

ESSB 5581 - H AMD 790

By Representative Alexander

FAILED 05/17/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 18.51 RCW
4 to read as follows:

5 A nursing home that has voluntarily reduced its bed capacity for
6 lesser acuity purposes under RCW 70.38.111(8) may assign qualified
7 staff to perform duties concurrently in both the nursing home units of
8 the facility as well as the units with beds converted to the alternate
9 use. Staffing levels must comply with the department's standards for
10 the highest care need category of patient in each unit.

11 **Sec. 2.** RCW 74.46.431 and 2010 1st sp.s. c 34 s 3 are each amended
12 to read as follows:

13 (1) Nursing facility medicaid payment rate allocations shall be
14 facility-specific and shall have seven components: Direct care,
15 therapy care, support services, operations, property, financing
16 allowance, and variable return. The department shall establish and
17 adjust each of these components, as provided in this section and
18 elsewhere in this chapter, for each medicaid nursing facility in this
19 state.

20 (2) Component rate allocations in therapy care and support services
21 for all facilities shall be based upon a minimum facility occupancy of
22 eighty-five percent of licensed beds, regardless of how many beds are
23 set up or in use. Component rate allocations in operations, property,
24 and financing allowance for essential community providers shall be
25 based upon a minimum facility occupancy of (~~eighty-five~~) eighty
26 percent of licensed beds, regardless of how many beds are set up or in
27 use. Component rate allocations in operations, property, and financing
28 allowance for small nonessential community providers shall be based
29 upon a minimum facility occupancy of ninety percent of licensed beds,

1 regardless of how many beds are set up or in use. Component rate
2 allocations in operations, property, and financing allowance for large
3 nonessential community providers shall be based upon a minimum facility
4 occupancy of ninety-two percent of licensed beds, regardless of how
5 many beds are set up or in use. For all facilities, the component rate
6 allocation in direct care shall be based upon actual facility
7 occupancy. The median cost limits used to set component rate
8 allocations shall be based on the applicable minimum occupancy
9 percentage. In determining each facility's therapy care component rate
10 allocation under RCW 74.46.511, the department shall apply the
11 applicable minimum facility occupancy adjustment before creating the
12 array of facilities' adjusted therapy costs per adjusted resident day.
13 In determining each facility's support services component rate
14 allocation under RCW 74.46.515(3), the department shall apply the
15 applicable minimum facility occupancy adjustment before creating the
16 array of facilities' adjusted support services costs per adjusted
17 resident day. In determining each facility's operations component rate
18 allocation under RCW 74.46.521(3), the department shall apply the
19 minimum facility occupancy adjustment before creating the array of
20 facilities' adjusted general operations costs per adjusted resident
21 day.

22 (3) Information and data sources used in determining medicaid
23 payment rate allocations, including formulas, procedures, cost report
24 periods, resident assessment instrument formats, resident assessment
25 methodologies, and resident classification and case mix weighting
26 methodologies, may be substituted or altered from time to time as
27 determined by the department.

28 (4)(a) Direct care component rate allocations shall be established
29 using adjusted cost report data covering at least six months.
30 Effective July 1, 2009, the direct care component rate allocation shall
31 be rebased, using the adjusted cost report data for the calendar year
32 two years immediately preceding the rate rebase period, so that
33 adjusted cost report data for calendar year 2007 is used for July 1,
34 2009, through June 30, 2012. Beginning July 1, 2012, the direct care
35 component rate allocation shall be rebased biennially during every
36 even-numbered year thereafter using adjusted cost report data from two
37 years prior to the rebase period, so adjusted cost report data for

1 calendar year 2010 is used for July 1, 2012, through June 30, 2014, and
2 so forth.

3 (b) Direct care component rate allocations established in
4 accordance with this chapter shall be adjusted annually for economic
5 trends and conditions by a factor or factors defined in the biennial
6 appropriations act. The economic trends and conditions factor or
7 factors defined in the biennial appropriations act shall not be
8 compounded with the economic trends and conditions factor or factors
9 defined in any other biennial appropriations acts before applying it to
10 the direct care component rate allocation established in accordance
11 with this chapter. When no economic trends and conditions factor or
12 factors for either fiscal year are defined in a biennial appropriations
13 act, no economic trends and conditions factor or factors defined in any
14 earlier biennial appropriations act shall be applied solely or
15 compounded to the direct care component rate allocation established in
16 accordance with this chapter.

17 (5)(a) Therapy care component rate allocations shall be established
18 using adjusted cost report data covering at least six months.
19 Effective July 1, 2009, the therapy care component rate allocation
20 shall be cost rebased, so that adjusted cost report data for calendar
21 year 2007 is used for July 1, 2009, through June 30, 2012. Beginning
22 July 1, 2012, the therapy care component rate allocation shall be
23 rebased biennially during every even-numbered year thereafter using
24 adjusted cost report data from two years prior to the rebase period, so
25 adjusted cost report data for calendar year 2010 is used for July 1,
26 2012, through June 30, 2014, and so forth.

27 (b) Therapy care component rate allocations established in
28 accordance with this chapter shall be adjusted annually for economic
29 trends and conditions by a factor or factors defined in the biennial
30 appropriations act. The economic trends and conditions factor or
31 factors defined in the biennial appropriations act shall not be
32 compounded with the economic trends and conditions factor or factors
33 defined in any other biennial appropriations acts before applying it to
34 the therapy care component rate allocation established in accordance
35 with this chapter. When no economic trends and conditions factor or
36 factors for either fiscal year are defined in a biennial appropriations
37 act, no economic trends and conditions factor or factors defined in any

1 earlier biennial appropriations act shall be applied solely or
2 compounded to the therapy care component rate allocation established in
3 accordance with this chapter.

4 (6)(a) Support services component rate allocations shall be
5 established using adjusted cost report data covering at least six
6 months. Effective July 1, 2009, the support services component rate
7 allocation shall be cost rebased, so that adjusted cost report data for
8 calendar year 2007 is used for July 1, 2009, through June 30, 2012.
9 Beginning July 1, 2012, the support services component rate allocation
10 shall be rebased biennially during every even-numbered year thereafter
11 using adjusted cost report data from two years prior to the rebase
12 period, so adjusted cost report data for calendar year 2010 is used for
13 July 1, 2012, through June 30, 2014, and so forth.

14 (b) Support services component rate allocations established in
15 accordance with this chapter shall be adjusted annually for economic
16 trends and conditions by a factor or factors defined in the biennial
17 appropriations act. The economic trends and conditions factor or
18 factors defined in the biennial appropriations act shall not be
19 compounded with the economic trends and conditions factor or factors
20 defined in any other biennial appropriations acts before applying it to
21 the support services component rate allocation established in
22 accordance with this chapter. When no economic trends and conditions
23 factor or factors for either fiscal year are defined in a biennial
24 appropriations act, no economic trends and conditions factor or factors
25 defined in any earlier biennial appropriations act shall be applied
26 solely or compounded to the support services component rate allocation
27 established in accordance with this chapter.

28 (7)(a) Operations component rate allocations shall be established
29 using adjusted cost report data covering at least six months.
30 Effective July 1, 2009, the operations component rate allocation shall
31 be cost rebased, so that adjusted cost report data for calendar year
32 2007 is used for July 1, 2009, through June 30, 2012. Beginning July
33 1, 2012, the operations care component rate allocation shall be rebased
34 biennially during every even-numbered year thereafter using adjusted
35 cost report data from two years prior to the rebase period, so adjusted
36 cost report data for calendar year 2010 is used for July 1, 2012,
37 through June 30, 2014, and so forth.

1 (b) Operations component rate allocations established in accordance
2 with this chapter shall be adjusted annually for economic trends and
3 conditions by a factor or factors defined in the biennial
4 appropriations act. The economic trends and conditions factor or
5 factors defined in the biennial appropriations act shall not be
6 compounded with the economic trends and conditions factor or factors
7 defined in any other biennial appropriations acts before applying it to
8 the operations component rate allocation established in accordance with
9 this chapter. When no economic trends and conditions factor or factors
10 for either fiscal year are defined in a biennial appropriations act, no
11 economic trends and conditions factor or factors defined in any earlier
12 biennial appropriations act shall be applied solely or compounded to
13 the operations component rate allocation established in accordance with
14 this chapter.

15 (8) Total payment rates under the nursing facility medicaid payment
16 system shall not exceed facility rates charged to the general public
17 for comparable services.

18 (9) The department shall establish in rule procedures, principles,
19 and conditions for determining component rate allocations for
20 facilities in circumstances not directly addressed by this chapter,
21 including but not limited to: Inflation adjustments for partial-period
22 cost report data, newly constructed facilities, existing facilities
23 entering the medicaid program for the first time or after a period of
24 absence from the program, existing facilities with expanded new bed
25 capacity, existing medicaid facilities following a change of ownership
26 of the nursing facility business, facilities temporarily reducing the
27 number of set-up beds during a remodel, facilities having less than six
28 months of either resident assessment, cost report data, or both, under
29 the current contractor prior to rate setting, and other circumstances.

30 (10) The department shall establish in rule procedures, principles,
31 and conditions, including necessary threshold costs, for adjusting
32 rates to reflect capital improvements or new requirements imposed by
33 the department or the federal government. Any such rate adjustments
34 are subject to the provisions of RCW 74.46.421.

35 (11) Effective July 1, 2010, there shall be no rate adjustment for
36 facilities with banked beds. For purposes of calculating minimum
37 occupancy, licensed beds include any beds banked under chapter 70.38
38 RCW.

1 (12) Facilities obtaining a certificate of need or a certificate of
2 need exemption under chapter 70.38 RCW after June 30, 2001, must have
3 a certificate of capital authorization in order for (a) the
4 depreciation resulting from the capitalized addition to be included in
5 calculation of the facility's property component rate allocation; and
6 (b) the net invested funds associated with the capitalized addition to
7 be included in calculation of the facility's financing allowance rate
8 allocation.

9 **Sec. 3.** RCW 74.46.435 and 2010 1st sp.s. c 34 s 5 are each amended
10 to read as follows:

11 (1) The property component rate allocation for each facility shall
12 be determined by dividing the sum of the reported allowable prior
13 period actual depreciation, subject to department rule, adjusted for
14 any capitalized additions or replacements approved by the department,
15 and the retained savings from such cost center, by the greater of a
16 facility's total resident days in the prior period or resident days as
17 calculated on (~~eighty-five~~) eighty percent facility occupancy for
18 essential community providers, ninety percent occupancy for small
19 nonessential community providers, or ninety-two percent facility
20 occupancy for large nonessential community providers. If a capitalized
21 addition or retirement of an asset will result in a different licensed
22 bed capacity during the ensuing period, the prior period total resident
23 days used in computing the property component rate shall be adjusted to
24 anticipated resident day level.

25 (2) A nursing facility's property component rate allocation shall
26 be rebased annually, effective July 1st, in accordance with this
27 section and this chapter.

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

32 (4) The property component rate allocations calculated in
33 accordance with this section shall be adjusted to the extent necessary
34 to comply with RCW 74.46.421.

35 **Sec. 4.** RCW 74.46.521 and 2010 1st sp.s. c 34 s 16 are each
36 amended to read as follows:

1 (1) The operations component rate allocation corresponds to the
2 general operation of a nursing facility for one resident for one day,
3 including but not limited to management, administration, utilities,
4 office supplies, accounting and bookkeeping, minor building
5 maintenance, minor equipment repairs and replacements, and other
6 supplies and services, exclusive of direct care, therapy care, support
7 services, property, financing allowance, and variable return.

8 (2) The department shall determine each medicaid nursing facility's
9 operations component rate allocation using cost report data specified
10 by RCW 74.46.431(7)(a). Operations component rates for essential
11 community providers shall be based upon a minimum occupancy of
12 ((~~eighty-five~~)) eighty percent of licensed beds. Operations component
13 rates for small nonessential community providers shall be based upon a
14 minimum occupancy of ninety percent of licensed beds. Operations
15 component rates for large nonessential community providers shall be
16 based upon a minimum occupancy of ninety-two percent of licensed beds.

17 (3) For all calculations and adjustments in this subsection, the
18 department shall use the greater of the facility's actual occupancy or
19 an imputed occupancy equal to ((~~eighty-five~~)) eighty percent for
20 essential community providers, ninety percent for small nonessential
21 community providers, or ninety-two percent for large nonessential
22 community providers. To determine each facility's operations component
23 rate the department shall:

24 (a) Array facilities' adjusted general operations costs per
25 adjusted resident day, as determined by dividing each facility's total
26 allowable operations cost by its adjusted resident days for the same
27 report period for facilities located within urban counties and for
28 those located within nonurban counties and determine the median
29 adjusted cost for each peer group;

30 (b) Set each facility's operations component rate at the lower of:

31 (i) The facility's per resident day adjusted operations costs from
32 the applicable cost report period adjusted if necessary for minimum
33 occupancy; or

34 (ii) The adjusted median per resident day general operations cost
35 for that facility's peer group, urban counties or nonurban counties;
36 and

37 (c) Adjust each facility's operations component rate for economic
38 trends and conditions as provided in RCW 74.46.431(7)(b).

1 (4) The operations component rate allocations calculated in
2 accordance with this section shall be adjusted to the extent necessary
3 to comply with RCW 74.46.421.

4 NEW SECTION. **Sec. 5.** It is the intent of the legislature to
5 encourage maximization of financial resources eligible and available
6 for nursing home residents by establishing a quality incentive payment
7 system through a temporary nursing home licensing fee surcharge that
8 will ensure better quality nursing facility care for all residents, and
9 which may also be used to secure additional federal matching funds
10 under federally prescribed programs available through the state
11 medicaid plan. The legislature intends to refund any excess fee
12 collections if funding is not sufficient to support the payments
13 provided in this act or if federal financial participation is not
14 received.

15 NEW SECTION. **Sec. 6.** The definitions in this section apply
16 throughout this chapter unless the context clearly requires otherwise.

17 (1) "Department" means the department of social and health
18 services.

19 (2) "Fund" means the nursing facility quality assurance trust fund
20 created in section 7 of this act.

21 (3) "Hospital-based" means a nursing facility that is part of, or
22 a related organization of, a hospital. For the purposes of this
23 subsection, "related organization" means an entity which is under
24 common ownership or control with, or has control of, or is controlled
25 by, the entity that has a contract with the department to provide
26 nursing facility services to medicaid recipients.

27 (4) "Low medicaid nursing facility" means a nursing facility with
28 less than or equal to one hundred medicaid resident days in fiscal year
29 2009.

30 (5) "Medicare patient day" means a patient day for medicare
31 beneficiaries on a medicare part A stay, medicare hospice stay, and a
32 patient day for persons who have opted for managed care coverage using
33 their medicare benefit.

34 (6) "Nonexempt nursing facility" means a nursing facility that is
35 not exempt from the licensing fee surcharge under section 8 of this
36 act.

1 (7) "Nursing facility" has the same meaning as "nursing home" in
2 RCW 18.51.010.

3 (8) "Resident day" means a calendar day of care provided to a
4 nursing facility resident, excluding medicare patient days. Resident
5 days include the day of admission and exclude the day of discharge. An
6 admission and discharge on the same day count as one day of care.
7 Resident days include nursing facility hospice days and exclude bedhold
8 days for all residents.

9 NEW SECTION. **Sec. 7.** (1) There is hereby established in the state
10 treasury the nursing facility quality assurance trust fund.

11 (2) The nursing facility quality assurance trust fund must be a
12 separate and continuing fund, and no money in the fund reverts to the
13 state general fund at any time. The legislature may not appropriate
14 funds from the trust fund inconsistent with this section unless
15 approved by an affirmative vote of at least two-thirds of the members
16 of each house of the legislature. The interest and income on the money
17 in the fund, after deducting any applicable charges, must be credited
18 to the fund. Disbursements from the fund must be made in the omnibus
19 appropriations act consistent with this section.

20 (3) Any money received under section 8 of this act must be
21 deposited in the state treasury for credit to the nursing facility
22 quality assurance trust fund, and must be expended in accordance with
23 this chapter. To the extent authorized by federal law, money in the
24 fund may be used to obtain federal financial participation in the
25 medicaid program to maintain and enhance nursing facility rates in a
26 manner set forth in subsection (6) of this section.

27 (4) Disbursements from the nursing facility quality assurance trust
28 fund must only be used for the following:

29 (a) As an immediate pass-through or rate add-on to reimburse the
30 medicaid share of the nursing facility licensing fee surcharge as a
31 medicaid allowable cost;

32 (b) To make medicaid payments for nursing facility services in an
33 amount sufficient for maintenance and enhancement of the medicaid
34 nursing home rates paid on June 30, 2010; for subsequent enhancement of
35 the medicaid nursing home rate settings; and for funding new standards
36 imposed by the federal government;

1 (c) For quality incentive payments to a nursing facility developed
2 under section 12 of this act; and

3 (d) If federal financial participation in the medicaid program is
4 received by the state, to lower or refund the nursing facility
5 licensing fee surcharge.

6 (5) To administer the provisions of this chapter the department may
7 expend an amount not to exceed one-half of one percent of the money
8 received from the surcharges assessed, and must not exceed the amount
9 authorized for expenditure by the legislature for administrative
10 expenses in a fiscal year.

11 (6) Any positive balance in the fund at the end of a fiscal year
12 must be refunded to nursing facilities in proportion to the amounts
13 paid by such facilities.

14 (7) Expenditures from the nursing facility quality assurance trust
15 fund may not be included in the calculation of the annual statewide
16 weighted average nursing facility payment rate for the purposes of
17 implementing the provisions of RCW 74.46.421(4).

18 NEW SECTION. **Sec. 8.** (1) Annually, at the time of the billing for
19 the licensing fee under RCW 18.51.050, the department must collect from
20 all nonexempt nursing facilities a nursing facility licensing fee
21 surcharge of up to three hundred seventy-five percent of the licensing
22 fee established in RCW 18.51.050 excluding medicare patient days. The
23 department must provide an option for nursing facilities to pay the
24 licensing fee surcharge on a quarterly or monthly basis.

25 (2) All licensing fee surcharges collected pursuant to this section
26 by the department must be transmitted to the state treasurer who must
27 credit all such amounts to the nursing facility quality assurance trust
28 fund created in section 7 of this act.

29 (3) In accordance with the redistribution method set forth in 42
30 C.F.R. Sec. 433.68(e)(1) and (2), the department must seek a waiver of
31 the broad-based and uniform provider assessment requirements of federal
32 law to exclude certain nursing facilities from the licensing fee
33 surcharge. The department shall exempt the following nursing facility
34 providers from the licensing fee surcharge subject to federal approval:

35 (a) Nursing facilities operated by any agency of the state of
36 Washington;

1 (b) Nursing facilities operated by a public hospital district or
2 that are hospital-based; and

3 (c) As many nursing facilities with no or disproportionately low
4 numbers of medicaid-funded residents, as within the judgment of the
5 department, may be exempted from the licensing fee surcharge pursuant
6 to federal law.

7 (4) To the extent necessary to obtain federal approval, the
8 exemptions prescribed in subsection (3) of this section may be amended
9 by the department.

10 NEW SECTION. **Sec. 9.** (1) As of the effective date of this
11 section, the department, in cooperation with the office of financial
12 management, may adjust the fee amounts under section 8 of this act as
13 follows:

14 (a) If sufficient other funds for nursing facilities are available
15 to support the reimbursement rates and other payments under section 7
16 of this act without utilizing the full surcharge authorized under
17 section 8 of this act, the department must reduce the amount of the fee
18 to the minimum level necessary to support those reimbursement rates and
19 other payments.

20 (b) Any positive balance remaining in the fund at the end of the
21 fiscal year must be refunded to nursing facilities in proportion to the
22 amounts paid by such facilities.

23 (c) Any adjustment to the fee amounts pursuant to this subsection,
24 and the data supporting such adjustment, including but not limited to
25 relevant data listed in subsection (2) of this section, must be
26 submitted to the Washington health care association, and aging services
27 of Washington, for review and comment at least sixty calendar days
28 prior to implementation of such adjusted fee amounts. Any review and
29 comment provided by the Washington health care association, and aging
30 services of Washington, may not limit the ability of either association
31 or its members to challenge an adjustment or other action by the
32 department that is not made in accordance with this chapter.

33 (2) By November 30th of each year, the department must provide the
34 following data to the Washington health care association, and aging
35 services of Washington:

36 (a) The fund balance; and

37 (b) The amount of fee surcharges paid by each nursing facility.

1 in proportion to the amounts paid by such facilities, if and to the
2 extent that an appellate court or the centers for medicare and medicaid
3 services makes a final determination that any element of this chapter
4 cannot be validly implemented.

5 NEW SECTION. **Sec. 12.** (1) The department, the department of
6 health, the Washington state health care association, and aging
7 services of Washington must design a system of nursing facility quality
8 incentive payments. The system must be based upon the following
9 principles:

10 (a) Evidence-based treatment and processes must be used to improve
11 health care outcomes for all nursing facility residents;

12 (b) Effective purchasing strategies to improve the quality of
13 health care services should involve the use of common quality
14 improvement measures, while recognizing that some measures may not be
15 appropriate for application to facilities with high bariatric,
16 behaviorally challenged, or rehabilitation populations;

17 (c) Quality measures chosen for the system should be consistent
18 with the standards that have been developed by national quality
19 improvement organizations, such as the national quality forum, the
20 federal centers for medicare and medicaid services, or the federal
21 agency for healthcare research and quality. New reporting burdens to
22 nursing facilities should be minimized by giving priority to measures
23 that nursing facilities are currently required to report to
24 governmental agencies, such as the nursing home compare measures
25 collected by the federal centers for medicare and medicaid services;

26 (d) Benchmarks for each quality improvement measure should be set
27 at levels that are feasible for nursing facilities to achieve, yet
28 represent real improvements in quality and performance for a majority
29 of nursing facilities in Washington state; and

30 (e) Nursing facilities performance and incentive payments should be
31 designed in a manner such that all facilities in Washington are able to
32 receive the incentive payments if performance is at or above the
33 benchmark score set in the system established under this section.

34 (2) Upon satisfaction of the applicable conditions set forth in
35 section 11 of this act, and for state fiscal year 2013 and each fiscal
36 year thereafter, fees may be used to support an additional three

1 percent increase in nursing facility reimbursement rates for facilities
2 that meet the quality incentive benchmarks established under this
3 section.

4 **Sec. 13.** RCW 43.84.092 and 2011 c 339 s 1, 2011 c 311 s 9, 2011 c
5 272 s 3, 2011 c 120 s 3, and 2011 c 83 s 7 are each reenacted and
6 amended to read as follows:

7 (1) All earnings of investments of surplus balances in the state
8 treasury shall be deposited to the treasury income account, which
9 account is hereby established in the state treasury.

10 (2) The treasury income account shall be utilized to pay or receive
11 funds associated with federal programs as required by the federal cash
12 management improvement act of 1990. The treasury income account is
13 subject in all respects to chapter 43.88 RCW, but no appropriation is
14 required for refunds or allocations of interest earnings required by
15 the cash management improvement act. Refunds of interest to the
16 federal treasury required under the cash management improvement act
17 fall under RCW 43.88.180 and shall not require appropriation. The
18 office of financial management shall determine the amounts due to or
19 from the federal government pursuant to the cash management improvement
20 act. The office of financial management may direct transfers of funds
21 between accounts as deemed necessary to implement the provisions of the
22 cash management improvement act, and this subsection. Refunds or
23 allocations shall occur prior to the distributions of earnings set
24 forth in subsection (4) of this section.

25 (3) Except for the provisions of RCW 43.84.160, the treasury income
26 account may be utilized for the payment of purchased banking services
27 on behalf of treasury funds including, but not limited to, depository,
28 safekeeping, and disbursement functions for the state treasury and
29 affected state agencies. The treasury income account is subject in all
30 respects to chapter 43.88 RCW, but no appropriation is required for
31 payments to financial institutions. Payments shall occur prior to
32 distribution of earnings set forth in subsection (4) of this section.

33 (4) Monthly, the state treasurer shall distribute the earnings
34 credited to the treasury income account. The state treasurer shall
35 credit the general fund with all the earnings credited to the treasury
36 income account except:

1 (a) The following accounts and funds shall receive their
2 proportionate share of earnings based upon each account's and fund's
3 average daily balance for the period: The aeronautics account, the
4 aircraft search and rescue account, the budget stabilization account,
5 the capitol building construction account, the Cedar River channel
6 construction and operation account, the Central Washington University
7 capital projects account, the charitable, educational, penal and
8 reformatory institutions account, the cleanup settlement account, the
9 Columbia river basin water supply development account, the Columbia
10 river basin taxable bond water supply development account, the Columbia
11 river basin water supply revenue recovery account, the common school
12 construction fund, the county arterial preservation account, the county
13 criminal justice assistance account, the county sales and use tax
14 equalization account, the deferred compensation administrative account,
15 the deferred compensation principal account, the department of
16 licensing services account, the department of retirement systems
17 expense account, the developmental disabilities community trust
18 account, the drinking water assistance account, the drinking water
19 assistance administrative account, the drinking water assistance
20 repayment account, the Eastern Washington University capital projects
21 account, the education construction fund, the education legacy trust
22 account, the election account, the energy freedom account, the energy
23 recovery act account, the essential rail assistance account, The
24 Evergreen State College capital projects account, the federal forest
25 revolving account, the ferry bond retirement fund, the freight
26 congestion relief account, the freight mobility investment account, the
27 freight mobility multimodal account, the grade crossing protective
28 fund, the public health services account, the health system capacity
29 account, the high capacity transportation account, the state higher
30 education construction account, the higher education construction
31 account, the highway bond retirement fund, the highway infrastructure
32 account, the highway safety account, the high occupancy toll lanes
33 operations account, the hospital safety net assessment fund, the
34 industrial insurance premium refund account, the judges' retirement
35 account, the judicial retirement administrative account, the judicial
36 retirement principal account, the local leasehold excise tax account,
37 the local real estate excise tax account, the local sales and use tax
38 account, the marine resources stewardship trust account, the medical

1 aid account, the mobile home park relocation fund, the motor vehicle
2 fund, the motorcycle safety education account, the multiagency
3 permitting team account, the multimodal transportation account, the
4 municipal criminal justice assistance account, the municipal sales and
5 use tax equalization account, the natural resources deposit account,
6 the oyster reserve land account, the nursing facility quality assurance
7 trust fund, the pension funding stabilization account, the perpetual
8 surveillance and maintenance account, the public employees' retirement
9 system plan 1 account, the public employees' retirement system combined
10 plan 2 and plan 3 account, the public facilities construction loan
11 revolving account beginning July 1, 2004, the public health
12 supplemental account, the public transportation systems account, the
13 public works assistance account, the Puget Sound capital construction
14 account, the Puget Sound ferry operations account, the Puyallup tribal
15 settlement account, the real estate appraiser commission account, the
16 recreational vehicle account, the regional mobility grant program
17 account, the resource management cost account, the rural arterial trust
18 account, the rural mobility grant program account, the rural Washington
19 loan fund, the site closure account, the small city pavement and
20 sidewalk account, the special category C account, the special wildlife
21 account, the state employees' insurance account, the state employees'
22 insurance reserve account, the state investment board expense account,
23 the state investment board commingled trust fund accounts, the state
24 patrol highway account, the state route number 520 civil penalties
25 account, the state route number 520 corridor account, the state
26 wildlife account, the supplemental pension account, the Tacoma Narrows
27 toll bridge account, the teachers' retirement system plan 1 account,
28 the teachers' retirement system combined plan 2 and plan 3 account, the
29 tobacco prevention and control account, the tobacco settlement account,
30 the transportation 2003 account (nickel account), the transportation
31 equipment fund, the transportation fund, the transportation improvement
32 account, the transportation improvement board bond retirement account,
33 the transportation infrastructure account, the transportation
34 partnership account, the traumatic brain injury account, the tuition
35 recovery trust fund, the University of Washington bond retirement fund,
36 the University of Washington building account, the volunteer
37 firefighters' and reserve officers' relief and pension principal fund,
38 the volunteer firefighters' and reserve officers' administrative fund,

1 the Washington judicial retirement system account, the Washington law
2 enforcement officers' and firefighters' system plan 1 retirement
3 account, the Washington law enforcement officers' and firefighters'
4 system plan 2 retirement account, the Washington public safety
5 employees' plan 2 retirement account, the Washington school employees'
6 retirement system combined plan 2 and 3 account, the Washington state
7 economic development commission account, the Washington state health
8 insurance pool account, the Washington state patrol retirement account,
9 the Washington State University building account, the Washington State
10 University bond retirement fund, the water pollution control revolving
11 fund, and the Western Washington University capital projects account.
12 Earnings derived from investing balances of the agricultural permanent
13 fund, the normal school permanent fund, the permanent common school
14 fund, the scientific permanent fund, and the state university permanent
15 fund shall be allocated to their respective beneficiary accounts.

16 (b) Any state agency that has independent authority over accounts
17 or funds not statutorily required to be held in the state treasury that
18 deposits funds into a fund or account in the state treasury pursuant to
19 an agreement with the office of the state treasurer shall receive its
20 proportionate share of earnings based upon each account's or fund's
21 average daily balance for the period.

22 (5) In conformance with Article II, section 37 of the state
23 Constitution, no treasury accounts or funds shall be allocated earnings
24 without the specific affirmative directive of this section.

25 NEW SECTION. **Sec. 14.** Sections 5 through 12 of this act
26 constitute a new chapter in Title 74 RCW."

27 Correct the title.

EFFECT: A nursing facility quality assurance trust fund is
created and funds are used to maintain and enhance nursing facility
rates. This is similar to the underlying bill.

The Department of Social and Health Services (DSHS) is authorized
to assess and collect an annual nursing facility license surcharge of
up to 375 percent of the bed licensing fee. DSHS is required to
provide an option for facilities to pay the surcharge in quarterly or
monthly payments. Funds collected through the surcharge are deposited

into the nursing facility quality assurance trust fund. The legislature may not appropriate funds from the trust fund inconsistent with the bill unless approved by an affirmative vote of at least two-thirds of the members of each house of the legislature. The underlying bill creates a provider assessment fee which is assessed daily but is also deposited into a trust account.

The DSHS is required to seek federal approval for the provider licensing surcharge. This is similar to the underlying bill.

Medicare patient days are exempt from the licensing surcharge. DSHS is required to submit a waiver application with exemptions for State operated facilities, hospital-based facilities, and disproportionately low Medicaid facilities. The underlying bill also exempts Medicare patient days, and requires DSHS to submit a waiver application with exemptions for State, tribal, or county operated facilities, hospital-based facilities, continuing care retirement communities (CCRCs); and nursing facilities with 35 or fewer beds.

Funds in the quality assurance trust fund may be used to reimburse the Medicaid share for the license surcharge as a Medicaid allowable cost. This is the same as the underlying bill.

A supplemental payment methodology is established to produce rates equal to those paid on June 30, 2010. Any additional revenue that is available after paying the rates at the June 30, 2010, payment levels is used to provide a direct care rate add-on for facilities that have experienced increases in client acuity since June 30, 2010. The rate add-on is only provided to the extent that revenue is available and at no time will this add-on cause the licensing fee surcharge to be raised higher than is specified in the bill. The supplemental payment methodology and the implementation of the direct care rate add-on is the same as in the underlying bill, with the exception that the direct care add-on rate included for facilities that have experienced increases in client acuity is set at 10 percent in the underlying bill whereas in this striking amendment it is allowable only up to available revenue funds.

Minimum occupancy requirements for essential community providers are lowered by 5 percent compared to current law in the property, operations, and finance components. This will increase payment rates for essential community providers. Minimum occupancy does not change from current law for small and large provider types. In the underlying bill, minimum occupancy is increased from current law by 2 percent for small and essential community providers; and by 3 percent for large providers. In addition, the underlying bill makes several other changes to the nursing home rate components to produce lower rate calculations.

Nursing homes are allowed to reduce bed capacity by converting beds to serve lower acuity clients. Facilities are authorized to assign staff to perform duties concurrently among regular nursing facility units and those units which have been converted.

The DSHS, Washington State Health Care Association, and Aging Services of Washington must design a system of nursing facility quality incentive payments to include evidence-based treatment, effective purchasing strategies, quality measures, and benchmarks for quality improvement. This is the same as the underlying bill.

The licensing surcharge becomes null and void if federal financial participation or the waiver request for the licensing surcharge is not approved, or if the quality assurance payments cannot be validly implemented as determined by an appellate court or the centers for Medicare and Medicaid services. In that case, any licensing surcharge

funds collected must be refunded to the nursing facilities proportionately to the amount paid. If the assessment fee is not approved in the underlying bill, it is also null and void and funding is refunded to providers.

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