  
4 reimbursement for the annualized lease payment shall be no greater than  
5 the reimbursement for the annualized lease payment for the last year  
6 prior to the renewal or extension of the lease.

7 (2) For the purpose of calculating a nursing facility's return on  
8 investment component rate, if a contractor elects to bank beds or to  
9 convert banked beds to active service, under chapter 70.38 RCW, the  
10 department shall use the facility's anticipated resident occupancy  
11 level subsequent to the decrease or increase in licensed bed capacity.  
12 However, in no case shall the department use less than eighty-five  
13 percent occupancy of the facility's licensed bed capacity after banking  
14 or conversion.

15 (3) Each biennium the secretary shall review the adequacy of return  
16 on investment rates in relation to anticipated requirements for  
17 maintaining, reducing, or expanding nursing care capacity. The  
18 secretary shall report the results of a such review to the legislature  
19 and make recommendations for adjustments in the return on investment  
20 rates utilized in this section, if appropriate.

21 (4) The return or investment component rate allocations calculated  
22 in accordance with this section shall be adjusted to the extent  
23 necessary to comply with section 18 of this act. If the department  
24 determines that the weighted average rate allocations for all rate  
25 components for all facilities is likely to exceed the weighted average  
26 total rate specified in the state biennial appropriations act, the  
27 department shall adjust the rate allocations calculated in this section  
28 proportional to the amount by which the total weighted average rate  
29 allocations would otherwise exceed the budgeted level. Such  
30 adjustments shall only be made prospectively, not retrospectively.

31 NEW SECTION. **Sec. 31.** (1) The department may adjust component  
32 rates for errors or omissions made in establishing component rates and  
33 determine amounts either overpaid to the contractor or underpaid by the  
34 department.

35 (2) A contractor may request the department to adjust its component  
36 rates because of:

37 (a) An error or omission the contractor made in completing a cost  
38 report; or

1 (b) An alleged error or omission made by the department in  
2 determining one or more of the contractor's component rates.

3 (3) A request for a rate adjustment made on incorrect cost  
4 reporting must be accompanied by the amended cost report pages prepared  
5 in accordance with the department's written instructions and by a  
6 written explanation of the error or omission and the necessity for the  
7 amended cost report pages and the rate adjustment.

8 (4) The department shall review a contractor's request for a rate  
9 adjustment because of an alleged error or omission, even if the time  
10 period has expired in which the contractor must appeal the rate when  
11 initially issued, pursuant to rules adopted by the department under RCW  
12 74.46.780. If the request is received after this time period, the  
13 department has the authority to correct the rate if it agrees an error  
14 or omission was committed. However, if the request is denied, the  
15 contractor shall not be entitled to any appeals or exception review  
16 procedure that the department may adopt under RCW 74.46.780.

17 (5) The department shall notify the contractor of the amount of the  
18 overpayment to be recovered or additional payment to be made to the  
19 contractor reflecting a rate adjustment to correct an error or  
20 omission. The recovery from the contractor of the overpayment or the  
21 additional payment to the contractor shall be governed by the  
22 reconciliation, settlement, security, and recovery processes set forth  
23 in this chapter and by rules adopted by the department in accordance  
24 with this chapter.

25 (6) Component rate adjustments approved in accordance with this  
26 section are subject to the provisions of section 18 of this act.

27 **Sec. 32.** RCW 74.46.610 and 1983 1st ex.s. c 67 s 33 are each  
28 amended to read as follows:

29 (1) A contractor shall bill the department each month by completing  
30 and returning a facility billing statement as provided by the  
31 department (~~(which shall include, but not be limited to:~~

32 ~~(a) Billing by cost center;~~

33 ~~(b) Total patient days; and~~

34 ~~(c) Patient days for medical care recipients)).~~

35 The statement shall be completed and filed in accordance with rules  
36 (~~and regulations~~) established by the (~~secretary~~) department.

37 (2) A facility shall not bill the department for service provided  
38 to a recipient until an award letter of eligibility of such recipient

1 under rules established under chapter 74.09 RCW has been received by  
2 the facility. However a facility may bill and shall be reimbursed for  
3 all medical care recipients referred to the facility by the department  
4 prior to the receipt of the award letter of eligibility or the denial  
5 of such eligibility.

6 (3) Billing shall cover the patient days of care.

7 **Sec. 33.** RCW 74.46.620 and 1980 c 177 s 62 are each amended to  
8 read as follows:

9 (1) The department will (~~reimburse~~) pay a contractor for service  
10 rendered under the facility contract and billed in accordance with RCW  
11 74.46.610.

12 (2) The amount paid will be computed using the appropriate rates  
13 assigned to the contractor.

14 (3) For each recipient, the department will pay an amount equal to  
15 the appropriate rates, multiplied by the number of (~~patient~~) medicaid  
16 resident days each rate was in effect, less the amount the recipient is  
17 required to pay for his or her care as set forth by RCW 74.46.630.

18 **Sec. 34.** RCW 74.46.630 and 1980 c 177 s 63 are each amended to  
19 read as follows:

20 (1) The department will notify a contractor of the amount each  
21 medical care recipient is required to pay for care provided under the  
22 contract and the effective date of such required contribution. It is  
23 the contractor's responsibility to collect that portion of the cost of  
24 care from the patient, and to account for any authorized reduction from  
25 his or her contribution in accordance with rules (~~and regulations~~)  
26 established by the (~~secretary~~) department.

27 (2) If a contractor receives documentation showing a change in the  
28 income or resources of a recipient which will mean a change in his or  
29 her contribution toward the cost of care, this shall be reported in  
30 writing to the department within seventy-two hours and in a manner  
31 specified by rules (~~and regulations~~) established by the (~~secretary~~)  
32 department. If necessary, appropriate corrections will be made in the  
33 next facility statement, and a copy of documentation supporting the  
34 change will be attached. If increased funds for a recipient are  
35 received by a contractor, an amount determined by the department shall  
36 be allowed for clothing and personal and incidental expense, and the  
37 balance applied to the cost of care.

1 (3) The contractor shall accept the (~~reimbursement~~) payment rates  
2 established by the department as full compensation for all services  
3 provided under the contract, certification as specified by Title XIX,  
4 and licensure under chapter 18.51 RCW. The contractor shall not seek  
5 or accept additional compensation from or on behalf of a recipient for  
6 any or all such services.

7 **Sec. 35.** RCW 74.46.640 and 1995 1st sp.s. c 18 s 112 are each  
8 amended to read as follows:

9 (1) Payments to a contractor may be withheld by the department in  
10 each of the following circumstances:

11 (a) A required report is not properly completed and filed by the  
12 contractor within the appropriate time period, including any approved  
13 extension. Payments will be released as soon as a properly completed  
14 report is received;

15 (b) State auditors, department auditors, or authorized personnel in  
16 the course of their duties are refused access to a nursing facility or  
17 are not provided with existing appropriate records. Payments will be  
18 released as soon as such access or records are provided;

19 (c) A refund in connection with a (~~preliminary or final~~)  
20 settlement or rate adjustment is not paid by the contractor when due.  
21 The amount withheld will be limited to the unpaid amount of the refund  
22 and any accumulated interest owed to the department as authorized by  
23 this chapter;

24 (d) Payment for the final sixty days of service (~~under~~) prior to  
25 termination or assignment of a contract will be held in the absence of  
26 adequate alternate security acceptable to the department pending  
27 (~~final~~) settlement of all periods when the contract is terminated or  
28 assigned; and

29 (e) Payment for services at any time during the contract period in  
30 the absence of adequate alternate security acceptable to the  
31 department, if a contractor's net medicaid overpayment liability for  
32 one or more nursing facilities or other debt to the department, as  
33 determined by (~~preliminary settlement, final~~) settlement, civil fines  
34 imposed by the department, third-party liabilities or other source,  
35 reaches or exceeds fifty thousand dollars, whether subject to good  
36 faith dispute or not, and for each subsequent increase in liability  
37 reaching or exceeding twenty-five thousand dollars. Payments will be

1 released as soon as practicable after acceptable security is provided  
2 or refund to the department is made.

3 (2) No payment will be withheld until written notification of the  
4 suspension is provided to the contractor, stating the reason for the  
5 withholding, except that neither a timely filed request to pursue  
6 ~~((the))~~ any administrative appeals or exception procedure that the  
7 department may establish~~((ed))~~ by ~~((the department in))~~ rule nor  
8 commencement of judicial review, as may be available to the contractor  
9 in law, shall delay suspension of payment.

10 **Sec. 36.** RCW 74.46.650 and 1980 c 177 s 65 are each amended to  
11 read as follows:

12 All payments to a contractor will end no later than sixty days  
13 after any of the following occurs:

14 (1) A contract ~~((expires,))~~ is terminated, assigned, or is not  
15 renewed;

16 (2) A facility license is revoked; or

17 (3) A facility is decertified as a Title XIX facility; except that,  
18 in situations where the ~~((secretary))~~ department determines that  
19 residents must remain in such facility for a longer period because of  
20 the resident's health or safety, payments for such residents shall  
21 continue.

22 **Sec. 37.** RCW 74.46.660 and 1992 c 215 s 1 are each amended to read  
23 as follows:

24 In order to participate in the ~~((prospective cost related~~  
25 ~~reimbursement))~~ nursing facility medicaid payment system established by  
26 this chapter, the person or legal ~~((organization))~~ entity responsible  
27 for operation of a facility shall:

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

31 (2) Hold the appropriate current license;

32 (3) Hold current Title XIX certification;

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

34 (5) Comply with all provisions of the contract and all  
35 ~~((application))~~ applicable regulations, including but not limited to  
36 the provisions of this chapter; and



1 (6) Obtain and maintain medicare certification, under Title XVIII  
2 of the social security act, 42 U.S.C. Sec. 1395, as amended, for a  
3 portion of the facility's licensed beds. (~~Until June 1, 1993, the~~  
4 ~~department may grant exemptions from the medicare certification~~  
5 ~~requirements of this subsection to nursing facilities that are making~~  
6 ~~good faith efforts to obtain medicare certification.~~)

7 **Sec. 38.** RCW 74.46.680 and 1985 c 361 s 2 are each amended to read  
8 as follows:

9 (1) On the effective date of a change of ownership the department's  
10 contract with the old owner shall be (~~terminated~~) automatically  
11 assigned to the new owner, unless: (a) The new owner does not desire  
12 to participate in medicaid as a nursing facility provider; (b) the  
13 department elects not to continue the contract with the new owner for  
14 good cause; or (c) the new owner elects not to accept assignment and  
15 requests certification and a new contract. The old owner shall give  
16 the department sixty days' written notice of such (~~termination~~)  
17 intent to change ownership and assign. When certificate of need and/or  
18 section 1122 approval is required pursuant to chapter 70.38 RCW and  
19 Part 100, Title 42 CFR, for the new owner to acquire the facility, and  
20 the new owner wishes to continue to provide service to recipients  
21 without interruption, certificate of need and/or section 1122 approval  
22 shall be obtained before the old owner submits a notice of  
23 (~~termination~~) intent to change ownership and assign.

24 (2) If the new owner desires to participate in the (~~cost-related~~  
25 ~~reimbursement~~) nursing facility medicaid payment system, it shall meet  
26 the conditions specified in RCW 74.46.660 (~~and shall submit a~~  
27 ~~projected budget in accordance with RCW 74.46.670 no later than sixty~~  
28 ~~days before the date of the change of ownership~~). The facility  
29 contract with the new owner shall be effective as of the date of the  
30 change of ownership.

31 **Sec. 39.** RCW 74.46.690 and 1995 1st sp.s. c 18 s 113 are each  
32 amended to read as follows:

33 (1) When (~~a facility contract is terminated~~) there is a change of  
34 ownership for any reason, (the old contractor shall submit) final  
35 reports shall be submitted as required by RCW 74.46.040.

36 (2) Upon a notification of (a contract termination) intent to  
37 change ownership, the department shall determine by (~~preliminary or~~

1 ~~final settlement calculations~~) settlement or reconciliation the amount  
2 of any overpayments made to the assigning or terminating contractor,  
3 including overpayments disputed by the assigning or terminating  
4 contractor. If (~~preliminary or final~~) settlements are unavailable  
5 for any period up to the date of (~~contract termination~~) assignment or  
6 termination, the department shall make a reasonable estimate of any  
7 overpayment or underpayments for such periods. The reasonable estimate  
8 shall be based upon prior period settlements, available audit findings,  
9 the projected impact of prospective rates, and other information  
10 available to the department. The department shall also determine and  
11 add in the total of all other debts and potential debts owed to the  
12 department regardless of source, including, but not limited to,  
13 interest owed to the department as authorized by this chapter, civil  
14 fines imposed by the department, or third-party liabilities.

15 (3) (~~The old~~) For all cost reports filed after December 31, 1997,  
16 the assigning or terminating contractor shall provide security, in a  
17 form deemed adequate by the department, equal to the total amount of  
18 determined and estimated overpayments and all (~~other~~) debts and  
19 potential debts from any source, whether or not the overpayments are  
20 the subject of good faith dispute including but not limited to,  
21 interest owed to the department, civil fines imposed by the department,  
22 and third-party liabilities. Security shall consist of one or more of  
23 the following:

24 (a) Withheld payments due the assigning or terminating contractor  
25 under the contract being assigned or terminated; (~~or~~)

26 (b) (~~A surety bond issued by a bonding company acceptable to the~~  
27 ~~department; or~~

28 (~~e~~) An assignment of funds to the department; (~~or~~

29 (~~d~~) ~~Collateral acceptable to the department; or~~

30 (~~e~~) ~~A purchaser's~~) (c) The new contractor's assumption of  
31 liability for the prior contractor's (~~overpayment~~) debt or potential  
32 debt;

33 (d) An authorization to withhold payments from one or more medicaid  
34 nursing facilities that continue to be operated by the assigning or  
35 terminating contractor;

36 (~~f~~) (e) A promissory note secured by a deed of trust; or

37 (~~g~~) ~~Any combination of (a), (b), (c), (d), (e), or (f) of this~~  
38 ~~subsection~~) (f) Other collateral or security acceptable to the  
39 department.

1 (4) ~~((A surety bond or))~~ An assignment of funds shall:

2 (a) Be at least equal ~~((in))~~ to the amount ~~((to))~~ of determined or  
3 estimated ~~((overpayments, whether or not the subject of good faith~~  
4 ~~dispute,))~~ debt or potential debt minus withheld payments or other  
5 security provided; and

6 (b) ~~((Be issued or accepted by a bonding company or financial~~  
7 ~~institution licensed to transact business in Washington state;~~

8 (c) ~~Be for a term, as determined by the department, sufficient to~~  
9 ~~ensure effectiveness after final settlement and the exhaustion of any~~  
10 ~~administrative appeals or exception procedure and judicial remedies, as~~  
11 ~~may be available to and sought by the contractor, regarding payment,~~  
12 ~~settlement, civil fine, interest assessment, or other debt issues:~~  
13 ~~PROVIDED, That the bond or assignment shall initially be for a term of~~  
14 ~~at least five years, and shall be forfeited if not renewed thereafter~~  
15 ~~in an amount equal to any remaining combined overpayment and debt~~  
16 ~~liability as determined by the department;~~

17 (d) ~~Provide that the full amount of the bond or assignment, or~~  
18 ~~both, shall be paid to the department if a properly completed final~~  
19 ~~cost report is not filed in accordance with this chapter, or if~~  
20 ~~financial records supporting this report are not preserved and made~~  
21 ~~available to the auditor; and~~

22 (e)) ~~Provide that an amount equal to any recovery the department~~  
23 ~~determines is due from the contractor from ((settlement or from)) any~~  
24 ~~((other)) source of debt to the department, but not exceeding the~~  
25 ~~amount of the ((bond and assignment))~~ assigned funds, shall be paid to  
26 the department if the contractor does not pay the ~~((refund and))~~ debt  
27 within sixty days following receipt of written demand for payment from  
28 the department to the contractor.

29 (5) The department shall release any payment withheld as security  
30 if alternate security is provided under subsection (3) of this section  
31 in an amount equivalent to the determined and estimated  
32 ~~((overpayments))~~ debt.

33 (6) If the total of withheld payments~~((, bonds,))~~ and  
34 ~~((assignments))~~ assigned funds is less than the total of determined and  
35 estimated ~~((overpayments))~~ debt, the unsecured amount of such  
36 ~~((overpayments))~~ debt shall be a debt due the state and shall become a  
37 lien against the real and personal property of the contractor from the  
38 time of filing by the department with the county auditor of the county

1 where the contractor resides or owns property, and the lien claim has  
2 preference over the claims of all unsecured creditors.

3       (7) ~~((The contractor shall file))~~ A properly completed final cost  
4 report shall be filed in accordance with the requirements of ~~((this~~  
5 ~~chapter))~~ RCW 74.46.040, which shall be ~~((audited))~~ examined by the  
6 department in accordance with the requirements of RCW 74.46.100. ~~((A~~  
7 ~~final settlement shall be determined within ninety days following~~  
8 ~~completion of the audit process, including completion of any~~  
9 ~~administrative appeals or exception procedure review of the audit~~  
10 ~~requested by the contractor, but not including completion of any~~  
11 ~~judicial review available to and commenced by the contractor.))~~

12       (8) ~~((Following determination of settlement for all periods,))~~  
13 Security held pursuant to this section shall be released to the  
14 contractor after all ~~((overpayments, erroneous payments, and))~~ debts  
15 ~~((determined in connection with final settlement, or otherwise)),~~  
16 including accumulated interest owed the department, have been paid by  
17 the ~~((contractor))~~ old owner.

18       (9) If, after calculation of settlements for any periods, it is  
19 determined that overpayments exist in excess of the value of security  
20 held by the state, the department may seek recovery of these additional  
21 overpayments as provided by law.

22       (10) Regardless of whether a contractor intends to ~~((terminate its~~  
23 ~~medicaid contracts))~~ change ownership, if a contractor's net medicaid  
24 overpayments and erroneous payments for one or more settlement periods,  
25 and for one or more nursing facilities, combined with debts due the  
26 department, reaches or exceeds a total of fifty thousand dollars, as  
27 determined by ~~((preliminary settlement, final))~~ settlement, civil fines  
28 imposed by the department, third-party liabilities or by any other  
29 source, whether such amounts are subject to good faith dispute or not,  
30 the department shall demand and obtain security equivalent to the total  
31 of such overpayments, erroneous payments, and debts and shall obtain  
32 security for each subsequent increase in liability reaching or  
33 exceeding twenty-five thousand dollars. Such security shall meet the  
34 criteria in subsections (3) and (4) of this section, except that the  
35 department shall not accept an assumption of liability. The department  
36 shall withhold all or portions of a contractor's current contract  
37 payments or impose liens, or both, if security acceptable to the  
38 department is not forthcoming. The department shall release a  
39 contractor's withheld payments or lift liens, or both, if the

1 contractor subsequently provides security acceptable to the department.  
2 (~~This subsection shall apply to all overpayments and erroneous~~  
3 ~~payments determined by preliminary or final settlements issued on or~~  
4 ~~after July 1, 1995, regardless of what payment periods the settlements~~  
5 ~~may cover and shall apply to all debts owed the department from any~~  
6 ~~source, including interest debts, which become due on or after July 1,~~  
7 ~~1995.))~~

8 (11) Notwithstanding the application of security measures  
9 authorized by this section, if the department determines that any  
10 remaining debt of the old owner is uncollectible from the old owner,  
11 the new owner is liable for the unsatisfied debt in all respects. If  
12 the new owner does not accept assignment of the contract and the  
13 contingent liability for all debt of the prior owner, a new  
14 certification survey shall be done and no payments shall be made to the  
15 new owner until the department determines the facility is in  
16 substantial compliance for the purposes of certification.

17 (12) Medicaid provider contracts shall only be assigned if there is  
18 a change of ownership, and with approval by the department.

19 **Sec. 40.** RCW 74.46.770 and 1995 1st sp.s. c 18 s 114 are each  
20 amended to read as follows:

21 (1) (~~For all nursing facility medicaid payment rates effective on~~  
22 ~~or after July 1, 1995, and for all settlements and audits issued on or~~  
23 ~~after July 1, 1995, regardless of what periods the settlements or~~  
24 ~~audits may cover,)) If a contractor wishes to contest the way in which  
25 a rule relating to the medicaid payment ((rate)) system was applied to  
26 the contractor by the department, it shall pursue ((the)) any appeals  
27 or exception procedure ((established by)) that the department may  
28 establish in rule authorized by RCW 74.46.780.~~

29 (2) If a contractor wishes to challenge the legal validity of a  
30 statute, rule, or contract provision or wishes to bring a challenge  
31 based in whole or in part on federal law, (~~including but not limited~~  
32 ~~to issues of procedural or substantive compliance with the federal~~  
33 ~~medicaid minimum payment standard for long term care facility services,~~  
34 ~~the)) any appeals or exception procedure ((established by)) that the  
35 department may establish in rule may not be used for these purposes.  
36 This prohibition shall apply regardless of whether the contractor  
37 wishes to obtain a decision or ruling on an issue of validity or~~

1 federal compliance or wishes only to make a record for the purpose of  
2 subsequent judicial review.

3 (3) If a contractor wishes to challenge the legal validity of a  
4 statute, rule, or contract provision relating to the medicaid payment  
5 rate system, or wishes to bring a challenge based in whole or in part  
6 on federal law, it must bring such action de novo in a court of proper  
7 jurisdiction as may be provided by law.

8 **Sec. 41.** RCW 74.46.780 and 1995 1st sp.s. c 18 s 115 are each  
9 amended to read as follows:

10 ~~((For all nursing facility medicaid payment rates effective on or  
11 after July 1, 1995, and for all audits completed and settlements issued  
12 on or after July 1, 1995, regardless of what periods the payment rates,  
13 audits, or settlements may cover,))~~ The department shall establish in  
14 rule, consistent with federal requirements for nursing facilities  
15 participating in the medicaid program, an appeals or exception  
16 procedure that allows individual nursing care providers an opportunity  
17 to submit additional evidence and receive prompt administrative review  
18 of payment rates with respect to such issues as the department deems  
19 appropriate.

20 **Sec. 42.** RCW 74.46.800 and 1980 c 177 s 80 are each amended to  
21 read as follows:

22 (1) The department shall have authority to adopt, ((promulgate,))  
23 amend, and rescind such administrative rules and definitions as ((are))  
24 it deems necessary to carry out the policies and purposes of this  
25 chapter and to resolve issues and develop procedures that it deems  
26 necessary to implement, update, and improve the case mix elements of  
27 the nursing facility medicaid payment system. ((In addition, at least  
28 annually the department shall review changes to generally accepted  
29 accounting principles and generally accepted auditing standards as  
30 approved by the financial accounting standards board, and the American  
31 institute of certified public accountants, respectively. The  
32 department shall adopt by administrative rule those approved changes  
33 which it finds to be consistent with the policies and purposes of this  
34 chapter.))

35 (2) Nothing in this chapter shall be construed to require the  
36 department to adopt or employ any calculations, steps, tests,  
37 methodologies, alternate methodologies, indexes, formulas, mathematical

1 or statistical models, concepts, or procedures for medicaid rate  
2 setting or payment that are not expressly called for in this chapter.

3 **Sec. 43.** RCW 74.46.820 and 1985 c 361 s 14 are each amended to  
4 read as follows:

5 (1) Cost reports and their final audit reports filed by the  
6 contractor shall be subject to public disclosure pursuant to the  
7 requirements of chapter 42.17 RCW. ~~((Notwithstanding any other~~  
8 ~~provision of law, cost report schedules showing information on rental~~  
9 ~~or lease of assets, the facility or corporate balance sheet, schedule~~  
10 ~~of changes in financial position, statement of changes in equity fund~~  
11 ~~balances, notes to financial statements, and any accompanying schedules~~  
12 ~~summarizing the adjustments to a contractor's financial records,~~  
13 ~~reports on review of internal control and accounting procedures, and~~  
14 ~~letters of comments or recommendations relating to suggested~~  
15 ~~improvements in internal control or accounting procedures which are~~  
16 ~~prepared pursuant to the requirements of this chapter shall be exempt~~  
17 ~~from public disclosure.~~

18 This)) (2) Subsection (1) of this section does not prevent a  
19 contractor from having access to its own records or from authorizing an  
20 agent or designee to have access to the contractor's records.

21 ~~((+2))~~ (3) Regardless of whether any document or report submitted  
22 to the secretary pursuant to this chapter is subject to public  
23 disclosure, copies of such documents or reports shall be provided by  
24 the secretary, upon written request, to the legislature and to state  
25 agencies or state or local law enforcement officials who have an  
26 official interest in the contents thereof.

27 **Sec. 44.** RCW 74.46.840 and 1983 1st ex.s. c 67 s 42 are each  
28 amended to read as follows:

29 If any part of this chapter ~~((and))~~ or RCW 18.51.145 ~~((and))~~ or  
30 74.09.120 is found by an agency of the federal government to be in  
31 conflict with federal requirements ~~((which))~~ that are a prescribed  
32 condition to the receipts of federal funds to the state, the  
33 conflicting part of this chapter ~~((and))~~ or RCW 18.51.145 ~~((and))~~ or  
34 74.09.120 is ~~((hereby))~~ declared inoperative solely to the extent of  
35 the conflict and with respect to the agencies directly affected, and  
36 such finding or determination shall not affect the operation of the  
37 remainder of this chapter ~~((and))~~ or RCW 18.51.145 ~~((and))~~ or 74.09.120

1 in its application to the agencies concerned. In the event that any  
2 portion of this chapter (~~and~~) or RCW 18.51.145 (~~and~~) or 74.09.120  
3 is found to be in conflict with federal requirements (~~which~~) that are  
4 a prescribed condition to the receipt of federal funds, the secretary,  
5 to the extent that the secretary finds it to be consistent with the  
6 general policies and intent of chapters 18.51, 74.09, and 74.46 RCW,  
7 may adopt such rules as to resolve a specific conflict and (~~which~~)  
8 that do meet minimum federal requirements. In addition, the secretary  
9 shall submit to the next regular session of the legislature a summary  
10 of the specific rule changes made and recommendations for statutory  
11 resolution of the conflict.

12 **Sec. 45.** RCW 74.09.120 and 1993 sp.s. c 3 s 8 are each amended to  
13 read as follows:

14 The department shall purchase necessary physician and dentist  
15 services by contract or "fee for service." The department shall  
16 purchase nursing home care by contract and payment for the care shall  
17 be in accordance with the provisions of chapter 74.46 RCW and rules  
18 adopted by the department under the authority of RCW 74.46.800. (~~The~~  
19 ~~department shall establish regulations for reasonable nursing home~~  
20 ~~accounting and reimbursement systems which shall provide that~~) No  
21 payment shall be made to a nursing home which does not permit  
22 inspection by the department of social and health services of every  
23 part of its premises and an examination of all records, including  
24 financial records, methods of administration, general and special  
25 dietary programs, the disbursement of drugs and methods of supply, and  
26 any other records the department deems relevant to the (~~establishment~~  
27 ~~of such a system~~) regulation of nursing home operations, enforcement  
28 of standards for resident care, and payment for nursing home services.

29 The department may purchase nursing home care by contract in  
30 veterans' homes operated by the state department of veterans affairs(~~-~~  
31 ~~The department shall establish rules for reasonable accounting and~~  
32 ~~reimbursement systems for such care~~) and payment for the care shall be  
33 in accordance with the provisions of chapter 74.46 RCW and rules  
34 adopted by the department under the authority of RCW 74.46.800.

35 The department may purchase care in institutions for the mentally  
36 retarded, also known as intermediate care facilities for the mentally  
37 retarded. The department shall establish rules for reasonable  
38 accounting and reimbursement systems for such care. Institutions for



1 the mentally retarded include licensed nursing homes, public  
2 institutions, licensed boarding homes with fifteen beds or less, and  
3 hospital facilities certified as intermediate care facilities for the  
4 mentally retarded under the federal medicaid program to provide health,  
5 habilitative, or rehabilitative services and twenty-four hour  
6 supervision for mentally retarded individuals or persons with related  
7 conditions and includes in the program "active treatment" as federally  
8 defined.

9 The department may purchase care in institutions for mental  
10 diseases by contract. The department shall establish rules for  
11 reasonable accounting and reimbursement systems for such care.  
12 Institutions for mental diseases are certified under the federal  
13 medicaid program and primarily engaged in providing diagnosis,  
14 treatment, or care to persons with mental diseases, including medical  
15 attention, nursing care, and related services.

16 The department may purchase all other services provided under this  
17 chapter by contract or at rates established by the department.

18 NEW SECTION. **Sec. 46.** (1) Payment for direct care at the pilot  
19 nursing facility in King county designed to meet the service needs of  
20 residents living with AIDS, as defined in RCW 70.24.017, and as  
21 specifically authorized for this purpose under chapter 9, Laws of 1989  
22 1st ex. sess., shall be exempt from case mix methods of rate  
23 determination set forth in this chapter and shall be exempt from the  
24 direct care metropolitan statistical area peer group cost limitation  
25 set forth in this chapter.

26 (2) Direct care component rates at the AIDS pilot facility shall be  
27 based on direct care reported costs at the pilot facility, utilizing  
28 the same three-year, rate-setting cycle prescribed for other nursing  
29 facilities, and as supported by a staffing benchmark based upon a  
30 department-approved acuity measurement system.

31 (3) The provisions of section 18 of this act and all other rate-  
32 setting principles, cost lids, and limits, including settlement as  
33 provided in section 10 of this act shall apply to the AIDS pilot  
34 facility.

35 (4) This section applies only to the AIDS pilot nursing facility.

36 NEW SECTION. **Sec. 47.** (1) By December 1, 1998, the department of  
37 social and health services shall study and provide recommendations to

1 the chairs of the house of representatives appropriations and health  
2 care committees, and the senate ways and means and health and long-term  
3 care committees, concerning options for changing the method for paying  
4 facilities for capital and property related expenses.

5 (2) The department of social and health services shall contract  
6 with an independent and recognized organization to study and evaluate  
7 the impacts of chapter 74.46 RCW implementation on access, quality of  
8 care, quality of life for nursing facility residents, and the wage and  
9 benefit levels of all nursing facility employees. The department shall  
10 require, and the contractor shall submit, a report with the results of  
11 this study and evaluation, including their findings, to the governor  
12 and legislature by December 1, 2001.

13 (3) The department of social and health services shall study and,  
14 as needed, specify additional case mix groups and appropriate case mix  
15 weights to reflect the resource utilization of residents whose care  
16 needs are not adequately identified or reflected in the resource  
17 utilization group III grouper version 5.10. At a minimum, the  
18 department shall study the adequacy of the resource utilization group  
19 III grouper version 5.10, including the minimum data set, for capturing  
20 the care and resource utilization needs of residents with AIDS,  
21 residents with traumatic brain injury, and residents who are  
22 behaviorally challenged. The department shall report its findings to  
23 the chairs of the house of representatives health care committee and  
24 the senate health and long-term care committee by December 12, 2002.

25 (4) By December 12, 2002, the department of social and health  
26 services shall report to the legislature and provide an evaluation of  
27 the fiscal impact of rebasing future payments at different intervals,  
28 including the impact of averaging two years' cost data as the basis for  
29 rebasing. This report shall include the fiscal impact to the state and  
30 the fiscal impact to nursing facility providers.

31 NEW SECTION. **Sec. 48.** By December 12, 1998, the department of  
32 social and health services shall study and provide recommendation to  
33 appropriate committees of the legislature on the appropriateness of  
34 extending case-mix reimbursement to home and community services  
35 providers, as defined in chapter 74.39A RCW. The department shall  
36 invite stakeholders to participate in this study.

1       **Sec. 49.** RCW 72.36.030 and 1993 sp.s. c 3 s 5 are each amended to  
2 read as follows:

3       All of the following persons who have been actual bona fide  
4 residents of this state at the time of their application, and who are  
5 indigent and unable to support themselves and their families may be  
6 admitted to a state veterans' home under rules as may be adopted by the  
7 director of the department, unless sufficient facilities and resources  
8 are not available to accommodate these people:

9       (1)(a) All honorably discharged veterans of a branch of the armed  
10 forces of the United States or merchant marines; (b) members of the  
11 state militia disabled while in the line of duty; (~~and~~) (c) Filipino  
12 World War II veterans who swore an oath to American authority and who  
13 participated in military engagements with American soldiers; and (d)  
14 the spouses of these veterans, merchant marines, and members of the  
15 state militia. However, it is required that the spouse was married to  
16 and living with the veteran three years prior to the date of  
17 application for admittance, or, if married to him or her since that  
18 date, was also a resident of a state veterans' home in this state or  
19 entitled to admission thereto;

20       (2)(a) The spouses of: (i) All honorably discharged veterans of  
21 the United States armed forces; (ii) merchant marines; and (iii)  
22 members of the state militia who were disabled while in the line of  
23 duty and who were residents of a state veterans' home in this state or  
24 were entitled to admission to one of this state's state veteran homes  
25 at the time of death; (b) the spouses of: (i) All honorably discharged  
26 veterans of a branch of the United States armed forces; (ii) merchant  
27 marines; and (iii) members of the state militia who would have been  
28 entitled to admission to one of this state's state veterans' homes at  
29 the time of death, but for the fact that the spouse was not indigent,  
30 but has since become indigent and unable to support himself or herself  
31 and his or her family. However, the included spouse shall be at least  
32 fifty years old and have been married to and living with their husband  
33 or wife for three years prior to the date of their application. The  
34 included spouse shall not have been married since the death of his or  
35 her husband or wife to a person who is not a resident of one of this  
36 state's state veterans' homes or entitled to admission to one of this  
37 state's state veterans' homes; and

1 (3) All applicants for admission to a state veterans' home shall  
2 apply for all federal and state benefits for which they may be  
3 eligible, including medical assistance under chapter 74.09 RCW.

4 NEW SECTION. **Sec. 50.** A new section is added to chapter 70.38 RCW  
5 to read as follows:

6 (1) A change in bed capacity at a residential hospice care center  
7 shall not be subject to certificate of need review under this chapter  
8 if the department determined prior to June 1994 that the construction,  
9 development, or other establishment of the residential hospice care  
10 center was not subject to certificate of need review under this  
11 chapter.

12 (2) For purposes of this section, a "residential hospice care  
13 center" means any building, facility, place, or equivalent that opened  
14 in December 1996 and is organized, maintained, and operated  
15 specifically to provide beds, accommodations, facilities, and services  
16 over a continuous period of twenty-four hours or more for palliative  
17 care of two or more individuals, not related to the operator, who are  
18 diagnosed as being in the latter stages of an advanced disease that is  
19 expected to lead to death.

20 NEW SECTION. **Sec. 51.** (1) A facility's nursing services, food,  
21 administrative, and operational component rates, existing on June 30,  
22 1998, weighted by medicaid resident days, and adjusted by a factor  
23 specified in the biennial appropriations act, shall be the facility's  
24 nursing services, food, administrative, and operational component rates  
25 for the period July 1, 1998, through September 30, 1998.

26 (2) A facility's return on investment and property component rates  
27 existing on June 30, 1998, or as subsequently adjusted or revised,  
28 shall be the facility's return on investment and property component  
29 rates for the period July 1, 1998, through September 30, 1998, with no  
30 increase for the period July 1, 1998, through September 30, 1998.

31 NEW SECTION. **Sec. 52.** The following acts or parts of acts are  
32 each repealed:

33 (1) RCW 74.46.105 and 1995 1st sp.s. c 18 s 91, 1985 c 361 s 10, &  
34 1983 1st ex.s. c 67 s 5;

35 (2) RCW 74.46.115 and 1995 1st sp.s. c 18 s 92 & 1983 1st ex.s. c  
36 67 s 6;

1 (3) RCW 74.46.130 and 1985 c 361 s 11, 1983 1st ex.s. c 67 s 7, &  
2 1980 c 177 s 13;

3 (4) RCW 74.46.150 and 1983 1st ex.s. c 67 s 8 & 1980 c 177 s 15;

4 (5) RCW 74.46.160 and 1995 1st sp.s. c 18 s 93, 1985 c 361 s 12,  
5 1983 1st ex.s. c 67 s 9, & 1980 c 177 s 16;

6 (6) RCW 74.46.170 and 1995 1st sp.s. c 18 s 94, 1983 1st ex.s. c 67  
7 s 10, & 1980 c 177 s 17;

8 (7) RCW 74.46.180 and 1995 1st sp.s. c 18 s 95 & 1993 sp.s. c 13 s  
9 2;

10 (8) RCW 74.46.210 and 1991 sp.s. c 8 s 14 & 1980 c 177 s 21; and

11 (9) RCW 74.46.670 and 1983 1st ex.s. c 67 s 35 & 1980 c 177 s 67.

12 NEW SECTION. **Sec. 53.** RCW 74.46.595 and 1995 1st sp.s. c 18 s 98  
13 are each repealed effective July 2, 1998.

14 NEW SECTION. **Sec. 54.** The following acts or parts of acts are  
15 each repealed, effective June 30, 1999:

16 (1) 1998 c . . . s 29 (section 29 of this act) (uncodified); and

17 (2) 1998 c . . . s 30 (section 30 of this act) (uncodified).

18 NEW SECTION. **Sec. 55.** Sections 1 through 37, 40 through 49, and  
19 52 through 54 of this act take effect July 1, 1998.

20 NEW SECTION. **Sec. 56.** If any provision of this act or its  
21 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. 57.** (1) Sections 9, 10, 19, 20, 22 through 28,  
25 31, and 46 of this act are each added to chapter 74.46 RCW.

26 (2) Sections 19, 20, 22 through 28, and 31 of this act shall be  
27 codified in part E of chapter 74.46 RCW.

28 NEW SECTION. **Sec. 58.** Section 51 of this act takes effect July 1,  
29 1998, and expires October 1, 1998.

30 NEW SECTION. **Sec. 59.** Sections 38 and 39 of this act take effect  
31 October 1, 1998."

1 **E2SHB 2935** - S AMD - 1024

2 By Senator West

3 ADOPTED 3/11/98

4 On page 1, line 1 of the title, after "rates;" strike the remainder  
5 of the title and insert "amending RCW 74.46.010, 74.46.020, 74.46.040,  
6 74.46.050, 74.46.060, 74.46.080, 74.46.090, 74.46.100, 74.46.190,  
7 74.46.220, 74.46.230, 74.46.270, 74.46.280, 74.46.300, 74.46.410,  
8 74.46.475, 74.46.610, 74.46.620, 74.46.630, 74.46.640, 74.46.650,  
9 74.46.660, 74.46.680, 74.46.690, 74.46.770, 74.46.780, 74.46.800,  
10 74.46.820, 74.46.840, 74.09.120, and 72.36.030; adding new sections to  
11 chapter 74.46 RCW; adding a new section to chapter 70.38 RCW; creating  
12 new sections; repealing RCW 74.46.105, 74.46.115, 74.46.130, 74.46.150,  
13 74.46.160, 74.46.170, 74.46.180, 74.46.210, 74.46.670, and 74.46.595;  
14 prescribing penalties; providing effective dates; and providing an  
15 expiration date."

--- END ---