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**SUBSTITUTE SENATE BILL 5724**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senator Rinehart; by request of Department of Social and Health Services)

Read first time 04/14/93.

1 AN ACT Relating to nursing home auditing and reimbursement;  
2 amending RCW 74.46.020, 74.46.050, 74.46.105, 74.46.230, 74.46.280,  
3 74.46.380, 74.46.410, 74.46.420, 74.46.430, 74.46.450, 74.46.460,  
4 74.46.470, 74.46.475, 74.46.481, 74.46.490, 74.46.500, 74.46.510,  
5 74.46.530, 74.46.770, and 74.46.780; reenacting and amending RCW  
6 74.46.180; adding a new section to chapter 74.46 RCW; repealing RCW  
7 74.46.260 and 74.46.495; providing an effective date; and declaring an  
8 emergency.

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

10 **Sec. 1.** RCW 74.46.020 and 1991 sp.s. c 8 s 11 are each amended to  
11 read as follows:

12 Unless the context clearly requires otherwise, the definitions in  
13 this section apply throughout this chapter.

14 (1) "Accrual method of accounting" means a method of accounting in  
15 which revenues are reported in the period when they are earned,  
16 regardless of when they are collected, and expenses are reported in the  
17 period in which they are incurred, regardless of when they are paid.

1 (2) "Ancillary care" means those services required by the  
2 individual, comprehensive plan of care provided by qualified  
3 therapists.

4 (3) "Appraisal" means the process of estimating the fair market  
5 value or reconstructing the historical cost of an asset acquired in a  
6 past period as performed by a professionally designated real estate  
7 appraiser with no pecuniary interest in the property to be appraised.  
8 It includes a systematic, analytic determination and the recording and  
9 analyzing of property facts, rights, investments, and values based on  
10 a personal inspection and inventory of the property.

11 (4) "Arm's-length transaction" means a transaction resulting from  
12 good-faith bargaining between a buyer and seller who are not related  
13 organizations and have adverse positions in the market place. Sales or  
14 exchanges of nursing home facilities among two or more parties in which  
15 all parties subsequently continue to own one or more of the facilities  
16 involved in the transactions shall not be considered as arm's-length  
17 transactions for purposes of this chapter. Sale of a nursing home  
18 facility which is subsequently leased back to the seller within five  
19 years of the date of sale shall not be considered as an arm's-length  
20 transaction for purposes of this chapter.

21 (5) "Assets" means economic resources of the contractor, recognized  
22 and measured in conformity with generally accepted accounting  
23 principles.

24 (6) "Bad debts" means amounts considered to be uncollectable from  
25 accounts and notes receivable.

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

28 (8) "Beneficial owner" means:

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

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

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

35 (b) Any person who, directly or indirectly, creates or uses a  
36 trust, proxy, power of attorney, pooling arrangement, or any other  
37 contract, arrangement, or device with the purpose or effect of  
38 divesting himself of beneficial ownership of an ownership interest or

1 preventing the vesting of such beneficial ownership as part of a plan  
2 or scheme to evade the reporting requirements of this chapter;

3 (c) Any person who, subject to subparagraph (b) of this subsection,  
4 has the right to acquire beneficial ownership of such ownership  
5 interest within sixty days, including but not limited to any right to  
6 acquire:

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

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

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

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

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

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

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

33 (ii) The pledgee agreement, prior to default, does not grant to the  
34 pledgee:

35 (A) The power to vote or to direct the vote of the pledged  
36 ownership interest; or

37 (B) The power to dispose or direct the disposition of the pledged  
38 ownership interest, other than the grant of such power(s) pursuant to

1 a pledge agreement under which credit is extended and in which the  
2 pledgee is a broker or dealer.

3 (9) "Capitalization" means the recording of an expenditure as an  
4 asset.

5 (10) "Contractor" means an entity which contracts with the  
6 department to provide services to medical care recipients in a facility  
7 and which entity is responsible for operational decisions.

8 (11) "Department" means the department of social and health  
9 services (DSHS) and its employees.

10 (12) "Depreciation" means the systematic distribution of the cost  
11 or other basis of tangible assets, less salvage, over the estimated  
12 useful life of the assets.

13 (13) "Direct care supplies" means medical, pharmaceutical, and  
14 other supplies required for the direct nursing and ancillary care of  
15 medical care recipients.

16 (14) "Entity" means an individual, partnership, corporation, or any  
17 other association of individuals capable of entering enforceable  
18 contracts.

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

23 (16) "Facility" means a nursing home licensed in accordance with  
24 chapter 18.51 RCW, excepting nursing homes certified as institutions  
25 for mental diseases, or that portion of a hospital licensed in  
26 accordance with chapter 70.41 RCW which operates as a nursing home.

27 (17) "Fair market value" means the replacement cost of an asset  
28 less observed physical depreciation on the date for which the market  
29 value is being determined.

30 (18) "Financial statements" means statements prepared and presented  
31 in conformity with generally accepted accounting principles including,  
32 but not limited to, balance sheet, statement of operations, statement  
33 of changes in financial position, and related notes.

34 (19) (~~"Gain on sale" means the difference between the total net  
35 book value of nursing home assets, including but not limited to land,  
36 building and equipment, and the total sales price of all such assets.~~

37 ~~(20))~~ "Generally accepted accounting principles" means accounting  
38 principles approved by the financial accounting standards board (FASB).

1       (~~(21)~~) (20) "Generally accepted auditing standards" means  
2 auditing standards approved by the American institute of certified  
3 public accountants (AICPA).

4       (~~(22)~~) (21) "Goodwill" means the excess of the price paid for a  
5 business over the fair market value of all other identifiable,  
6 tangible, and intangible assets acquired.

7       (~~(23)~~) (22) "Historical cost" means the actual cost incurred in  
8 acquiring and preparing an asset for use, including feasibility  
9 studies, architect's fees, and engineering studies.

10       (~~(24)~~) (23) "Imprest fund" means a fund which is regularly  
11 replenished in exactly the amount expended from it.

12       (~~(25)~~) (24) "Joint facility costs" means any costs which  
13 represent resources which benefit more than one facility, or one  
14 facility and any other entity.

15       (~~(26)~~) (25) "Lease agreement" means a contract between two  
16 parties for the possession and use of real or personal property or  
17 assets for a specified period of time in exchange for specified  
18 periodic payments. Elimination (due to any cause other than death or  
19 divorce) or addition of any party to the contract, expiration, or  
20 modification of any lease term in effect on January 1, 1980, or  
21 termination of the lease by either party by any means shall constitute  
22 a termination of the lease agreement. An extension or renewal of a  
23 lease agreement, whether or not pursuant to a renewal provision in the  
24 lease agreement, shall be considered a new lease agreement. A strictly  
25 formal change in the lease agreement which modifies the method,  
26 frequency, or manner in which the lease payments are made, but does not  
27 increase the total lease payment obligation of the lessee, shall not be  
28 considered modification of a lease term.

29       (~~(27)~~) (26) "Medical care program" means medical assistance  
30 provided under RCW 74.09.500 or authorized state medical care services.

31       (~~(28)~~) (27) "Medical care recipient" or "recipient" means an  
32 individual determined eligible by the department for the services  
33 provided in chapter 74.09 RCW.

34       (~~(29)~~) (28) "Net book value" means the historical cost of an  
35 asset less accumulated depreciation.

36       (~~(30)~~) (29) "Net invested funds" means the net book value of  
37 tangible fixed assets employed by a contractor to provide services  
38 under the medical care program, including land, buildings, and  
39 equipment as recognized and measured in conformity with generally

1 accepted accounting principles, plus an allowance for working capital  
2 which shall be five percent of the (~~allowable costs~~) product of the  
3 per patient day rate multiplied by the prior calendar year reported  
4 total patient days of each contractor (~~for the previous calendar~~  
5 ~~year~~)).

6 (~~(+31)~~) (30) "Operating lease" means a lease under which rental or  
7 lease expenses are included in current expenses in accordance with  
8 generally accepted accounting principles.

9 (~~(+32)~~) (31) "Owner" means a sole proprietor, general or limited  
10 partners, and beneficial interest holders of five percent or more of a  
11 corporation's outstanding stock.

12 (~~(+33)~~) (32) "Ownership interest" means all interests beneficially  
13 owned by a person, calculated in the aggregate, regardless of the form  
14 which such beneficial ownership takes.

15 (~~(+34)~~) (33) "Patient day" or "client day" means a calendar day of  
16 care which will include the day of admission and exclude the day of  
17 discharge; except that, when admission and discharge occur on the same  
18 day, one day of care shall be deemed to exist.

19 (~~(+35)~~) (34) "Professionally designated real estate appraiser"  
20 means an individual who is regularly engaged in the business of  
21 providing real estate valuation services for a fee, and who is deemed  
22 qualified by a nationally recognized real estate appraisal educational  
23 organization on the basis of extensive practical appraisal experience,  
24 including the writing of real estate valuation reports as well as the  
25 passing of written examinations on valuation practice and theory, and  
26 who by virtue of membership in such organization is required to  
27 subscribe and adhere to certain standards of professional practice as  
28 such organization prescribes.

29 (~~(+36)~~) (35) "Qualified therapist" means:

30 (a) An activities specialist who has specialized education,  
31 training, or experience as specified by the department;

32 (b) An audiologist who is eligible for a certificate of clinical  
33 competence in audiology or who has the equivalent education and  
34 clinical experience;

35 (c) A mental health professional as defined by chapter 71.05 RCW;

36 (d) A mental retardation professional who is either a qualified  
37 therapist or a therapist approved by the department who has had  
38 specialized training or one year's experience in treating or working  
39 with the mentally retarded or developmentally disabled;

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

2 (f) A speech pathologist who is eligible for a certificate of  
3 clinical competence in speech pathology or who has the equivalent  
4 education and clinical experience;

5 (g) A physical therapist as defined by chapter 18.74 RCW; ~~((and))~~

6 (h) An occupational therapist who is a graduate of a program in  
7 occupational therapy, or who has the equivalent of such education or  
8 training; and

9 (i) A respiratory care practitioner certified under chapter 18.89  
10 RCW.

11 ~~((+37+))~~ (36) "Questioned costs" means those costs which have been  
12 determined in accordance with generally accepted accounting principles  
13 but which may constitute disallowed costs or departures from the  
14 provisions of this chapter or rules and regulations adopted by the  
15 department.

16 ~~((+38+))~~ (37) "Records" means those data supporting all financial  
17 statements and cost reports including, but not limited to, all general  
18 and subsidiary ledgers, books of original entry, and transaction  
19 documentation, however such data are maintained.

20 ~~((+39+))~~ (38) "Related organization" means an entity which is under  
21 common ownership and/or control with, or has control of, or is  
22 controlled by, the contractor.

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

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

30 ~~((+40+))~~ (39) "Restricted fund" means those funds the principal  
31 and/or income of which is limited by agreement with or direction of the  
32 donor to a specific purpose.

33 ~~((+41+))~~ (40) "Secretary" means the secretary of the department of  
34 social and health services.

35 ~~((+42+))~~ (41) "Title XIX" or "Medicaid" means the 1965 amendments  
36 to the social security act, P.L. 89-07, as amended.

37 ~~((+43+))~~ (42) "Physical plant capital improvement" means a  
38 capitalized improvement that is limited to an improvement to the  
39 building or the related physical plant.

1       **Sec. 2.** RCW 74.46.050 and 1985 c 361 s 5 are each amended to read  
2 as follows:

3       If the cost report is not properly completed or if it is not  
4 received by the due date, all or part of any payments due under the  
5 contract may be withheld by the department until such time as the  
6 required cost report is properly completed and received. Misreporting  
7 affecting cost limits promulgated under this chapter are subject to  
8 civil fines or other sanctions adopted by the department in rule.  
9 Beginning with audits for cost report year 1994, the department may  
10 adopt rules authorizing fines for costs reported that cannot be  
11 sustained at audit. The department shall issue special cost reporting  
12 instructions to accommodate changes in cost centers effective July 1,  
13 1993.

14       **Sec. 3.** RCW 74.46.180 and 1987 c 476 s 1 and 1987 c 283 s 9 are  
15 each reenacted and amended to read as follows:

16       (1) The state shall make payment of any underpayments within thirty  
17 days after the date the preliminary or final settlement report is  
18 submitted to the contractor.

19       (2) A contractor found to have received either overpayments or  
20 erroneous payments under a preliminary or final settlement shall refund  
21 such payments to the state within thirty days after the date the  
22 preliminary or final settlement report is submitted to the contractor,  
23 subject to the provisions of subsections (3), (4), and (7) of this  
24 section.

25       (3) Within the cost centers of nursing services and food, all  
26 savings resulting from the respective allowable costs being lower than  
27 the respective reimbursement rate paid to the contractor during the  
28 report period shall be refunded to the department. However, in  
29 computing a preliminary or final settlement, savings in a cost center  
30 may be shifted to cover a deficit in another cost center up to the  
31 amount of any savings(~~(:—PROVIDED, That)~~). Not more than twenty  
32 percent of the rate in a cost center may be shifted into that cost  
33 center and no shifting may be made into the property cost center(~~(:—~~  
34 PROVIDED FURTHER, That)). There shall be no shifting out of nursing  
35 services, and savings in food shall be shifted only to cover deficits  
36 in the nursing services cost center. There shall be no shifting from  
37 the operational to the administrative cost center.

1 (4) Within the administrative and property cost centers (~~of~~  
2 ~~administration and operations and property~~)), the contractor shall  
3 retain at least fifty percent, but not more than seventy-five percent,  
4 of any savings resulting from the respective audited allowable costs  
5 being lower than the respective reimbursement rates paid to the  
6 contractor during the report period multiplied by the number of  
7 authorized medical care client days in which said rates were in effect,  
8 except that no savings may be retained if reported costs in the  
9 administrative and property cost centers (~~and the administration and~~  
10 ~~operations cost center~~)) exceed audited allowable costs in these cost  
11 areas by a total of ten cents or more per patient day. The secretary,  
12 by rule (~~and regulation~~)), shall establish the basis for the specific  
13 percentages of savings to the contractors. Such rules (~~and~~  
14 ~~regulations~~)) may provide for differences in the percentages allowed  
15 for each cost center to individual facilities based on performance  
16 measures related to administrative efficiency.

17 (5) All (~~allowances~~)) return on investment rate payments provided  
18 by RCW 74.46.530 shall be retained by the contractor to the extent net  
19 invested funds are substantiated by department field audit. Any  
20 industrial insurance dividend or premium discount under RCW 51.16.035  
21 shall be retained by the contractor to the extent that such dividend or  
22 premium discount is attributable to the contractor's private patients.

23 (6) In the event the contractor fails to make repayment in the time  
24 provided in subsection (2) of this section, the department shall  
25 either:

26 (a) Deduct the amount of refund due, plus any interest accrued  
27 under RCW 43.20B.695, from payment amounts due the contractor; or

28 (b) In the instance the contract has been terminated, (i) deduct  
29 the amount of refund due, plus interest assessed at the rate and in the  
30 manner provided in RCW 43.20B.695, from any payments due; or (ii)  
31 recover the amount due, plus any interest assessed under RCW  
32 43.20B.695, from security posted with the department or by any other  
33 lawful means.

34 (7) Where the facility is pursuing timely-filed judicial or  
35 administrative remedies in good faith regarding settlement issues, the  
36 contractor need not refund nor shall the department withhold from the  
37 facility current payment amounts the department claims to be due from  
38 the facility but which are specifically disputed by the contractor. If  
39 the judicial or administrative remedy sought by the facility is not

1 granted after all appeals are exhausted or mutually terminated, the  
2 facility shall make payment of such amounts due plus interest accrued  
3 from the date of filing of the appeal, as payable on judgments, within  
4 sixty days of the date such decision is made.

5 **Sec. 4.** RCW 74.46.105 and 1985 c 361 s 10 are each amended to read  
6 as follows:

7 Cost reports and patient trust accounts of contractors shall be  
8 field audited by the department, either by department staff or by  
9 auditors under contract to the department, in accordance with the  
10 provisions of this chapter. The department when it deems necessary to  
11 assure the accuracy of cost reports may review any underlying financial  
12 statements or other records upon which the cost reports are based. The  
13 department shall have the authority to accept or reject audits which  
14 fail to satisfy the requirements of this section or which are performed  
15 by auditors who violate any of the rules of this section. Department  
16 audits of the cost reports and patient trust accounts shall be  
17 conducted as follows:

18 (1) Each year the department will provide for field audit of the  
19 cost report, statistical reports, and patient trust funds, as  
20 established by RCW 74.46.700, of all or a sample of reporting  
21 facilities selected by profiles of costs, exceptions, contract  
22 terminations, upon special requests or other factors determined by the  
23 department.

24 (2) Beginning with audits for calendar year ~~((1983, up to one~~  
25 ~~hundred percent of contractors cost reports and patient care trust fund~~  
26 ~~accounts shall be audited: PROVIDED, That each contractor shall be~~  
27 ~~audited at least once in every three-year period.~~

28 ~~(3))~~ 1992, facilities shall be selected for ~~((sample))~~ audits,  
29 within the discretion of the department for each calendar report year,  
30 within one hundred twenty days of submission of a correct and complete  
31 cost report, and shall be so informed of the department's intent to  
32 audit. Audits so scheduled shall be completed within one year of  
33 selection.

34 ~~((4))~~ (3) Where an audit for a recent reporting or trust fund  
35 period discloses material discrepancies, undocumented costs or  
36 mishandling of patient trust funds, auditors may examine prior  
37 unaudited periods, for indication of similar material discrepancies,  
38 undocumented costs or mishandling of patient trust funds for not more

1 than two reporting periods preceding the facility reporting period  
2 selected in the sample.

3 ~~((+5))~~ (4) The audit will result in a schedule summarizing  
4 appropriate adjustments to the contractor's cost report. These  
5 adjustments will include an explanation for the adjustment, the general  
6 ledger account or account group, and the dollar amount. Patient trust  
7 fund audits shall be reported separately and in accordance with RCW  
8 74.46.700.

9 ~~((+6))~~ (5) Audits shall meet generally accepted auditing standards  
10 as promulgated by the American institute of certified public  
11 accountants and the standards for audit of governmental organizations,  
12 programs, activities and functions as published by the comptroller  
13 general of the United States. Audits shall be supervised or reviewed  
14 by a certified public accountant.

15 ~~((+7))~~ (6) No auditor under contract with or employed by the  
16 department to perform audits in accordance with the provisions of this  
17 chapter shall:

18 (a) Have had direct or indirect financial interest in the  
19 ownership, financing or operation of a nursing home in this state  
20 during the period covered by the audits;

21 (b) Acquire or commit to acquire any direct or indirect financial  
22 interest in the ownership, financing or operation of a nursing home in  
23 this state during said auditor's employment or contract with the  
24 department;

25 (c) Accept as a client or become employed by any nursing home or  
26 nursing home operator in this state during or within two years of  
27 termination of said auditor's contract or employment with the  
28 department.

29 ~~((+8))~~ (7) Audits shall be conducted by auditors who are otherwise  
30 independent as determined by the standards of independence established  
31 by the American institute of certified public accountants.

32 ~~((+9))~~ (8) All audit rules, affecting the way contractors are  
33 required to maintain various receipts, accounts, ledgers, or other  
34 documents, or affecting the way contractors are required to organize  
35 and make available cost report, statistical, resident trust fund, or  
36 other information or records of the nursing facility or organization,  
37 adopted after March 31, 1984, shall be published before the beginning  
38 of the cost report year to which they apply.

1       **Sec. 5.** RCW 74.46.230 and 1980 c 177 s 23 are each amended to read  
2 as follows:

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

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

15       (3) Organizational costs are those necessary, ordinary, and  
16 directly incident to the creation of a corporation or other form of  
17 business of the contractor including, but not limited to, legal fees  
18 incurred in establishing the corporation or other organization and fees  
19 paid to states for incorporation; except, that they do not include  
20 costs relating to the issuance and sale of shares of capital stock or  
21 other securities. Such organizational costs will be allowable in the  
22 (~~administration and operations~~) administrative cost center if they  
23 are amortized over a period of not less than sixty months beginning  
24 with the month in which the first patient is admitted for care.

25       **Sec. 6.** RCW 74.46.280 and 1980 c 177 s 28 are each amended to read  
26 as follows:

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

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

31       (b) Documentation demonstrates that the services contracted for  
32 were actually delivered.

33       (2) To be allowable, fees must be for necessary, nonduplicative  
34 services. (~~Allowable fees for general management services, including~~  
35 ~~the portion of a management fee which is not allocated to specific~~  
36 ~~services such as accounting, are limited to~~

1 ~~(a) the maximum allowable compensation under RCW 74.46.260 of the~~  
2 ~~licensed administrator and, if the facility has at least eighty beds,~~  
3 ~~of an assistant administrator, less~~

4 ~~(b) actual compensation received by the licensed administrator and~~  
5 ~~by the assistant administrator and administrator in training, if any.~~  
6 ~~In computing maximum allowable compensation under RCW 74.46.260 for a~~  
7 ~~facility with at least eighty beds, include the maximum compensation of~~  
8 ~~an assistant administrator even if an assistant administrator is not~~  
9 ~~employed.)~~)

10 (3) A management fee paid to or for the benefit of a related  
11 organization will be allowable to the extent it does not exceed the  
12 lower of((÷

13 ~~(a) The limits set out in subsection (2) of this section; or~~

14 ~~(b) The lower of)) the actual cost to the related organization of~~  
15 ~~providing necessary services related to patient care under the~~  
16 ~~agreement((÷)) or the cost of comparable services purchased elsewhere.~~  
17 ~~Where costs to the related organization represent joint facility costs,~~  
18 ~~the measurement of such costs shall comply with RCW 74.46.270.~~

19 (4) A copy of the agreement must be received by the department at  
20 least sixty days before it is to become effective. A copy of any  
21 amendment to a management agreement must also be received by the  
22 department at least thirty days in advance of the date it is to become  
23 effective.

24 ~~((÷5) Central office costs for general management services,~~  
25 ~~including the portion of a management expense which is not allocated to~~  
26 ~~specific services, such as accounting, shall be subject to the~~  
27 ~~management fee limits determined in subsections (2) and (3) of this~~  
28 ~~section.))~~

29 **Sec. 7.** RCW 74.46.380 and 1991 sp.s. c 8 s 12 are each amended to  
30 read as follows:

31 (1) Where depreciable assets are disposed of through sale, trade-  
32 in, scrapping, exchange, theft, wrecking, or fire or other casualty,  
33 depreciation shall no longer be taken on the assets. No further  
34 depreciation shall be taken on permanently abandoned assets.

35 (2) Where an asset has been retired from active use but is being  
36 held for stand-by or emergency service, and the department has  
37 determined that it is needed and can be effectively used in the future,  
38 depreciation may be taken.

1       ~~((3) If there is a sale of a nursing facility on or after July 1,~~  
2 ~~1991, that results in a gain on sale, the actual reimbursement for~~  
3 ~~depreciation paid to the selling contractor through the medicaid~~  
4 ~~reimbursement program shall be recovered by the department to the~~  
5 ~~extent of any gain on sale. The purchaser is obligated to reimburse~~  
6 ~~the department, whether or not the purchaser is a medicaid contractor.~~  
7 ~~If the department is unable to collect from the purchaser, then the~~  
8 ~~seller is responsible for reimbursing the department. The department~~  
9 ~~may establish an appropriate repayment schedule to recover~~  
10 ~~depreciation. If the purchaser is a medicaid contractor and the~~  
11 ~~contractor does not comply with the repayment schedule established by~~  
12 ~~the department, the department may deduct the recovery from the~~  
13 ~~contractor's monthly medicaid payments. The department may adopt~~  
14 ~~rules, as appropriate, to insure that the principles of this section~~  
15 ~~are implemented with respect to leased assets, or with respect to sales~~  
16 ~~of intangibles or specific assets only.))~~

17       **Sec. 8.** RCW 74.46.410 and 1991 sp.s. c 8 s 15 are each amended to  
18 read as follows:

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

22       (2) Unallowable costs include, but are not limited to, the  
23 following:

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

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

31       (c) Costs associated with a capital expenditure subject to section  
32 1122 approval (part 100, Title 42 C.F.R.) if the department found it  
33 was not consistent with applicable standards, criteria, or plans. If  
34 the department was not given timely notice of a proposed capital  
35 expenditure, all associated costs will be unallowable up to the date  
36 they are determined to be reimbursable under applicable federal  
37 regulations;

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

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

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

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

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

14 (i) Costs applicable to services, facilities, and supplies  
15 furnished by a related organization in excess of the lower of the cost  
16 to the related organization or the price of comparable services,  
17 facilities, or supplies purchased elsewhere;

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

25 (k) Charity and courtesy allowances;

26 (l) Cash, assessments, or other contributions, excluding dues, to  
27 charitable organizations, professional organizations, trade  
28 associations, or political parties, and costs incurred to improve  
29 community or public relations;

30 (m) Vending machine expenses;

31 (n) Expenses for barber or beautician services not included in  
32 routine care;

33 (o) Funeral and burial expenses;

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

35 (q) Personal items such as cosmetics, smoking materials, newspapers  
36 and magazines, and clothing, except those used in patient activity  
37 programs;

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

- 1 (s) Penalties and fines;
- 2 (t) Expenses related to telephones, televisions, radios, and  
3 similar appliances in patients' private accommodations;
- 4 (u) Federal, state, and other income taxes;
- 5 (v) Costs of special care services except where authorized by the  
6 department;
- 7 (w) Expenses of key-man insurance and other insurance or retirement  
8 plans not made available to all employees;
- 9 (x) Expenses of profit-sharing plans;
- 10 (y) Expenses related to the purchase and/or use of private or  
11 commercial airplanes which are in excess of what a prudent contractor  
12 would expend for the ordinary and economic provision of such a  
13 transportation need related to patient care;
- 14 (z) Personal expenses and allowances of owners or relatives;
- 15 (aa) All expenses of maintaining professional licenses or  
16 membership in professional organizations;
- 17 (bb) Costs related to agreements not to compete;
- 18 (cc) Amortization of goodwill;
- 19 (dd) Expenses related to vehicles which are in excess of what a  
20 prudent contractor would expend for the ordinary and economic provision  
21 of transportation needs related to patient care;
- 22 (ee) Legal and consultant fees in connection with a fair hearing  
23 against the department where a decision is rendered in favor of the  
24 department or where otherwise the determination of the department  
25 stands;
- 26 (ff) Legal and consultant fees of a contractor or contractors in  
27 connection with a lawsuit against the department;
- 28 (gg) Lease acquisition costs and other intangibles not related to  
29 patient care;
- 30 (hh) All rental or lease costs other than those provided in RCW  
31 74.46.300 on and after the effective date of RCW 74.46.510 and  
32 74.46.530;
- 33 (ii) Postsurvey charges incurred by the facility as a result of  
34 subsequent inspections under RCW 18.51.050 which occur beyond the first  
35 postsurvey visit during the certification survey calendar year;
- 36 (~~jj) ((Costs and fees otherwise allowable for legal services,  
37 whether purchased, allocated by a home office, regional office or  
38 management company, or performed by the contractor or employees of the  
39 contractor, in excess of the eighty fifth percentile of such costs~~

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

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

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

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

25 **Sec. 9.** RCW 74.46.420 and 1985 c 361 s 18 are each amended to read  
26 as follows:

27 The following principles are inherent in RCW 74.46.430 through  
28 74.46.590:

29 (1) Reimbursement rates will be set prospectively on a per patient  
30 day basis on a two-year cycle corresponding to each state biennium; and

31 (2) The rates ~~((so established will)),~~ in the nursing services,  
32 food, administrative, and operational cost centers, shall be adjusted  
33 downward or upward when set effective July 1 of the first fiscal year  
34 of the two-year rate-setting cycle and adjusted again downward or  
35 upward effective July 1 of the second fiscal year of the rate-setting  
36 cycle for economic ((conditions and)) trends ((in accordance with  
37 appropriations made by the legislature as consistent with federal

1 ~~requirements for the period to be covered by such rates)) and~~  
2 ~~conditions.~~

3 (3) The July 1 rates for the first year of each biennium shall be  
4 adjusted by the change in the implicit price deflator for personal  
5 consumption expenditures index published by the bureau of labor  
6 statistics of the United States department of labor. The period used  
7 to measure the increase or decrease to be applied to these first year  
8 biennial rates shall be the calendar year preceding the July 1  
9 commencement of the state biennium.

10 (4) The July 1 rates for the second year of each biennium shall be  
11 adjusted by the change in the nursing home input price index without  
12 capital costs published by the health care financing administration of  
13 the department of health and human services. The period used to  
14 measure the increase or decrease to be applied to these second year  
15 biennial rates shall also be the calendar year preceding the July 1  
16 commencement of the state biennium. In the event the change in the  
17 health care financing administration index measured over the following  
18 calendar year, the one terminating six months after the start of the  
19 state biennium, is twenty-five percent greater or less than the change  
20 in the health care financing administration index measured over the  
21 calendar year preceding commencement of the state biennium, the  
22 department may use the health care financing administration index  
23 increase or decrease in the following calendar year to inflate or  
24 decrease nursing facilities' nursing services, food, administrative,  
25 and operational rates for July 1 of the second biennial year.

26 (5) If either the implicit price deflator index or the health care  
27 financing administration index ceases to be published in the future,  
28 the department shall select in rule and use in their place one or more  
29 measures of change from an alternate source or sources for the same or  
30 comparable time periods.

31 **Sec. 10.** RCW 74.46.430 and 1987 2nd ex.s. c 1 s 2 are each amended  
32 to read as follows:

33 (1) The department, as provided by this chapter, will determine  
34 prospective cost-related reimbursement rates for services provided to  
35 medical care recipients. Each rate so determined shall represent the  
36 contractor's maximum compensation within each cost center for each  
37 patient day for such medical care recipient.

1 (2) As required, the department may modify such maximum per patient  
2 day rates pursuant to the administrative review provisions of RCW  
3 74.46.780.

4 ~~(3) ((Until the effective date of RCW 74.46.510 and 74.46.530, the  
5 maximum prospective reimbursement rates for the administration and  
6 operations and the property cost centers shall be established based  
7 upon a minimum facility occupancy level of eighty five percent.~~

8 ~~(4) On and after the effective date of RCW 74.46.510 and  
9 74.46.530,))~~ The maximum prospective reimbursement rates for the  
10 ~~((administration and operations))~~ administrative, operational, and  
11 ~~((the))~~ property cost centers, and the return on investment  
12 ~~((allowance))~~ rate shall be established based upon a minimum facility  
13 occupancy level of eighty-five percent.

14 ~~((+5))~~ (4) All contractors shall be required to adjust and  
15 maintain wages for all employees to a minimum hourly wage ~~((established  
16 by the legislature in the biennial appropriations act, if the  
17 legislature appropriates moneys to fund prospectively the portion of  
18 the minimum wage attributable to services to medicaid patients.  
19 Prospective rate revisions to fund any minimum wage increases shall be  
20 made only on the dates authorized in the appropriation act. The  
21 department shall by regulation limit reimbursement to the amount  
22 appropriated for legislatively authorized enhancement for  
23 nonadministrative wages and benefits above the moneys necessary to fund  
24 minimum wages specified in this section. The department in considering  
25 reimbursement for legislatively authorized wage enhancements will take  
26 into consideration facility wage history over the past three cost  
27 report periods))~~ of four dollars and seventy-six cents per hour  
28 beginning January 1, 1988, and five dollars and fifteen cents per hour  
29 beginning January 1, 1989.

30 **Sec. 11.** RCW 74.46.450 and 1983 1st ex.s. c 67 s 20 are each  
31 amended to read as follows:

32 (1) Prospective reimbursement rates for a new contractor will be  
33 established within sixty days following receipt by the department of  
34 the properly completed projected budget required by RCW 74.46.670.  
35 Such reimbursement rates will become effective as of the effective date  
36 of the contract and shall remain in effect until ~~((rates can be  
37 established under RCW 74.46.460 based on a contractor's cost report~~

1 ~~including at least six months of cost data)) adjusted or reset as~~  
2 ~~provided in this chapter.~~

3 (2) Such reimbursement rates will be based on the contractor's  
4 projected cost of operations and on costs and payment rates of the  
5 prior contractor, if any, or of other contractors in comparable  
6 circumstances.

7 (3) If a properly completed budget is not received at least sixty  
8 days prior to the effective date of the contract, the department will  
9 establish preliminary rates based on the other factors specified in  
10 subsection (2) of this section. These preliminary rates will remain in  
11 effect until ~~((a determination is made pursuant to RCW 74.46.460))~~  
12 ~~adjusted or reset as provided in this chapter.~~

13 (4) The department is authorized to develop policies and procedures  
14 in rule to address the computation of rates for the first and second  
15 fiscal years of each biennium, including steps necessary to prorate  
16 rate adjustments for economic trends and conditions as authorized in  
17 RCW 74.46.420, for contractors having less than twelve months of cost  
18 report data for the prior calendar year.

19 **Sec. 12.** RCW 74.46.460 and 1987 c 476 s 3 are each amended to read  
20 as follows:

21 (1) Each contractor's reimbursement rates will be determined or  
22 adjusted prospectively at least once each calendar year, as provided in  
23 this chapter, to be effective July 1st. Provided, that a contractor's  
24 rate for the first fiscal year of each biennium must be established  
25 upon its own prior calendar period report of at least six months of  
26 cost data.

27 (2) Rates may be adjusted as determined by the department to take  
28 into account variations in the distribution of patient classifications  
29 or changes in patient characteristics from the prior reporting year,  
30 program changes required by the department, or changes in staffing  
31 levels at a facility required by the department. ~~((Rates shall be~~  
32 ~~adjusted by the amount of legislatively authorized enhancements in~~  
33 ~~accordance with RCW 74.46.430(5) and 74.46.470(2).)) Rates may also be  
34 adjusted to cover costs associated with placing a nursing home in  
35 receivership which costs are not covered by the rate of the former  
36 contractor, including: Compensation of the receiver, reasonable  
37 expenses of receivership and transition of control, and costs incurred  
38 by the receiver in carrying out court instructions or rectifying~~

1 deficiencies found. Rates shall be adjusted for any capitalized  
2 additions or replacements made as a condition for licensure or  
3 certification. Rates shall be adjusted for capitalized improvements  
4 done under RCW 74.46.465.

5 ~~((3) Where the contractor participated in the provisions of~~  
6 ~~prospective cost-related reimbursement in effect prior to July 1, 1983,~~  
7 ~~such contractor's prospective rate effective July 1, 1983, will be~~  
8 ~~determined utilizing the contractor's desk-reviewed allowable costs for~~  
9 ~~calendar year 1982.~~

10 ~~((4) All prospective reimbursement rates for 1984 and thereafter~~  
11 ~~shall be determined utilizing the prior year's desk-reviewed cost~~  
12 ~~reports.))~~

13 **Sec. 13.** RCW 74.46.470 and 1987 c 476 s 4 are each amended to read  
14 as follows:

15 (1) A contractor's reimbursement rates for medical care recipients  
16 will be determined utilizing net invested funds and desk-reviewed cost  
17 report data within the following cost centers:

18 (a) Nursing services;

19 (b) Food;

20 (c) ~~((Administration and operations))~~ Administrative; ~~((and))~~

21 (d) Operational; and

22 (e) Property.

23 (2) There shall be for the time period January 1988 through June  
24 1990 only an enhancement cost center established to reimburse  
25 contractors for specific legislatively authorized enhancements for  
26 nonadministrative wages and benefits to ensure that such enhancements  
27 are used exclusively for the legislatively authorized purposes. For  
28 purposes of settlement, funds appropriated to this cost center shall  
29 only be used for expenditures for which the legislative authorization  
30 is granted. Such funds may be used only in the following  
31 circumstances:

32 (a) The contractor has increased expenditures for which legislative  
33 authorization is granted to at least the highest level paid in any of  
34 the last three cost years, plus, beginning July 1, 1987, any percentage  
35 inflation adjustment as was granted each year under RCW 74.46.495; and

36 (b) All funds shifted from the enhancement cost center are shown to  
37 have been expended for legislatively authorized enhancements.

1 (3) If the contractor does not spend the amount appropriated to  
2 this cost center in the legislatively authorized manner, then the  
3 amounts not appropriately spent shall be recouped at preliminary or  
4 final settlement pursuant to RCW 74.46.160.

5 (4) For purposes of this section, "nonadministrative wages and  
6 benefits" means wages and payroll taxes paid with respect to, and the  
7 employer share of the cost of benefits provided to, employees in job  
8 classes specified in an appropriation, which may not include  
9 administrators, assistant administrators, or administrators in  
10 training.

11 (5) Amounts expended in the enhancement cost center in excess of  
12 the minimum wage established under RCW 74.46.430 are subject to all  
13 provisions contained in this chapter.

14 **Sec. 14.** RCW 74.46.475 and 1985 c 361 s 13 are each amended to  
15 read as follows:

16 (1) The department shall analyze the submitted cost report of each  
17 contractor to determine if the information is correct, complete, and  
18 reported in conformance with generally accepted accounting principles,  
19 the requirements of this chapter and such rules (~~and regulations~~) as  
20 the (~~secretary~~) department may adopt. If the analysis finds that the  
21 cost report is incorrect or incomplete or that some costs reported are  
22 unallowable, the department may make adjustments to the reported  
23 information for purposes of establishing reimbursement rates. A  
24 schedule of such adjustments shall be provided to contractors and shall  
25 include an explanation for the adjustment and the dollar amount of the  
26 adjustment. Adjustments shall be subject to review and appeal as  
27 provided in this chapter.

28 (2) The department shall accumulate data, determined by the  
29 department to be needed, from properly completed cost reports for use  
30 in:

- 31 (a) Exception profiling; (~~and~~)  
32 (b) Establishing rates; or  
33 (c) Complying with any state or federal law relating to the  
34 medicaid program.

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

1       **Sec. 15.** RCW 74.46.481 and 1991 sp.s. c 8 s 16 are each amended to  
2 read as follows:

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

22       (2) The department shall adopt ~~((by))~~ through administrative rules  
23 a method for establishing a nursing services cost center rate  
24 consistent with the principles stated in this section.

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

36       (a) The correlation between alternative measures and facility  
37 nursing staff; and

38       (b) The cost of collecting information for and computation of a  
39 measure.

1 If regression is used, the limit shall be set at predicted nursing  
2 staff plus 1.75 regression standard errors. If another statistical  
3 method is utilized, the limit shall be set at a level corresponding to  
4 1.75 standard errors above predicted staffing computed according to a  
5 regression procedure. A regression calculated shall be effective for  
6 the entire biennium.

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

23 (5) (~~The department shall select an index of cost increase~~  
24 ~~relevant to the nursing and related services cost area. In the absence~~  
25 ~~of a more representative index, the department shall use the medical~~  
26 ~~care component index as maintained by the United States bureau of labor~~  
27 ~~statistics.)) Every two years when rates are set at the beginning of  
28 each new biennium, the department shall divide into two peer groups  
29 nursing facilities located in the state of Washington providing  
30 services to medicaid residents: (a) Those facilities located within a  
31 metropolitan statistical area as defined and determined by the United  
32 States office of management and budget or other applicable federal  
33 office and (b) those not located in such an area. The facilities in  
34 each peer group shall then be arrayed from lowest to highest by  
35 magnitude of per patient day adjusted nursing services cost from the  
36 prior report year, regardless of whether any such adjustments are  
37 contested by the nursing facility, and the median or fiftieth  
38 percentile cost for each peer group shall be determined. Nursing  
39 services rates for facilities within each peer group for the first year~~

1 of the biennium shall be set at the lower of the facility's adjusted  
2 per patient day nursing services cost from the prior report period or  
3 the median cost for the facility's peer group plus twenty-five percent.  
4 This rate shall be reduced or inflated as authorized by RCW 74.46.420.  
5 However, the per patient day peer group median cost plus twenty-five  
6 percent limit shall not apply to the nursing services cost center  
7 reimbursement rate only for the pilot facility especially designed to  
8 meet the needs of persons living with AIDS as defined by RCW 70.24.017  
9 and specifically authorized for this purpose under the 1989 amendment  
10 to the Washington state health plan.

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

16 ~~(a) If the percentage cost increase for a facility is below the~~  
17 ~~increase in the selected index for the same time period, the facility's~~  
18 ~~reimbursement rate in the nursing services cost center shall equal the~~  
19 ~~facility's cost from the most recent cost reporting period plus any~~  
20 ~~allowance for inflation provided by legislative appropriation.~~

21 ~~(b) If the percentage cost increase for a facility exceeds the~~  
22 ~~increase in the selected index, the department shall limit the cost~~  
23 ~~used for setting the facility's rate in the nursing services cost area~~  
24 ~~to a level reflecting the increase in the selected index.))~~ A nursing  
25 facility's rate in nursing services for the second year of each  
26 biennium shall be that facility's rate as of July 1 of the first year  
27 of that biennium reduced or inflated as authorized by RCW 74.46.420.  
28 The alternating procedures prescribed in this section for a facility's  
29 two July 1 nursing services rates occurring within each biennium shall  
30 be followed in the same order for each succeeding biennium.

31 ~~(7) ((If the facility's nursing staff level exceeds the~~  
32 ~~reasonableness limit established in subsection (3) of this section, the~~  
33 ~~department shall determine the increase for all items included in the~~  
34 ~~nursing services cost center between the facility's most recent cost~~  
35 ~~reporting period and the next prior cost reporting period.~~

36 ~~(a) If the percentage cost increase for a facility is below the~~  
37 ~~increase in the index selected pursuant to subsection (5) of this~~  
38 ~~section, the facility's reimbursement rate in the nursing cost center~~  
39 ~~shall equal the facility's cost from the most recent cost reporting~~

1 period adjusted downward to reflect the limit on nursing staff, plus  
2 any allowance for inflation provided by legislative appropriation  
3 subject to the provisions of subsection (4) of this section.

4 (b) If the percentage cost increase for a facility exceeds the  
5 increase in the selected index, the department shall limit the cost  
6 used for setting the facility's rate in the nursing services cost  
7 center to a level reflecting the nursing staff limit and the cost  
8 increase limit, subject to the provisions of subsection (4) of this  
9 section, plus any allowance for inflation provided by legislative  
10 appropriation.

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

16 (9)) Median costs for peer groups shall be calculated as provided  
17 in this chapter on the basis of the most recent adjusted cost  
18 information available to the department prior to the calculation of the  
19 new rate for July 1 of each biennium, regardless of whether the  
20 adjustments are contested or subject to pending administrative or  
21 judicial review. Median costs shall not be adjusted to reflect future  
22 administrative or judicial rulings, whether final or not.

23 (8) The department is authorized to determine on a systematic basis  
24 facilities with unmet patient care service needs. The department may  
25 increase the nursing services cost center prospective rate for a  
26 facility beyond the level determined in accordance with subsection (6)  
27 of this section if the facility's actual and reported nursing staffing  
28 is one standard error or more below predicted staffing as determined  
29 according to the method selected pursuant to subsection (3) of this  
30 section and the facility has unmet patient care service needs:  
31 PROVIDED, That prospective rate increases authorized by this subsection  
32 shall be funded only from legislative appropriations made for this  
33 purpose during the periods authorized by such appropriations or other  
34 laws and the increases shall be conditioned on specified improvements  
35 in patient care at such facilities.

36 ((+10+)) (9) The department shall establish a method for  
37 identifying patients with exceptional care requirements and a method  
38 for establishing or negotiating on a consistent basis rates for such  
39 patients.

1       (~~(11)~~) (10) The department, in consultation with interested  
2 parties, shall adopt rules to establish the criteria the department  
3 will use in reviewing any requests by a contractor for a prospective  
4 rate adjustment to be used to increase the number of nursing staff.  
5 These rules shall also specify the time period for submission and  
6 review of staffing requests: PROVIDED, That a decision on a staffing  
7 request shall not take longer than sixty days from the date the  
8 department receives such a complete request. In establishing the  
9 criteria, the department may consider, but is not limited to, the  
10 following:

11       (a) Increases in (~~acuity~~) debility levels of contractors'  
12 residents determined in accordance with the department's assessment and  
13 reporting procedures and requirements utilizing the minimum data set;

14       (b) Staffing patterns for similar facilities in the same peer  
15 group;

16       (c) Physical plant of contractor; and

17       (d) Survey, inspection of care, and department consultation  
18 results.

19       **Sec. 16.** RCW 74.46.490 and 1983 1st ex.s. c 67 s 25 are each  
20 amended to read as follows:

21       (1) The food cost center shall include for reporting purposes all  
22 costs for bulk and raw food and beverages purchased for the dietary  
23 needs of medical care recipients.

24       (2) (~~Reimbursement for the food cost center shall be at the~~  
25 ~~January 1, 1983, reimbursement rate, adjusted annually for inflation.~~)  
26 Every two years when rates are set at the beginning of each new  
27 biennium, the department shall divide into two peer groups nursing  
28 facilities located in the state of Washington providing services to  
29 medicaid residents: (a) Those facilities located within a metropolitan  
30 statistical area as defined and determined by the United States office  
31 of management and budget or other applicable federal office and (b)  
32 those not located in such an area. The facilities in each peer group  
33 shall then be arrayed from lowest to highest by magnitude of per  
34 patient day adjusted food cost from the prior report year, regardless  
35 of whether any such adjustments are contested by the nursing facility,  
36 and the median or fiftieth percentile cost for each peer group shall be  
37 determined. Food rates for facilities within each peer group for the  
38 first year of the biennium shall be set at the lower of the facility's

1 adjusted per patient day food cost from the prior report period or the  
2 median cost for the facility's peer group plus twenty-five percent.  
3 This rate shall be reduced or inflated as authorized by RCW 74.46.420.

4 (3) A nursing facility's food rate for the second year of each  
5 biennium shall be that facility's rate as of July 1 of the first year  
6 of that biennium reduced or inflated as authorized by RCW 74.46.420.  
7 The alternating procedures prescribed in this section for a facility's  
8 two July 1 food rates occurring within each biennium shall be followed  
9 in the same order for each succeeding biennium.

10 (4) Median costs for peer groups shall be calculated as provided in  
11 this chapter on the basis of the most recent adjusted cost information  
12 available to the department prior to the calculation of the new rate  
13 for July 1 of each biennium, regardless of whether the adjustments are  
14 contested or subject to pending administrative or judicial review.  
15 Median costs shall not be adjusted to reflect future administrative or  
16 judicial rulings, whether final or not.

17 **Sec. 17.** RCW 74.46.500 and 1992 c 182 s 1 are each amended to read  
18 as follows:

19 (1) ~~The ((administration and operations)) administrative cost~~  
20 ~~center shall include ((all items not included in the cost centers of~~  
21 ~~nursing services, food, and property.~~

22 ~~(2) Subject to subsection (4) of this section, the administration~~  
23 ~~and operations cost center reimbursement rate for each facility shall~~  
24 ~~be based on the computation in this subsection and shall not exceed the~~  
25 ~~eighty-fifth percentile of (a) the rates of all reporting facilities~~  
26 ~~derived from the computation below, or (b) reporting facilities grouped~~  
27 ~~in accordance with subsection (3) of this section:~~

28 ~~AR = TAC/TPD, where~~

29 ~~AR = the administration and operations cost center reimbursement~~  
30 ~~rate for a facility;~~

31 ~~TAC = the total costs of the administration and operations cost~~  
32 ~~center plus the retained savings from such cost center as~~  
33 ~~provided in RCW 74.46.180 of a facility; and~~

34 ~~TPD = the total patient days for a facility for the prior year.~~

35 ~~(3) The secretary may group facilities based on factors which could~~  
36 ~~reasonably influence cost requirements of this cost center, other than~~  
37 ~~ownership or legal organization characteristics.~~

1       ~~(4) In applying the eighty-fifth percentile reimbursement limit~~  
2 ~~authorized by subsection (2) of this section to the pilot facility~~  
3 ~~specially designed to meet the needs of persons living with AIDS as~~  
4 ~~defined by RCW 70.24.017, and specifically authorized for this purpose~~  
5 ~~under the 1989 amendment to the Washington state health plan, the~~  
6 ~~department shall exempt the cost of nursing supplies reported by the~~  
7 ~~pilot facility in excess of the average of nursing supplies cost for~~  
8 ~~medicaid nursing facilities state-wide)) for cost reporting purposes~~  
9 ~~all administrative, oversight, and management costs whether facility~~  
10 ~~on-site or allocated in accordance with a department-approved joint-~~  
11 ~~cost allocation methodology. Such costs shall be identical to the cost~~  
12 ~~report line item costs categorized under "general and administrative"~~  
13 ~~in the "administration and operations" combined cost center existing~~  
14 ~~prior to January 1, 1993, except for nursing supplies and purchased~~  
15 ~~medical records.~~

16       (2) Every two years when rates are set at the beginning of each new  
17 biennium, the department shall divide into two peer groups nursing  
18 facilities located in the state of Washington providing services to  
19 medicaid residents: (a) Those facilities located within a metropolitan  
20 statistical area as defined and determined by the United States office  
21 of management and budget or other applicable federal office and (b)  
22 those not located in such an area. The facilities in each peer group  
23 shall then be arrayed from lowest to highest by magnitude of per  
24 patient day adjusted administrative cost from the prior report year,  
25 regardless of whether any such adjustments are contested by the nursing  
26 facility, and the median or fiftieth percentile cost for each peer  
27 group shall be determined. Administrative rates for facilities within  
28 each peer group for the first year of the biennium shall be set at the  
29 lower of the facility's adjusted per patient day administrative cost  
30 from the prior report period or the median cost for the facility's peer  
31 group plus ten percent. This rate shall be reduced or inflated as  
32 authorized by RCW 74.46.420.

33       (3) A nursing facility's administrative rate for the second year of  
34 each biennium shall be that facility's rate as of July 1 of the first  
35 year of that biennium reduced or inflated as authorized by RCW  
36 74.46.420. The alternating procedures prescribed in this section for  
37 a facility's two July 1 administrative rates occurring within each  
38 biennium shall be followed in the same order for each succeeding  
39 biennium.

1       (4) Median costs for peer groups shall be calculated as provided in  
2 this chapter on the basis of the most recent adjusted cost information  
3 available to the department prior to the calculation of the new rate  
4 for July 1 of each biennium, regardless of whether the adjustments are  
5 contested or subject to pending administrative or judicial review.  
6 Median costs shall not be adjusted to reflect future administrative or  
7 judicial rulings, whether final or not.

8       **NEW SECTION. Sec. 18.** A new section is added to chapter 74.46 RCW  
9 to read as follows:

10       (1) The operational cost center shall include for cost reporting  
11 purposes all allowable costs of the daily operation of the facility not  
12 included in nursing services and related care, food, administrative, or  
13 property costs, whether such costs are facility on-site or allocated in  
14 accordance with a department-approved joint-cost allocation  
15 methodology.

16       (2) Every two years when rates are set at the beginning of each new  
17 biennium, the department shall divide into two peer groups nursing  
18 facilities located in the state of Washington providing services to  
19 medicaid residents: (a) Those facilities located within a metropolitan  
20 statistical area as defined and determined by the United States office  
21 of management and budget or other applicable federal office and (b)  
22 those not located in such an area. The facilities in each peer group  
23 shall then be arrayed from lowest to highest by magnitude of per  
24 patient day adjusted operational cost from the prior report year,  
25 regardless of whether any such adjustments are contested by the nursing  
26 facility, and the median or fiftieth percentile cost for each peer  
27 group shall be determined. Operational rates for facilities within  
28 each peer group for the first year of the biennium shall be set at the  
29 lower of the facility's adjusted per patient day operational cost from  
30 the prior report period or the median cost for the facility's peer  
31 group plus twenty-five percent. This rate shall be reduced or inflated  
32 as authorized by RCW 74.46.420.

33       (3) A nursing facility's operational rate for the second year of  
34 each biennium shall be that facility's rate as of July 1 of the first  
35 year of that biennium reduced or inflated as authorized by RCW  
36 74.46.420. The alternating procedures prescribed in this section for  
37 a facility's two July 1 operational rates occurring within each

1 biennium shall be followed in the same order for each succeeding  
2 biennium.

3 (4) Median costs for peer groups shall be calculated as provided in  
4 this chapter on the basis of the most recent adjusted cost information  
5 available to the department prior to the calculation of the new rate  
6 for July 1 of each biennium, regardless of whether the adjustments are  
7 contested or subject to pending administrative or judicial review.  
8 Median costs shall not be adjusted to reflect future administrative or  
9 judicial rulings, whether final or not.

10 **Sec. 19.** RCW 74.46.510 and 1980 c 177 s 51 are each amended to  
11 read as follows:

12 (1) The property cost center rate for each facility shall be  
13 determined by dividing the sum of the reported allowable prior period  
14 actual depreciation (~~costs~~), subject to RCW 74.46.310 through  
15 74.46.380, adjusted for any capitalized additions or replacements  
16 approved by the department, and the retained savings from such cost  
17 center, as provided in RCW 74.46.180, by the total patient days for the  
18 facility in the prior period. If a capitalized addition or retirement  
19 of an asset will result in a different licensed bed capacity during the  
20 ensuing period, the prior period total patient days used in computing  
21 the property cost center rate shall be adjusted to anticipated patient  
22 day level.

23 (2) A nursing facility's property rate shall be rebased annually,  
24 effective July 1, in accordance with this section regardless of whether  
25 the rate is for the first or second year of the biennium.

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

30 **Sec. 20.** RCW 74.46.530 and 1991 sp.s. c 8 s 17 are each amended to  
31 read as follows:

32 (1) The department shall establish for (~~individual facilities~~)  
33 each medicaid nursing facility a return on investment (~~allowances~~)  
34 rate composed of two parts: A financing allowance and a variable  
35 return allowance. A facility's return on investment rate shall be  
36 rebased annually, effective July 1, in accordance with this section,

1 regardless of whether the rate is for the first or second year of the  
2 biennium.

3 (a) The financing allowance shall be determined by multiplying the  
4 net invested funds of each facility by .10, and dividing by the  
5 contractor's total patient days from the most recent cost report  
6 period. If a capitalized addition or retirement of an asset will  
7 result in a different licensed bed capacity during the ensuing period,  
8 the prior period total patient days used in computing the financing and  
9 variable return allowances shall be adjusted to the anticipated patient  
10 day level.

11 (b) In computing the portion of net invested funds representing the  
12 net book value of tangible fixed assets, the same assets, depreciation  
13 bases, lives, and methods referred to in RCW 74.46.330, 74.46.350,  
14 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets,  
15 shall be utilized, except that the capitalized cost of land upon which  
16 the facility is located and such other contiguous land which is  
17 reasonable and necessary for use in the regular course of providing  
18 patient care shall also be included. Subject to provisions and  
19 limitations contained in this chapter, for land purchased by owners or  
20 lessors before July 18, 1984, capitalized cost of land shall be the  
21 buyer's capitalized cost. For all partial or whole rate periods after  
22 July 17, 1984, if the land is purchased after July 17, 1984,  
23 capitalized cost shall be that of the owner of record on July 17, 1984,  
24 or buyer's capitalized cost, whichever is lower. In the case of leased  
25 facilities where the net invested funds are unknown or the contractor  
26 is unable to provide necessary information to determine net invested  
27 funds, the secretary shall have the authority to determine an amount  
28 for net invested funds based on an appraisal conducted according to RCW  
29 74.46.360(1).

30 (c) In determining the variable return allowance:

31 (i) Every two years at the start of each new biennium, the  
32 department, without utilizing peer groups, will first rank all  
33 facilities in numerical order from highest to lowest according to their  
34 ((average per diem)) per patient day adjusted allowable costs for ((the  
35 sum of the administration and operations and property cost centers))  
36 nursing services, food, administrative, and operational costs combined  
37 for the previous cost report period.

38 (ii) The department shall then compute the variable return  
39 allowance by multiplying the appropriate percentage amounts, which

1 shall not be less than one percent and not greater than four percent,  
2 by the (~~total prospective rate for each facility, as determined in RCW~~  
3 ~~74.46.450 through 74.46.510~~) sum of the facility's nursing services,  
4 food, administrative, and operational rate components. The percentage  
5 amounts will be based on groupings of facilities according to the  
6 rankings (~~as established~~) prescribed in (i) of this subsection  
7 (1)(c). The percentages calculated and assigned will remain the same  
8 for the next variable return allowance paid in the second year of the  
9 biennium. Those groups of facilities with lower per diem costs shall  
10 receive higher percentage amounts than those with higher per diem  
11 costs.

12 (d) The sum of the financing allowance and the variable return  
13 allowance shall be the return on investment rate for each facility, and  
14 shall be added to the prospective rates of each contractor as  
15 determined in RCW 74.46.450 through 74.46.510.

16 (e) In the case of a facility which was leased by the contractor as  
17 of January 1, 1980, in an arm's-length agreement, which continues to be  
18 leased under the same lease agreement, and for which the annualized  
19 lease payment, plus any interest and depreciation expenses associated  
20 with contractor-owned assets, for the period covered by the prospective  
21 rates, divided by the contractor's total patient days, minus the  
22 property cost center determined according to RCW 74.46.510, is more  
23 than the return on investment (~~allowance~~) rate determined according  
24 to subsection (1)(d) of this section, the following shall apply:

25 (i) The financing allowance shall be recomputed substituting the  
26 fair market value of the assets as of January 1, 1982, as determined by  
27 the department of general administration through an appraisal  
28 procedure, less accumulated depreciation on the lessor's assets since  
29 January 1, 1982, for the net book value of the assets in determining  
30 net invested funds for the facility. A determination by the department  
31 of general administration of fair market value shall be final unless  
32 the procedure used to make such determination is shown to be arbitrary  
33 and capricious.

34 (ii) The sum of the financing allowance computed under subsection  
35 (1)(e)(i) of this section and the variable allowance shall be compared  
36 to the annualized lease payment, plus any interest and depreciation  
37 (~~expenses~~) associated with contractor-owned assets, for the period  
38 covered by the prospective rates, divided by the contractor's total  
39 patient days, minus the property cost center rate determined according

1 to RCW 74.46.510. The lesser of the two amounts shall be called the  
2 alternate return on investment ((allowance)) rate.

3 (iii) The return on investment ((allowance)) rate determined  
4 according to subsection (1)(d) of this section or the alternate return  
5 on investment ((allowance)) rate, whichever is greater, shall be the  
6 return on investment ((allowance)) rate for the facility and shall be  
7 added to the prospective rates of the contractor as determined in RCW  
8 74.46.450 through 74.46.510.

9 (f) In the case of a facility which was leased by the contractor as  
10 of January 1, 1980, in an arm's-length agreement, if the lease is  
11 renewed or extended pursuant to a provision of the lease, the treatment  
12 provided in subsection (1)(e) of this section shall be applied except  
13 that in the case of renewals or extensions made subsequent to April 1,  
14 1985, reimbursement for the annualized lease payment shall be no  
15 greater than the reimbursement for the annualized lease payment for the  
16 last year prior to the renewal or extension of the lease.

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

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

31 **Sec. 21.** RCW 74.46.770 and 1983 1st ex.s. c 67 s 39 are each  
32 amended to read as follows:

33 (1) Beginning with all medicaid rates, audits, and settlements  
34 effective on or after July 1, 1993, or issued on or after this date, if  
35 a contractor wishes to contest the way in which a rule ((or contract  
36 provision)) relating to the prospective cost-related reimbursement  
37 system was applied to the contractor by the department, it shall  
38 ((first)) pursue the ((administrative review process set forth in RCW

1 74.46.780)) appeals or exception procedure established by the  
2 department in rule as required by RCW 74.46.780.

3 ~~(2) ((The administrative review and fair hearing process in RCW~~  
4 ~~74.46.780 need not be exhausted if a contractor wishes to challenge the~~  
5 ~~legal validity of a statute, rule, or contract provision))~~ If a  
6 contractor wishes to challenge the legal validity of a statute, rule,  
7 or contract provision or wishes to bring a challenge based in whole or  
8 in part on federal law, including but not limited to issues of  
9 procedural or substantive compliance with the federal Boren amendment  
10 payment standard for medicaid nursing facilities found at 42 U.S.C.  
11 1396a(a)(13)(A), the appeals or exception procedure established by the  
12 department in rule may not be used for these purposes.

13 (3) If a contractor wishes to challenge the legal validity of a  
14 medicaid statute, rule, or contract provision or bring a challenge  
15 based in whole or in part on federal law, it must bring such an action  
16 in a court of proper jurisdiction as may be provided by law.

17 **Sec. 22.** RCW 74.46.780 and 1989 c 175 s 159 are each amended to  
18 read as follows:

19 ~~((1) Within twenty-eight days after a contractor is notified of an~~  
20 ~~action or determination it wishes to challenge, the contractor shall~~  
21 ~~request in writing that the secretary review such determination. The~~  
22 ~~request shall be signed by the contractor or the licensed administrator~~  
23 ~~of the facility, shall identify the challenged determination and the~~  
24 ~~date thereof, and shall state as specifically as practicable the~~  
25 ~~grounds for its contention that the determination was erroneous.~~  
26 ~~Copies of any documentation on which the contractor intends to rely to~~  
27 ~~support its position shall be included with the request.~~

28 ~~(2) After receiving a request meeting the above criteria, the~~  
29 ~~secretary or his designee will contact the contractor to schedule a~~  
30 ~~conference for the earliest mutually convenient time. The conference~~  
31 ~~shall be scheduled for no later than ninety days after a properly~~  
32 ~~completed request is received unless both parties agree in writing to~~  
33 ~~a specified later date.~~

34 ~~(3) The contractor and appropriate representatives of the~~  
35 ~~department shall attend the conference. In addition, representatives~~  
36 ~~selected by the contractor may attend and participate. The contractor~~  
37 ~~shall provide to the department in advance of the conference any~~  
38 ~~documentation on which it intends to rely to support its contentions.~~

1 ~~The parties shall clarify and attempt to resolve the issues at the~~  
2 ~~conference. If additional documentation is needed to resolve the~~  
3 ~~issues, a second session of the conference shall be scheduled for not~~  
4 ~~later than twenty eight days after the initial session unless both~~  
5 ~~parties agree in writing to a specific later date.~~

6 ~~(4) A written decision by the secretary will be furnished to the~~  
7 ~~contractor within sixty days after the conclusion of the conference.~~

8 ~~(5) If the contractor desires review of an adverse decision of the~~  
9 ~~secretary, it shall within twenty eight days following receipt of such~~  
10 ~~decision file a written application for an adjudicative proceeding.~~  
11 ~~The proceeding is governed by chapter 34.05 RCW, the Administrative~~  
12 ~~Procedure Act.)) For all rates, audits, and settlements effective on or~~  
13 ~~after July 1, 1993, or issued on or after this date, the department~~  
14 ~~shall establish in rule, consistent with federal requirements for~~  
15 ~~nursing facilities participating in the medicaid program, an appeals or~~  
16 ~~exception procedure that allows individual nursing care providers an~~  
17 ~~opportunity to submit additional evidence and receive prompt~~  
18 ~~administrative review of payment rates with respect to such issues as~~  
19 ~~the department deems appropriate.~~

20 NEW SECTION. Sec. 23. The following acts or parts of acts are  
21 each repealed:

22 (1) RCW 74.46.260 and 1980 c 177 s 26; and

23 (2) RCW 74.46.495 and 1983 1st ex.s. c 67 s 26.

24 NEW SECTION. Sec. 24. This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and shall take  
27 effect July 1, 1993.

--- END ---