
SENATE BILL 5581

State of Washington

62nd Legislature

2011 Regular Session

By Senators Keiser, Parlette, Hargrove, Shin, Conway, and Kline

Read first time 01/31/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to a nursing home safety net assessment for
2 increased nursing home payments to improve health care access for the
3 citizens of Washington; amending RCW 74.46.024, 74.46.431, 74.46.433,
4 74.46.435, 74.46.437, and 74.46.521; reenacting and amending RCW
5 43.84.092; adding a new section to chapter 76.46 RCW; adding a new
6 chapter to Title 74 RCW; prescribing penalties; providing an expiration
7 date; and declaring an emergency.

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

9 **Sec. 1.** RCW 74.46.024 and 2010 1st sp.s. c 34 s 20 are each
10 amended to read as follows:

11 The department shall establish, by rule, the procedures,
12 principles, and conditions for a pay-for-performance supplemental
13 payment structure that provides payment add-ons for high performing
14 facilities. ~~((To the extent that funds are appropriated for this
15 purpose, the pay for performance structure will include a one percent
16 reduction in payments to facilities with exceptionally high direct care
17 staff turnover, and a method by which the funding that is not paid to
18 these facilities is then used to provide a supplemental payment to
19 facilities with lower direct care staff turnover.))~~

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

3 (1) Nursing facility medicaid payment rate allocations shall be
4 facility-specific and shall have seven components: Direct care,
5 therapy care, support services, operations, property, financing
6 allowance, and (~~variable return~~) disproportionate medicaid share.
7 The department shall establish and adjust each of these components, as
8 provided in this section and elsewhere in this chapter, for each
9 medicaid nursing facility in this state.

10 (2) (~~Component rate allocations in therapy care and support~~
11 ~~services for all facilities shall be based upon a minimum facility~~
12 ~~occupancy of eighty five percent of licensed beds, regardless of how~~
13 ~~many beds are set up or in use.)) Component rate allocations in
14 operations, property, support services, therapy care, and financing
15 allowance for essential and nonessential community providers shall be
16 based upon a minimum facility occupancy of eighty-five percent of
17 licensed beds, regardless of how many beds are set up or in use.
18 (~~Component rate allocations in operations, property, and financing~~
19 ~~allowance for small nonessential community providers shall be based~~
20 ~~upon a minimum facility occupancy of ninety percent of licensed beds,~~
21 ~~regardless of how many beds are set up or in use. Component rate~~
22 ~~allocations in operations, property, and financing allowance for large~~
23 ~~nonessential community providers shall be based upon a minimum facility~~
24 ~~occupancy of ninety two percent of licensed beds, regardless of how~~
25 ~~many beds are set up or in use.)) For all facilities, the component
26 rate allocation in direct care shall be based upon actual facility
27 occupancy. The median cost limits used to set component rate
28 allocations shall be based on the applicable minimum occupancy
29 percentage. In determining each facility's therapy care component rate
30 allocation under RCW 74.46.511, the department shall apply the
31 applicable minimum facility occupancy adjustment before creating the
32 array of facilities' adjusted therapy costs per adjusted resident day.
33 In determining each facility's support services component rate
34 allocation under RCW 74.46.515(3), the department shall apply the
35 applicable minimum facility occupancy adjustment before creating the
36 array of facilities' adjusted support services costs per adjusted
37 resident day. In determining each facility's operations component rate
38 allocation under RCW 74.46.521(3), the department shall apply the~~~~

1 minimum facility occupancy adjustment before creating the array of
2 facilities' adjusted general operations costs per adjusted resident
3 day.

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.
12 Effective July 1, 2009, the direct care component rate allocation shall
13 be rebased, using the adjusted cost report data for the calendar year
14 two years immediately preceding the rate rebase period, so that
15 adjusted cost report data for calendar year 2007 is used for July 1,
16 2009, through June 30, 2012. Beginning July 1, 2012, the direct care
17 component rate allocation shall be rebased biennially during every
18 even-numbered year thereafter using adjusted cost report data from two
19 years prior to the rebase period, so adjusted cost report data for
20 calendar year 2010 is used for July 1, 2012, through June 30, 2014, and
21 so forth.

22 (b) Direct care component rate allocations established in
23 accordance with this chapter shall be adjusted annually for economic
24 trends and conditions by ~~((a))~~ an indexing factor or factors defined in
25 ~~the ((biennial appropriations act))~~ skilled nursing facility market
26 basket index published by the United States department of health and
27 human services. The economic trends and conditions factor or factors
28 defined in the ~~((biennial appropriations act))~~ skilled nursing facility
29 market basket index published by the United States department of health
30 and human services shall not be compounded with the economic trends and
31 conditions factor or factors ~~((defined in any other biennial~~
32 ~~appropriations acts))~~ before applying it to the direct care component
33 rate allocation established in accordance with this chapter. ~~((When no~~
34 ~~economic trends and conditions factor or factors for either fiscal year~~
35 ~~are defined in a biennial appropriations act, no economic trends and~~
36 ~~conditions factor or factors defined in any earlier biennial~~
37 ~~appropriations act shall be applied solely or compounded to the direct~~
38 ~~care component rate allocation established in accordance with this~~

1 ~~chapter.)~~) The direct care component indexing factor shall be indexed
2 from the midpoint of the rebase year to the midpoint of the rate year.
3 For example, for the July 1, 2012, rate, the direct care component
4 indexing factor shall be indexed from the midpoint for calendar year
5 2010 to the midpoint of calendar year 2012, and so forth.

6 (5)(a) Therapy care component rate allocations shall be established
7 using adjusted cost report data covering at least six months.
8 Effective July 1, 2009, the therapy care component rate allocation
9 shall be cost rebased, so that adjusted cost report data for calendar
10 year 2007 is used for July 1, 2009, through June 30, 2012. Beginning
11 July 1, 2012, the therapy care component rate allocation shall be
12 rebased biennially during every even-numbered year thereafter using
13 adjusted cost report data from two years prior to the rebase period, so
14 adjusted cost report data for calendar year 2010 is used for July 1,
15 2012, through June 30, 2014, and so forth.

16 (b) Therapy care component rate allocations established in
17 accordance with this chapter shall be adjusted annually for economic
18 trends and conditions by ((a)) an indexing factor or factors defined in
19 the ((biennial appropriations act)) skilled nursing facility market
20 basket index published by the United States department of health and
21 human services. The economic trends and conditions factor or factors
22 defined in the ((biennial appropriations act)) skilled nursing facility
23 market basket index published by the United States department of health
24 and human services shall not be compounded with the economic trends and
25 conditions factor or factors ((defined in any other biennial
26 appropriations acts)) before applying it to the therapy care component
27 rate allocation established in accordance with this chapter. ((When no
28 economic trends and conditions factor or factors for either fiscal year
29 are defined in a biennial appropriations act, no economic trends and
30 conditions factor or factors defined in any earlier biennial
31 appropriations act shall be applied solely or compounded to the therapy
32 care component rate allocation established in accordance with this
33 ~~chapter.)~~) The therapy care component indexing factor shall be indexed
34 from the midpoint of the rebase year to the midpoint of the rate year.
35 For example, for the July 1, 2012, rate, the therapy care component
36 indexing factor shall be indexed from the midpoint for calendar year
37 2010 to the midpoint of calendar year 2012, and so forth.

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

11 (b) Support services component rate allocations established in
12 accordance with this chapter shall be adjusted annually for economic
13 trends and conditions by ((a)) an indexing factor or factors defined in
14 the ((biennial appropriations act)) skilled nursing facility market
15 basket index published by the United States department of health and
16 human services. The economic trends and conditions factor or factors
17 defined in the ((biennial appropriations act)) skilled nursing facility
18 market basket index published by the United States department of health
19 and human services shall not be compounded with the economic trends and
20 conditions factor or factors ((defined in any other biennial
21 appropriations acts)) before applying it to the support services
22 component rate allocation established in accordance with this chapter.
23 ((When no economic trends and conditions factor or factors for either
24 fiscal year are defined in a biennial appropriations act, no economic
25 trends and conditions factor or factors defined in any earlier biennial
26 appropriations act shall be applied solely or compounded to the support
27 services component rate allocation established in accordance with this
28 chapter.)) The support services component indexing factor shall be
29 indexed from the midpoint of the rebase year to the midpoint of the
30 rate year. For example, for the July 1, 2012, rate, the support
31 services care component indexing factor shall be indexed from the
32 midpoint for calendar year 2010 to the midpoint of calendar year 2012,
33 and so forth.

34 (7)(a) Operations component rate allocations shall be established
35 using adjusted cost report data covering at least six months.
36 Effective July 1, 2009, the operations component rate allocation shall
37 be cost rebased, so that adjusted cost report data for calendar year
38 2007 is used for July 1, 2009, through June 30, 2012. Beginning July

1 1, 2012, the operations care component rate allocation shall be rebased
2 biennially during every even-numbered year thereafter using adjusted
3 cost report data from two years prior to the rebase period, so adjusted
4 cost report data for calendar year 2010 is used for July 1, 2012,
5 through June 30, 2014, and so forth.

6 (b) Operations component rate allocations established in accordance
7 with this chapter shall be adjusted annually for economic trends and
8 conditions by ((a)) an indexing factor or factors defined in the
9 ((biennial appropriations act)) skilled nursing facility market basket
10 index published by the United States department of health and human
11 services. The economic trends and conditions factor or factors defined
12 in the ((biennial appropriations act)) skilled nursing facility market
13 basket index published by the United States department of health and
14 human services shall not be compounded with the economic trends and
15 conditions factor or factors ((defined in any other biennial

16 ~~appropriations acts~~)) before applying it to the operations component
17 rate allocation established in accordance with this chapter. ((When no
18 economic trends and conditions factor or factors for either fiscal year
19 are defined in a biennial appropriations act, no economic trends and
20 conditions factor or factors defined in any earlier biennial
21 appropriations act shall be applied solely or compounded to the
22 operations component rate allocation established in accordance with
23 this chapter.)) The operations care component indexing factor shall be
24 indexed from the midpoint of the rebase year to the midpoint of the
25 rate year. For example, for the July 1, 2012, rate, the operations
26 care component indexing factor shall be indexed from the midpoint for
27 calendar year 2010 to the midpoint of calendar year 2012, and so forth.

28 (8) Total payment rates under the nursing facility medicaid payment
29 system shall not exceed facility rates charged to the general public
30 for comparable services.

31 (9) The department shall establish in rule procedures, principles,
32 and conditions for determining component rate allocations for
33 facilities in circumstances not directly addressed by this chapter,
34 including but not limited to: Inflation adjustments for partial-period
35 cost report data, newly constructed facilities, existing facilities
36 entering the medicaid program for the first time or after a period of
37 absence from the program, existing facilities with expanded new bed
38 capacity, existing medicaid facilities following a change of ownership

1 of the nursing facility business, facilities temporarily reducing the
2 number of set-up beds during a remodel, facilities having less than six
3 months of either resident assessment, cost report data, or both, under
4 the current contractor prior to rate setting, and other circumstances.

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

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

14 (12) Facilities obtaining a certificate of need or a certificate of
15 need exemption under chapter 70.38 RCW after June 30, 2001, must have
16 a certificate of capital authorization in order for (a) the
17 depreciation resulting from the capitalized addition to be included in
18 calculation of the facility's property component rate allocation; and
19 (b) the net invested funds associated with the capitalized addition to
20 be included in calculation of the facility's financing allowance rate
21 allocation.

22 **Sec. 3.** RCW 74.46.433 and 2010 1st sp.s. c 34 s 4 are each amended
23 to read as follows:

24 (1) The department shall establish ~~((for each medicaid nursing~~
25 ~~facility a variable return))~~ a disproportionate medicaid share
26 component rate allocation. In determining the ~~((variable return))~~ a
27 disproportionate medicaid share allowance:

28 (a) ~~((Except as provided in (d) of this subsection, the variable~~
29 ~~return))~~ The disproportionate medicaid share array and percentage shall
30 be ~~((assigned whenever rebasing of noncapital rate allocations is~~
31 ~~scheduled under RCW 74.46.431 (4), (5), (6), and (7))~~) rebased annually
32 using the most recently filed cost report.

33 (b) To calculate the array of facilities, the department, without
34 using peer groups, shall first rank all facilities in numerical order
35 from highest to lowest according to each facility's examined and
36 documented~~(, but unlifted, combined direct care, therapy care, support~~
37 ~~services, and operations per resident day cost))~~ medicaid occupancy as

1 a percentage of total occupancy based upon medicaid days compared to
2 total resident days from the applicable cost report period specified in
3 RCW 74.46.431(4)(a). ~~((However, before being combined with other per~~
4 ~~resident day costs and ranked, a facility's direct care cost per~~
5 ~~resident day shall be adjusted to reflect its facility average case mix~~
6 ~~index, to be averaged from the four calendar quarters of the cost~~
7 ~~report period identified in RCW 74.46.431(4)(a), weighted by the~~
8 ~~facility's resident days from each quarter, under RCW~~
9 ~~74.46.501(6)(b).))~~ The array shall then be divided into four
10 quartiles, each containing, as nearly as possible, an equal number of
11 facilities, and ~~((four))~~ one percent shall be assigned to ~~((facilities~~
12 ~~in))~~ the lowest quartile, ~~((three))~~ two percent to facilities in the
13 next lowest quartile, ~~((two))~~ three percent to facilities in the next
14 highest quartile, and ~~((one))~~ four percent to facilities in the highest
15 quartile.

16 (c) The department shall compute the ~~((variable—return))~~
17 disproportionate medicaid share allowance for each quartile by
18 multiplying ~~((a))~~ each quartile's facility's assigned percentage by the
19 sum of the facility's direct care, therapy care, support services, and
20 operations component rates determined in accordance with this chapter
21 and rules adopted by the department.

22 (d) ~~((The variable return component rate allocation for each~~
23 ~~facility shall be thirty percent of the facility's June 30, 2006,~~
24 ~~variable return component rate allocation.))~~ Amounts attributed to the
25 lowest quartile shall be used to fund the pay-for-performance
26 supplemental payment structure that provides payment add-ons described
27 in RCW 74.46.024.

28 (2) The ~~((variable—return))~~ disproportionate medicaid share rate
29 allocation calculated in accordance with this section shall be adjusted
30 to the extent necessary to comply with RCW 74.46.421.

31 **Sec. 4.** RCW 74.46.435 and 2010 1st sp.s. c 34 s 5 are each amended
32 to read as follows:

33 (1) The property component rate allocation for each facility shall
34 be determined by dividing the sum of the reported allowable prior
35 period actual depreciation, subject to department rule, adjusted for
36 any capitalized additions or replacements approved by the department,
37 and the retained savings from such cost center, by the greater of a

1 facility's total resident days in the prior period or resident days as
2 calculated on eighty-five percent facility occupancy ((for essential
3 community providers, ninety percent occupancy for small nonessential
4 community providers, or ninety two percent facility occupancy for large
5 nonessential community providers)). If a capitalized addition or
6 retirement of an asset will result in a different licensed bed capacity
7 during the ensuing period, the prior period total resident days used in
8 computing the property component rate shall be adjusted to anticipated
9 resident day level.

10 (2) Beginning July 1, 2011, and effective every year thereafter,
11 the department will grant a property and business tax add-on rate to
12 the property component rate. The property and business tax add-on rate
13 will be revised annually.

14 (a) The property and business tax add-on rate shall be determined
15 by dividing the sum of all state and local government real estate
16 taxes, personal property taxes, and business taxes, including the
17 business and occupation tax, of the prior period by a facility's total
18 resident days for the facility in the prior period. Minimum occupancy
19 levels shall not be used in calculating the add-on rate.

20 (b) The real estate, personal property, and business tax add-on
21 rate shall be added to the per-resident day payment rate for the
22 property component rate.

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

26 ((+3)) (4) When a certificate of need for a new facility is
27 requested, the department, in reaching its decision, shall take into
28 consideration per-bed land and building construction costs for the
29 facility which shall not exceed a maximum to be established by the
30 secretary.

31 ((+4)) (5) The property component rate allocations calculated in
32 accordance with this section shall be adjusted to the extent necessary
33 to comply with RCW 74.46.421.

34 **Sec. 5.** RCW 74.46.437 and 2001 1st sp.s. c 8 s 8 are each amended
35 to read as follows:

36 (1) Beginning July 1, 1999, the department shall establish for each
37 medicaid nursing facility a financing allowance component rate

1 allocation. The financing allowance component rate shall be rebased
2 annually, effective July 1st, in accordance with the provisions of this
3 section and this chapter.

4 (2) Effective July 1, 2001, the financing allowance shall be
5 determined by multiplying the net invested funds of each facility by
6 .10, and dividing by the greater of a nursing facility's total resident
7 days from the most recent cost report period or resident days
8 calculated on eighty-five percent facility occupancy. (~~Effective July~~
9 ~~1, 2002, the financing allowance component rate allocation for all~~
10 ~~facilities, other than essential community providers, shall be set by~~
11 ~~using the greater of a facility's total resident days from the most~~
12 ~~recent cost report period or resident days calculated at ninety percent~~
13 ~~facility occupancy.)) However, assets acquired on or after May 17,~~
14 1999, shall be grouped in a separate financing allowance calculation
15 that shall be multiplied by .085. The financing allowance factor of
16 .085 shall not be applied to the net invested funds pertaining to new
17 construction or major renovations receiving certificate of need
18 approval or an exemption from certificate of need requirements under
19 chapter 70.38 RCW, or to working drawings that have been submitted to
20 the department of health for construction review approval, prior to May
21 17, 1999. If a capitalized addition, renovation, replacement, or
22 retirement of an asset will result in a different licensed bed capacity
23 during the ensuing period, the prior period total resident days used in
24 computing the financing allowance shall be adjusted to the greater of
25 the anticipated resident day level or eighty-five percent of the new
26 licensed bed capacity. Effective July 1, 2002, for all facilities,
27 other than essential community providers, the total resident days used
28 to compute the financing allowance after a capitalized addition,
29 renovation, replacement, or retirement of an asset shall be set by
30 using the greater of a facility's total resident days from the most
31 recent cost report period or resident days calculated at ((~~ninety~~)
32 eighty-five percent facility occupancy.

33 (3) In computing the portion of net invested funds representing the
34 net book value of tangible fixed assets, the same assets, depreciation
35 bases, lives, and methods referred to in RCW 74.46.330, 74.46.350,
36 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets,
37 shall be utilized, except that the capitalized cost of land upon which
38 the facility is located and such other contiguous land which is

1 reasonable and necessary for use in the regular course of providing
2 resident care shall also be included. Subject to provisions and
3 limitations contained in this chapter, for land purchased by owners or
4 lessors before July 18, 1984, capitalized cost of land shall be the
5 buyer's capitalized cost. For all partial or whole rate periods after
6 July 17, 1984, if the land is purchased after July 17, 1984,
7 capitalized cost shall be that of the owner of record on July 17, 1984,
8 or buyer's capitalized cost, whichever is lower. In the case of leased
9 facilities where the net invested funds are unknown or the contractor
10 is unable to provide necessary information to determine net invested
11 funds, the secretary shall have the authority to determine an amount
12 for net invested funds based on an appraisal conducted according to RCW
13 74.46.360(1).

14 (4) Effective July 1, 2001, for the purpose of calculating a
15 nursing facility's financing allowance component rate, if a contractor
16 has elected to bank licensed beds prior to May 25, 2001, or elects to
17 convert banked beds to active service at any time, under chapter 70.38
18 RCW, the department shall use the facility's new licensed bed capacity
19 to recalculate minimum occupancy for rate setting and revise the
20 financing allowance component rate, as needed, effective as of the date
21 the beds are banked or converted to active service. However, in no
22 case shall the department use less than eighty-five percent occupancy
23 of the facility's licensed bed capacity after banking or conversion.
24 (~~Effective July 1, 2002, in no case, other than for essential~~
25 ~~community providers, shall the department use less than ninety percent~~
26 ~~occupancy of the facility's licensed bed capacity after conversion.~~)

27 (5) The financing allowance rate allocation calculated in
28 accordance with this section shall be adjusted to the extent necessary
29 to comply with RCW 74.46.421.

30 **Sec. 6.** RCW 74.46.521 and 2010 1st sp.s. c 34 s 16 are each
31 amended to read as follows:

32 (1) The operations component rate allocation corresponds to the
33 general operation of a nursing facility for one resident for one day,
34 including but not limited to management, administration, utilities,
35 office supplies, accounting and bookkeeping, minor building
36 maintenance, minor equipment repairs and replacements, and other

1 supplies and services, exclusive of direct care, therapy care, support
2 services, property, financing allowance, and variable return.

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

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

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

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

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

29 (ii) The adjusted median per resident day general operations cost
30 for that facility's peer group, urban counties or nonurban counties
31 plus five percent; and

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

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

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 76.46 RCW
2 to read as follows:

3 (1) The department shall establish a skilled nursing facility
4 safety net assessment medicaid share pass through or rate add-on to
5 reimburse the medicaid share of the skilled nursing facility safety net
6 assessment as a medicaid allowable cost consistent with section 10
7 (4)(a) of this act.

8 (2) As of the effective date of this section, supplemental payments
9 to reimburse medicaid expenditures, including an amount to reimburse
10 the medicaid share of the skilled nursing facility safety net
11 assessment, not to exceed the medicare upper payment limit, must be
12 provided for the remainder of fiscal year 2011, consistent with section
13 10(4)(a), (e), and (g) of this act. The department shall expend all
14 available funds in the safety net assessment trust fund during this
15 period for these supplemental payments. These supplemental payments
16 must be a combination of two per diem medicaid add-ons; one to
17 reimburse the medicaid share of the assessment for those paying the
18 assessment; and the other being an equal medicaid per diem add-on for
19 all medicaid providers. These supplemental payments may not be
20 subjected to the reconciliation and settlement process provided in RCW
21 74.46.022(6).

22 NEW SECTION. **Sec. 8.** PURPOSE, FINDINGS, AND INTENT. (1) It is
23 the intent of the legislature to encourage maximization of financial
24 resources eligible and available for medicaid services by establishing
25 the skilled nursing facility safety net trust fund to receive skilled
26 nursing facility safety net assessments to use in securing federal
27 matching funds under federally prescribed programs available through
28 the state medicaid plan.

29 (2) The purpose of this chapter is to provide for a safety net
30 assessment on certain Washington skilled nursing facilities, which will
31 be used solely to augment funding from all other sources and thereby
32 obtain additional funds to restore recent reductions and to support
33 additional payments to skilled nursing facilities for medicaid
34 services.

35 (3) The legislature finds that:

36 (a) Washington skilled nursing facilities have proposed a skilled
37 nursing facility safety net assessment to generate additional state and

1 federal funding for the medicaid program, which will be used to restore
2 recent reductions in skilled nursing facility reimbursement rates and
3 provide for an increase in medicaid reimbursement rates; and

4 (b) The skilled nursing facility safety net assessment and skilled
5 nursing facility safety net trust fund created in this chapter allows
6 the state to generate additional federal financial participation for
7 the medicaid program and provides for increased reimbursement to
8 skilled nursing facilities.

9 (4) In adopting this chapter, it is the intent of the legislature:

10 (a) To impose a skilled nursing facility safety net assessment to
11 be used solely for the purposes specified in this chapter;

12 (b) That funds generated by the assessment, including matching
13 federal financial participation, shall not be used as a substitute for
14 or to supplant other funds, except as authorized by section 10(4)(e) of
15 this act;

16 (c) That the total amount assessed not exceed the amount needed, in
17 combination with all other available funds, to support the
18 reimbursement rates and other payments authorized by this chapter,
19 including payments under section 10(4)(b) and (g) of this act; and

20 (d) To condition the assessment on receiving federal approval for
21 receipt of additional federal financial participation and on
22 continuation of other funding sufficient to maintain skilled nursing
23 facility reimbursement rates at least at the levels in effect on June
24 30, 2010.

25 NEW SECTION. **Sec. 9.** DEFINITIONS. The definitions in this
26 section apply throughout this chapter unless the context clearly
27 requires otherwise.

28 (1) "Certain high volume medicaid nursing facilities" means the
29 fewest number of facilities necessary with the highest number of
30 medicaid days or total patient days annually to meet the statistical
31 redistribution test at 42 C.F.R. Sec. 433.68(e)(2).

32 (2) "Continuing care retirement community" means a facility that
33 provides a continuum of services by one operational entity or related
34 organization providing independent living services, or boarding home or
35 assisted living services under chapter 18.20 RCW, and skilled nursing
36 services under chapter 18.51 RCW in a single contiguous campus. The
37 number of licensed nursing home beds must be sixty percent or less of

1 the total number of beds available in the entire continuing care
2 retirement community. For purposes of this subsection "contiguous"
3 means land adjoining or touching other property held by the same or
4 related organization including land divided by a public road.

5 (3) "Deductions from revenue" means reductions from gross revenue
6 resulting from an inability to collect payment of charges. Such
7 reductions include bad debt, contractual adjustments, policy discounts
8 and adjustments, and other such revenue deductions.

9 (4) "Department" means the department of social and health
10 services.

11 (5) "Fund" means the skilled nursing facility safety net trust
12 fund.

13 (6) "Hospital based" means a nursing facility that is physically
14 part of, or contiguous to, a hospital. For purposes of this subsection
15 "contiguous" has the same meaning as in subsection (2) of this section.

16 (7) "Medicare patient day" means a patient day for medicare
17 beneficiaries on a medicare part A stay, medicare hospice stay, and a
18 patient day for persons who have opted for managed care coverage using
19 their medicare benefit.

20 (8) "Medicare upper payment limit" means the limitation established
21 by federal regulations, 42 C.F.R. Sec. 447.272, that disallows federal
22 matching funds when state medicaid agencies pay certain classes of
23 nursing facilities an aggregate amount for services that would exceed
24 the amount that would be paid for the same services furnished by that
25 class of nursing facilities under medicare payment principles.

26 (9) "Net resident service revenue" means gross revenue from
27 services to nursing facility residents less deductions from revenue.
28 Net resident service revenue does not include other operating revenue
29 or nonoperating revenue.

30 (10) "Nonexempt nursing facility" means a nursing facility that is
31 not exempt from the skilled nursing facility safety net assessment
32 under sections 10 and 11 of this act.

33 (11) "Nonoperating revenue" means income from activities not
34 relating directly to the day-to-day operations of an organization.
35 Nonoperating revenue includes such items as gains on disposal of a
36 facility's assets, dividends, and interest from security investments,
37 gifts, grants, and endowments.

1 (12) "Nursing facility," "facility," or "skilled nursing facility"
2 has the same meaning as "nursing home" as defined in RCW 18.51.010.

3 (13) "Other operating revenue" means income from nonresident care
4 services to residents, as well as sales and activities to persons other
5 than residents. It is derived in the course of operating the facility
6 such as providing personal laundry service for residents or from other
7 sources such as meals provided to persons other than residents,
8 personal telephones, gift shops, and vending machines.

9 (14) "Related organization" means an entity which is under common
10 ownership and/or control with, or has control of, or is controlled by,
11 the contractor.

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

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

19 (15) "Resident day" means a calendar day of care provided to a
20 nursing facility resident, excluding medicare patient days. Resident
21 days include the day of admission and exclude the day of discharge. An
22 admission and discharge on the same day count as one day of care.
23 Resident days include nursing facility hospice days and exclude bedhold
24 days for all residents.

25 NEW SECTION. **Sec. 10.** SKILLED NURSING FACILITY SAFETY NET
26 ASSESSMENT FUND. (1) There is hereby established in the state treasury
27 the skilled nursing facility safety net trust fund. The purpose and
28 use of the fund shall be to receive and disburse funds, together with
29 accrued interest, in accordance with this chapter. Moneys in the fund,
30 including interest earned, shall not be used or disbursed for any
31 purposes other than those specified in this chapter. Any amounts
32 expended from the fund that are later recouped by the department on
33 audit or otherwise shall be returned to the fund.

34 (2) The skilled nursing facility safety net trust fund must be a
35 separate and continuing fund, and no money in the fund reverts to the
36 state general fund at any time. All assessments, interest, and

1 penalties collected by the department under sections 11, 12, and 16 of
2 this act shall be deposited into the fund.

3 (3) Any money received under sections 11, 12, and 16 of this act
4 must be deposited in the state treasury for credit to the skilled
5 nursing facility safety net trust fund, and must be expended, to the
6 extent authorized by federal law, to obtain federal financial
7 participation in the medicaid program to maintain and enhance nursing
8 facility rates in a manner set forth in subsection (4) of this section.

9 (4) Disbursements from the fund may be made only as follows:

10 (a) As an immediate pass-through or rate add-on to reimburse the
11 medicaid share of the skilled nursing facility safety net assessment as
12 a medicaid allowable cost;

13 (b) To make medicaid payments for nursing facility services in an
14 amount sufficient for maintenance and enhancement of the medicaid
15 nursing home rates paid on June 30, 2010; for subsequent enhancement of
16 medicaid nursing home rate settings, including enhancements specified
17 in RCW 74.46.024, 74.46.431, 74.46.433, 74.46.435, 74.46.437,
18 74.46.521, and section 7 of this act; and for funding new standards
19 imposed by the federal government;

20 (c) To refund erroneous or excessive payments made by skilled
21 nursing facilities pursuant to this chapter;

22 (d) To administer the provisions of this act the department may
23 expend an amount not to exceed one-half of one percent of the money
24 received from the assessment, and must not exceed the amount authorized
25 for expenditure by the legislature for administrative expenses in a
26 fiscal year;

27 (e) The sum of thirty million dollars must be expended in lieu of
28 state general fund payments to skilled nursing facilities for fiscal
29 year 2011; the sum of fifteen million dollars must be expended in lieu
30 of state general fund payments to skilled nursing facilities for fiscal
31 year 2012; the sum of fifteen million dollars must be expended in lieu
32 of state general fund payments to skilled nursing facilities for fiscal
33 year 2013;

34 (f) To repay the federal government for any excess payments made to
35 skilled nursing facilities from the fund if the assessments or payment
36 increases set forth in this chapter are deemed out of compliance with
37 federal statutes and regulations and all appeals have been exhausted.
38 In such a case, the department may require skilled nursing facilities

1 receiving excess payments to refund the payments in question to the
2 fund. The state in turn shall return funds to the federal government
3 in the same proportion as the original financing. If a skilled nursing
4 facility is unable to refund payments, the state shall either develop
5 a payment plan or deduct moneys from future medicaid payments, or both;

6 (g) To increase nursing facility payments to fund covered services
7 to medicaid beneficiaries within medicare upper limits.

8 (5) Except as provided in subsection (4)(e) of this section, funds
9 from the skilled nursing facility safety net trust fund may not be used
10 to replace existing state expenditures to nursing facilities on rates
11 paid on the effective date of this section or for subsequent rate
12 settings.

13 (6) Expenditures in subsection (4) of this section from the skilled
14 nursing facility safety net trust fund may not be included in the
15 calculation of the annual statewide weighted average nursing facility
16 payment rate for purposes of implementing the provisions of RCW
17 74.46.421(4).

18 (7) Any positive balance in the fund at the end of a fiscal year
19 shall be applied to reduce the assessment amount for the subsequent
20 fiscal year in accordance with section 12(1)(c)(i) of this act.

21 (8) If any of the conditions described in section 14(2) of this act
22 are met, or upon termination of the assessment, any amounts remaining
23 in the fund shall be refunded to skilled nursing facilities, pro rata
24 according to the amount paid by the facility, subject to limitations of
25 federal law.

26 (9) If any of the conditions described in section 14(1) of this act
27 are not met, or if any of the conditions prescribed in section 14(2) of
28 this act are met, or upon termination of the assessment, skilled
29 nursing facility medicaid reimbursement rates shall be returned to the
30 rate in effect on July 1, 2010, indexed forward by a factor or factors
31 defined in the skilled nursing facility market basket index published
32 by the United States department of health and human services.

33 (10) Funds resulting from any increase in the skilled nursing
34 facility safety net assessment over and above the initial calculation
35 of the assessment referenced in section 11 of this act, shall only be
36 used to increase nursing facility medicaid rates above those calculated
37 by the state plan methodology in effect on July 1, 2011, without
38 application of the provisions of RCW 74.46.421(4).

1 NEW SECTION. **Sec. 11.** ASSESSMENTS. (1) In accordance with the
2 redistribution method set forth in 42 C.F.R. Sec. 433.68(e)(1) and (2),
3 the department shall seek a waiver of the broad-based and uniform
4 provider assessment requirements of federal law to exclude certain
5 nursing facilities from the skilled nursing facility safety net
6 assessment and to permit certain high volume medicaid nursing
7 facilities or facilities with a high number of total annual resident
8 days to pay the skilled nursing facility safety net assessment at a
9 lesser amount per nonmedicare patient day.

10 (2) The skilled nursing facility safety net assessment shall, at no
11 time, be greater than the maximum percentage of the nursing facility
12 industry reported net patient service revenues allowed under federal
13 law or regulation.

14 (3) The skilled nursing facility safety net assessment shall be set
15 at a percentage of total aggregate net resident service revenue of
16 assessed facilities which maintains and enhances the nursing facilities
17 medicaid rates, net of the impact for reimbursement of the medicaid
18 share of the assessment itself, consistent with section 10(4)(b) and
19 (g) of this act, not to exceed the maximum amount allowable under
20 federal law.

21 (4) All skilled nursing facility safety net assessments collected
22 pursuant to this section by the department shall be transmitted to the
23 state treasurer who shall establish a skilled nursing facility safety
24 net trust fund and shall credit all such amounts to the skilled nursing
25 facility safety net trust fund.

26 NEW SECTION. **Sec. 12.** ADMINISTRATION AND COLLECTION. (1) The
27 department, in cooperation with the office of financial management,
28 shall develop rules for determining the amount to be assessed to
29 individual skilled nursing facilities, notifying individual skilled
30 nursing facilities of the assessed amount, and collecting the amounts
31 due. Such rule making shall specifically include provision for:

- 32 (a) Payment of the skilled nursing facility safety net assessment;
- 33 (b) Interest on delinquent assessments;
- 34 (c) Adjustment of the assessment amounts as follows:

35 (i) As of the effective date of this section, the assessment
36 amounts under section 11 of this act may be adjusted as follows:

1 (A) If sufficient other funds for skilled nursing facilities, are
2 available to support the reimbursement rates and other payments under
3 section 10(4) of this act without utilizing the full assessment
4 authorized under section 11 of this act, the department shall reduce
5 the amount of the assessment to the minimum level necessary to support
6 those reimbursement rates and other payments.

7 (B) So long as none of the conditions set forth in section 14(2) of
8 this act have occurred, if the department's forecasts indicate that the
9 assessment amounts under section 11 of this act, together with all
10 other available funds, are not sufficient to support the reimbursement
11 rates and other payments under section 10(4) of this act, the
12 department shall increase the assessment rates to the amount necessary
13 to support those reimbursement rates and other payments to the maximum
14 amount allowable under federal law.

15 (C) Any positive balance remaining in the fund at the end of the
16 fiscal year shall be applied to reduce the assessment amount for the
17 subsequent fiscal year.

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

28 (2) By November 30th of each year, the department shall provide the
29 following data to the Washington health care association, and aging
30 services of Washington:

31 (a) The fund balance; and

32 (b) The amount of assessment paid by each skilled nursing facility.

33 (3) The initial skilled nursing facility safety net assessment is
34 due and payable upon satisfaction of the conditions set forth in
35 section 14(1) of this act. Assessments shall be assessed from the
36 effective date of this act upon satisfaction of the conditions set
37 forth in section 14(1) of this act.

1 NEW SECTION. **Sec. 13.** EXCEPTIONS. (1) Subject to the provisions
2 of subsection (4) of this section the department shall exempt the
3 following nursing facility providers from the skilled nursing facility
4 safety net assessment subject to federal approval under 42 C.F.R. Sec.
5 433.68(e)(2):

- 6 (a) Continuing care retirement communities;
- 7 (b) Nursing facilities with thirty-five or fewer licensed beds;
- 8 (c) State and county operated nursing facilities; and
- 9 (d) Any nursing facility operated by a public hospital district and
10 nursing facilities that are hospital-based.

11 (2) The department shall lower the skilled nursing facility safety
12 net assessment for either certain high volume medicaid nursing
13 facilities or certain facilities with high resident volumes to meet the
14 redistributive tests of 42 C.F.R. Sec. 433.68(e)(2).

15 (3) The department shall lower the skilled nursing facility safety
16 net assessment for any skilled nursing facility with a licensed bed
17 capacity in excess of two hundred three beds to the same level
18 described in subsection (2) of this section.

19 (4) To the extent necessary to obtain federal approval under 42
20 C.F.R. Sec. 433.68(e)(2), the exemptions prescribed in subsections (1),
21 (2), and (3) of this section may be amended by the department if
22 necessary to meet the conditions set forth in section 14(1) of this
23 act.

24 (5) The per resident day assessment rate shall be the same amount
25 for each affected facility except as prescribed in subsections (1),
26 (2), and (3) of this section.

27 (6) The department shall notify the nursing facility operators of
28 any skilled nursing facilities that would be exempted from the skilled
29 nursing facility safety net assessment pursuant to the waiver request
30 submitted to the United States department of health and human services
31 under this section. The nursing facilities included in the waiver
32 request may withhold payment of the assessment pending final action by
33 the federal government on the request for waiver.

34 NEW SECTION. **Sec. 14.** CONDITIONS. (1) The assessment,
35 collection, and disbursement of funds under this chapter shall be
36 conditional upon:

1 (a) Withdrawal of those aspects of any pending state plan
2 amendments previously submitted to the centers for medicare and
3 medicaid services that are inconsistent with this chapter, specifically
4 any pending state plan amendment related to rate reductions for skilled
5 nursing facility medicaid rates;

6 (b) Approval by the centers for medicare and medicaid services of
7 any state plan amendments or waiver requests that are necessary in
8 order to implement the applicable sections of this chapter; and

9 (c) Certification by the office of financial management that
10 appropriations have been adopted that fully support the rates
11 established in this chapter for the upcoming fiscal year.

12 (2) This chapter does not take effect or ceases to be imposed, and
13 any moneys remaining in the fund shall be refunded to skilled nursing
14 facilities in proportion to the amounts paid by such facilities, if and
15 to the extent that:

16 (a) An appellate court or the centers for medicare and medicaid
17 services makes a final determination that any element of this chapter
18 cannot be validly implemented;

19 (b) The fund is used as a substitute for or to supplant other
20 funds, except as authorized by section 10(4)(e) of this act.

21 NEW SECTION. **Sec. 15.** ASSESSMENT PART OF OPERATING OVERHEAD. The
22 incidence and burden of assessments imposed under this chapter shall be
23 on skilled nursing facilities and the expense associated with the
24 assessments shall constitute a part of the operating overhead of the
25 facilities. Skilled nursing facilities shall not increase charges or
26 billings to patients or third-party payers as a result of the
27 assessments under this chapter.

28 NEW SECTION. **Sec. 16.** ENFORCEMENT. If a nursing facility fails
29 to make timely payment of the safety net assessment, the department may
30 seek a remedy provided by law, including, but not limited to:

31 (1) Withholding any medical assistance reimbursement payments until
32 such time as the assessment amount is recovered;

33 (2) Suspension or revocation of the nursing facility license; or

34 (3) Imposition of a civil fine up to one thousand dollars per day
35 for each delinquent payment, not to exceed the amount of the
36 assessment.

1 NEW SECTION. **Sec. 17.** QUALITY INCENTIVE PAYMENTS. (1) The

2 department, the department of health, the Washington state health care
3 association, and aging services of Washington, shall design a system of
4 skilled nursing facility quality incentive payments. The design of the
5 system shall be submitted to the relevant policy and fiscal committees
6 of the legislature by December 15, 2011. The system shall be based
7 upon the following principles:

8 (a) Evidence-based treatment and processes shall be used to improve
9 health care outcomes for skilled nursing facility residents;

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

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

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

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

34 (2) Upon satisfaction of the applicable conditions set forth in
35 section 13(1) of this act, and for state fiscal year 2013 and each
36 fiscal year thereafter, assessments may be increased to support an
37 additional one percent increase in skilled nursing facility

1 reimbursement rates for facilities that meet the quality incentive
2 benchmarks established under this section.

3 **Sec. 18.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s
4 c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145
5 s 11 are each reenacted and amended to read as follows:

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

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

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

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

36 (a) The following accounts and funds shall receive their
37 proportionate share of earnings based upon each account's and fund's

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

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

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

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

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

20 NEW SECTION. **Sec. 19.** SEVERABILITY. (1) The provisions of this
21 chapter are not severable: If the conditions set forth in section
22 14(1) of this act are not satisfied or if any of the circumstances set
23 forth in section 14(2) of this act should occur, sections 8 through 16
24 of this chapter shall have no effect from that point forward, except
25 that if the payments under section 10 of this act, or the application
26 thereof to any skilled nursing facility, does not receive approval by
27 the centers for medicare and medicaid services as described in section
28 11(1) of this act or is determined to be unconstitutional or otherwise
29 invalid, sections 1 through 6 of this act, or its application to
30 skilled nursing facilities, or circumstances other than those to which
31 it is held invalid shall not be affected thereby.

32 (2) In the event that any portion of this chapter shall have been
33 validly implemented and the skilled nursing facility safety net
34 assessment is later rendered ineffective under this section, prior
35 assessments and payments under the validly implemented portions shall
36 not be affected.

1 (3) In the event that the payment under section 10 of this act, or
2 the application thereof to any skilled nursing facility or
3 circumstances does not receive approval by the centers for medicare and
4 medicaid services as described in section 14(1) of this act or is
5 determined to be unconstitutional or otherwise invalid, the amount of
6 the assessment shall be adjusted under section 12(1)(c) of this act.

7 NEW SECTION. **Sec. 20.** Sections 8 through 17 and 19 of this act
8 constitute a new chapter in Title 74 RCW.

9 NEW SECTION. **Sec. 21.** Section 3 of this act expires July 1, 2011.

10 NEW SECTION. **Sec. 22.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately.

--- END ---