
SENATE BILL 5073

State of Washington

53rd Legislature

1993 Regular Session

By Senators Wojahn, Pelz and Vognild

Read first time 01/12/93. Referred to Committee on Health & Human Services.

1 AN ACT Relating to health reform; amending RCW 70.47.010,
2 70.47.020, 70.47.030, 70.47.060, 70.47.080, 70.47.120, 82.03.130 and
3 82.03.140; adding a new section to chapter 74.09 RCW; adding a new
4 chapter to Title 48 RCW; adding a new title to the Revised Code of
5 Washington to be numbered Title 82A RCW; creating new sections;
6 prescribing penalties; and providing an effective date.

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

8

PART I

9

A. HEALTH SERVICES COMMISSION

10 NEW SECTION. **Sec. 101.** CITIZENS' FINDINGS. The legislature finds
11 that our citizens' health and financial security are jeopardized by
12 current health insurance and health system practices. These practices
13 result in unaffordable costs and cost increases that far exceed
14 ordinary inflation. Total health care expenditures as a percentage of
15 our state's economy should be sufficient to provide access to all
16 within a reformed, efficient system.

17 The legislature finds that too many of our state's residents are
18 without health insurance, that each year many individuals and families

1 are forced into poverty because of serious illness and that many must
2 leave gainful employment to be eligible for publicly funded health
3 services. Additionally, thousands of us are at risk of losing adequate
4 health insurance, have had insurance canceled in the past year, or
5 cannot afford to renew existing coverage.

6 We find that businesses can no longer afford to pay for health
7 insurance and remain competitive in a global economy, and that
8 individuals and small businesses bear an inequitable insurance burden.

9 NEW SECTION. **Sec. 102.** PURPOSES, GOALS, AND INTENT. The
10 legislature intends to establish health care policy to stabilize costs,
11 assure access for all residents, improve the public's health, and
12 ensure that health care cost increases do not endanger nonhealth care
13 business viability.

14 The legislature intends that:

15 Total health care costs be stabilized and kept within increases
16 similar to the rates of general economic inflation by encouraging
17 consumers, providers, and insurers to make more cost-effective health
18 care decisions.

19 All state residents be enrolled in an insurance plan of their
20 choice so long as the plan offers affordable, accessible, cost-
21 effective, and comprehensive health services.

22 Individuals and businesses have the option to purchase any health
23 services they may choose in addition to those defined in the benefits
24 package referenced in this chapter.

25 All state residents, all businesses, employees, and government
26 participate in payment for health services, and that individual premium
27 costs and access to service fees be on a sliding scale based on income
28 with the lowest-income citizens exempt from premium payments.

29 These goals be accomplished within a reformed system using
30 available private providers and facilities, and that consumers be free
31 to choose among competing plans operating within total budget limits.

32 NEW SECTION. **Sec. 103.** ENROLLMENT IN A CERTIFIED INSURANCE PLAN
33 REQUIRED. By November 1, 1997, all Washington residents shall be
34 enrolled in the certified insurance plan of their choice. "Washington
35 resident" means a person who intends to reside in the state permanently
36 or indefinitely and who did not move to Washington for the primary
37 purpose of securing health services under this chapter. "Washington

1 resident" also includes people and their accompanying family members
2 who are residing in the state for the purpose of engaging in employment
3 for at least one month, who did not enter the state for the primary
4 purpose of obtaining health services, and who lack necessary and
5 sufficient health care. The confinement of a person in a nursing home,
6 hospital, or other medical institution in the state shall not by itself
7 by sufficient to qualify such person as a resident.

8 NEW SECTION. **Sec. 104.** HEALTH CARE AUTHORITY. The governor shall
9 designate a single state agency such as the health care authority as
10 the state sponsor for health care. By November 1, 1997, no state funds
11 used to subsidize the purchase of health care for state residents shall
12 be expended without the approval of the principal administrator of the
13 state sponsor for health care. By January 1, 1998, no state funds may
14 be expended to subsidize health benefit packages for state residents
15 that are not expended with certified insurance plans. The governor may
16 submit legislation necessary to place any state-subsidized health care
17 program under the direct administrative control of the state sponsor
18 for health care including the medical assistance programs within the
19 department of social and health services, the basic health plan, the
20 medical aid fund portion of the workers' compensation program, and
21 state expenditures for health benefits for K-12 employees and retirees.

22 NEW SECTION. **Sec. 105.** CREATION OF COMMISSION--MEMBERSHIP--TERMS
23 OF OFFICE--VACANCIES--SALARIES. (1) There is created an agency of
24 state government to be known as the Washington health services
25 commission. The commission shall consist of the state insurance
26 commissioner and four members appointed by the governor by January 1,
27 1994, with the consent of the senate. One member shall be designated
28 by the governor as chair and shall serve at the pleasure of the
29 governor. The four members shall serve five-year terms. Of the
30 initial members, one shall be appointed to a term of three years, one
31 shall be appointed to a term of four years, and two shall be appointed
32 to a term of five years. Thereafter, members shall be appointed to
33 five-year terms. Vacancies shall be filled by appointment for the
34 remainder of the unexpired term of the position being vacated.

35 (2) Members of the commission shall have no pecuniary interest in
36 any business subject to regulation by the commission and shall be

1 subject to chapter 42.18 RCW, the executive branch conflict of interest
2 act.

3 (3) With the exception of the state insurance commissioner, members
4 of the commission shall occupy their positions on a full-time basis and
5 are exempt from the provisions of chapter 41.06 RCW. Commission
6 members and the professional commission staff are subject to the public
7 disclosure provisions of chapter 42.17 RCW. Except for the state
8 insurance commissioner, members shall be paid a salary to be fixed by
9 the governor in accordance with RCW 43.03.040. A majority of the
10 members of the commission constitutes a quorum for the conduct of
11 business.

12 NEW SECTION. **Sec. 106.** POWERS AND DUTIES OF THE CHAIR. The chair
13 shall be the chief administrative officer and the appointing authority
14 of the commission and has the following powers and duties:

15 (1) Direct and supervise the commission's administrative and
16 technical activities in accordance with the provisions of this chapter
17 and rules and policies adopted by the commission;

18 (2) Employ personnel of the commission, in accordance with chapter
19 41.06 RCW, and prescribe their duties. No more than twenty-five new
20 staff may be employed to implement this chapter. With the approval of
21 a majority of the commission, the chair may appoint persons to
22 administer any entity established pursuant to subsection (8) of this
23 section, and up to seven additional employees all of whom shall be
24 exempt from the provisions of chapter 41.06 RCW;

25 (3) Enter into contracts on behalf of the commission;

26 (4) Accept and expend gifts, donations, grants, and other funds
27 received by the commission;

28 (5) Delegate administrative functions of the commission to
29 employees of the commission as the chair deems necessary to ensure
30 efficient administration;

31 (6) Subject to approval of the commission, appoint advisory
32 committees and undertake studies, research, and analysis necessary to
33 support activities of the commission;

34 (7) Preside at meetings of the commission;

35 (8) Consistent with policies and rules established by the
36 commission, establish such administrative divisions, offices, or
37 programs as are necessary to carry out the purposes of this chapter;
38 and

1 (9) Perform such other administrative and technical duties as are
2 consistent with this chapter and the rules and policies of the
3 commission.

4 NEW SECTION. **Sec. 107.** POWERS OF THE COMMISSION. The commission
5 shall:

6 (1) By January 1, 1995, determine in rule a comprehensive package
7 of cost-effective health and long-term care services that shall be
8 known as "the benefits package." In determining the benefits package,
9 the health services offered to Washington state employees through the
10 state health care authority during 1992 shall be used as an example,
11 and the benefits package recommendations of the health care commission
12 shall also be considered. The benefits package shall include, but not
13 be limited to, inpatient services, outpatient services, preventive
14 services, and community residential and in-home support services for
15 physical, mental, and developmental illnesses and disabilities.

16 (2) By July 1, 1996, establish and make public the maximum total
17 funds that a certified insurance plan may receive per enrollee during
18 each year for the benefits package. In establishing these maximum
19 levels, all Washington state residents must be considered as a single
20 community. The annual increase in the per enrollee costs of the
21 benefits package may not exceed one and one-half times the percentage
22 increase in the annual average wage in the state over the period of the
23 previous three years. Annual average wage shall mean that wage
24 calculated by the employment security department for unemployment
25 insurance contributions purposes as defined in RCW 50.04.355.

26 (3) Prohibit payments by a state resident for the benefits package
27 for his or her family in excess of ten percent of that resident's
28 annual family income.

29 (4) After consultation with the medical community and health
30 outcomes research experts, adopt practice parameters and standards for
31 informed consent for use by certified insurance plans in making
32 reimbursement decisions. A certified health plan health care provider
33 shall not be subject to liability for harm under this chapter for
34 health care provided in accordance with a practice parameter adopted by
35 the health services commission unless the claimant establishes by a
36 preponderance of the evidence that the provider's application or
37 execution of the practice parameter was a failure to follow the
38 accepted standard of care.

1 (5) Ensure that an amount equal to at least five percent of total
2 funds received by certified insurance plans for the benefits package is
3 allocated to state and local public health departments to provide
4 public health status assessment, policy development, and other services
5 to protect the public health, including vital records, infectious and
6 contagious disease control, assurance of the safety of food and
7 drinking water, and protection from contamination by pollutants or
8 toxic substances.

9 (6) Negotiate with congress and federal agencies to obtain waivers
10 or exemptions from federal rules or statutes as needed to implement
11 this chapter without losing federal funds that now come to the state.

12 (7) Establish rules, appoint advisory commissions, conduct
13 research, receive grants or gifts, convene task forces, or engage in
14 any other actions that may be needed to implement this chapter.

15 (8) Establish, if certified plans are insufficient or unable to
16 meet a populations's health service needs, contracts with local health
17 departments, community or migrant health centers, or other nonprofit
18 health service entities for all or part of the benefits package, and
19 recognize the unique ability of community and migrant health centers to
20 serve populations within their communities.

21 (9) Apply all mechanisms as necessary, including those recommended
22 by the health care commission, to control costs and assure quality of
23 care consistent with this chapter.

24 (10) Appoint a standing technical advisory committee with balanced
25 representation of physicians, hospitals, retired persons, researchers,
26 allied health professions, business, labor, insurers, and consumers.
27 The commission may appoint ad hoc technical advisory task forces to
28 provide advice on specific issues.

29 (11) Appoint a "service effectiveness advisory committee" to
30 provide technical guidance to the commission. The advisory committee
31 shall be composed of ten to fifteen technical experts, such as general
32 practitioners, specialty physicians, health service researchers, health
33 ethicists, epidemiologists, and other public health experts. The
34 advisory committee shall perform several functions, such as assessing
35 the effectiveness of the uniform set and package based on the health
36 status of the population.

37 NEW SECTION. **Sec. 108.** REQUIREMENTS FOR CERTIFIED INSURANCE
38 PLANS. A health maintenance organization, health care service

1 contractor, group disability insurer, or other entity is qualified to
2 be a certified insurance plan if they meet requirements established by
3 the commission in consultation with the insurance commissioner.

4 These requirements must include that a certified insurance plan:

5 (1) Accept enrollment from any Washington state resident regardless
6 of preexisting health condition, employment, or income.

7 (2) Provide the benefits package to all of its enrollees.

8 (3) Receive payments for the benefits package only in the form of
9 fixed, prepaid, per capita payments, and access to service fees so long
10 as these limited fees do not become a barrier to appropriate and timely
11 access.

12 (4) Receive from all sources no more than the maximum funding
13 levels per enrollee established by the state for the benefits package
14 and prohibit balance billing or unauthorized cost sharing.

15 (5) Comply with uniform billing, reporting, and inspection
16 requirements, monitoring processes and standards for continuous quality
17 improvement and total quality management as determined by the
18 commission rule.

19 (6) Promote community health education to increase awareness of
20 injury and illness prevention; encourage enrollees to take
21 responsibility for protecting their own health; and stimulate community
22 discussion about the use and limits of medical care in improving the
23 health of individuals and communities.

24 (7) Comply with rules established by the commission for freedom of
25 choice of plans and providers, consumer participation in policy
26 development, portability of benefits, enrollee grievance procedures,
27 uniform billing procedures, avoidance or elimination of barriers to
28 access, and other rules, all of which shall be established through an
29 open, public process.

30 NEW SECTION. **Sec. 109.** CERTIFIED INSURANCE PLANS. (1) The
31 insurance commissioner shall issue certificates to a health care
32 service contractor, health maintenance organizations, or disability
33 insurer who, upon application, review, and inspection, the commissioner
34 finds in conformance with the requirements of a certified insurance
35 plan under this chapter.

36 (2) The commissioner shall develop a program of active review,
37 inspection, licensing, monitoring, and sanctions to ensure compliance
38 with the requirements of this chapter by certified health plans.

1 (3) If the insurance commissioner determines that a certified
2 insurance plan is in imminent danger of failing to meet its contractual
3 obligations to enrollees, the insurance commissioner may intervene and
4 assume those functions that are necessary to protect the interests of
5 the plan's enrollees. The actions may include administration of
6 contract functions, including establishing provider payment levels.

7 NEW SECTION. **Sec. 110.** PROHIBITIONS AGAINST NONCERTIFIED ENTITIES
8 RECEIVING PAYMENT FOR BENEFITS PACKAGE SERVICES--NO RESTRICTION ON
9 SERVICES NOT INCLUDED WITHIN THE BENEFITS PACKAGE. It is unlawful for
10 a person or corporation to receive payments for services for an
11 enrollee covered within the benefits package unless they are within a
12 certified plan or qualify as an exception, established in rule, under
13 section 107(8) of this act. However nothing in this chapter precludes
14 an entity from insuring, providing, contracting, or receiving payment
15 for health services not included in the benefits package, nor does
16 anything in this chapter restrict an employer from offering, and an
17 employee representative from negotiating for, or an individual from
18 purchasing, services not included in the benefits package.

19 NEW SECTION. **Sec. 111.** PUBLIC REPORTS AND DETAILED PLAN REQUIRED;
20 MORE SWIFT ACTION NOT PROHIBITED. Quarterly, beginning in July 1994,
21 the health services commission shall report to the people on progress
22 in implementing this chapter by making presentations to local boards of
23 health in public meetings. Local boards may convene joint, regional
24 meetings for this purpose.

25 By January 1995, the commission shall present to the public a
26 detailed plan to implement this chapter. All rules proposed for
27 implementation of this chapter must be adopted in accordance with
28 statutes that ensure public scrutiny and an ability for public response
29 and must conform to the requirements of chapter 34.05 RCW. Nothing in
30 this chapter prevents the government from taking action to contain
31 health care costs, or to expand access more quickly than required in
32 this chapter, or to adopt recommendations of the health care
33 commission, so long as these actions are consistent with sections 103
34 through 110 of this act, and do not conflict with the intent of this
35 chapter.

36 **B. BASIC HEALTH PLAN EXPANSION**

1 **Sec. 112.** RCW 70.47.010 and 1987 1st ex.s. c 5 s 3 are each
2 amended to read as follows:

3 (1) The legislature finds that:

4 (a) A significant percentage of the population of this state does
5 not have reasonably available insurance or other coverage of the costs
6 of necessary basic health care services;

7 (b) This lack of basic health care coverage is detrimental to the
8 health of the individuals lacking coverage and to the public welfare,
9 and results in substantial expenditures for emergency and remedial
10 health care, often at the expense of health care providers, health care
11 facilities, and all purchasers of health care, including the state; and

12 (c) The use of managed health care systems has significant
13 potential to reduce the growth of health care costs incurred by the
14 people of this state generally, and by low-income pregnant women who
15 are an especially vulnerable population, along with their children, and
16 who need greater access to managed health care.

17 (2) The purpose of this chapter is to provide necessary basic
18 health care services in an appropriate setting to working persons and
19 others who lack coverage, at a cost to these persons that does not
20 create barriers to the utilization of necessary health care services.
21 To that end, this chapter establishes a program to be made available to
22 those residents under sixty-five years of age not otherwise eligible
23 for medicare with gross family income at or below ~~((two))~~ three hundred
24 percent of the federal poverty guidelines who share in the cost of
25 receiving basic health care services from a managed health care system.

26 (3) It is not the intent of this chapter to provide health care
27 services for those persons who are presently covered to their
28 satisfaction through private employer-based health plans(~~((, nor to~~
29 ~~replace employer-based health plans))~~). Further, it is the intent of
30 the legislature to expand, wherever possible, the availability of
31 private health care coverage and to discourage the decline of employer-
32 based coverage by offering a cost-effective alternative plan that may
33 be purchased by employers at its full cost for employees whose incomes
34 exceed three hundred percent of the federal poverty level.

35 (4) ~~((The program authorized under this chapter is strictly limited~~
36 ~~in respect to the total number of individuals who may be allowed to~~
37 ~~participate and the specific areas within the state where it may be~~
38 ~~established. All such restrictions or limitations shall remain in full~~
39 ~~force and effect until quantifiable evidence based upon the actual~~

1 operation of the program, including detailed cost benefit analysis, has
2 been presented to the legislature and the legislature, by specific act
3 at that time, may then modify such limitations)) (a) It is the purpose
4 of this chapter to acknowledge the initial success of this program that
5 has (i) assisted thousands of families in their search for affordable
6 health care; (ii) demonstrated that low-income uninsured families are
7 willing to pay for their own health care coverage to the extent of
8 their ability to pay; and (iii) proved that local health care providers
9 are willing to enter into a public/private partnership as they
10 configure their own professional and business relationships into a
11 managed care system.

12 (b) As a consequence, the legislature intends to make the program
13 available to individuals in the state with incomes above three hundred
14 percent of federal poverty level, who reside in communities where the
15 plan is operational, and who collectively or individually wish to
16 exercise the opportunity to purchase health care coverage through the
17 program if it is done at no cost to the state. It is also the intent
18 of the legislature to allow employers and other financial sponsors to
19 financially assist such individuals to purchase health care through the
20 program.

21 **Sec. 113.** RCW 70.47.020 and 1987 1st ex.s. c 5 s 4 are each
22 amended to read as follows:

23 As used in this chapter:

24 (1) "Washington basic health plan" or "plan" means the system of
25 enrollment and payment on a prepaid capitated basis for basic health
26 care services, administered by the plan administrator through
27 participating managed health care systems, created by this chapter.

28 (2) "Administrator" means the Washington basic health plan
29 administrator.

30 (3) "Managed health care system" means any health care
31 organization, including health care providers, insurers, health care
32 service contractors, health maintenance organizations, or any
33 combination thereof, that provides directly or by contract basic health
34 care services, as defined by the administrator and rendered by duly
35 licensed providers, on a prepaid capitated basis to a defined patient
36 population enrolled in the plan and in the managed health care system.
37 On July 1, 1997, "managed health care system" under this chapter shall

1 mean "certified insurance plan" under chapter 48.-- RCW (sections 101
2 through 111 of this act).

3 (4) "Enrollee" means an individual, or an individual plus the
4 individual's spouse and/or dependent children, all under the age of
5 sixty-five and not otherwise eligible for medicare, who resides in an
6 area of the state served by a managed health care system participating
7 in the plan, (~~whose gross family income at the time of enrollment does~~
8 ~~not exceed twice the federal poverty level as adjusted for family size~~
9 ~~and determined annually by the federal department of health and human~~
10 ~~services,~~) who chooses to obtain basic health care coverage from a
11 particular managed health care system in return for periodic payments
12 to the plan. Nonsubsidized enrollees shall be considered enrollees
13 unless otherwise specified.

14 (5) "Nonsubsidized enrollee" means an enrollee for whom the premium
15 for participation in the plan is paid by the individual, their
16 employer, or other financial sponsor and who shall not be eligible for
17 any subsidy from the plan.

18 (6) "Subsidy" means the difference between the amount of periodic
19 payment the administrator makes, from funds appropriated from the basic
20 health plan trust account, to a managed health care system on behalf of
21 an enrollee plus the administrative cost to the plan of providing the
22 plan to that enrollee, and the amount determined to be the enrollee's
23 responsibility under RCW 70.47.060(2).

24 (~~(+6)~~) (7) "Premium" means a periodic payment, based upon gross
25 family income and determined under RCW 70.47.060(2), which an enrollee,
26 their employer or other financial sponsor makes to the plan as
27 consideration for enrollment in the plan.

28 (~~(+7)~~) (8) "Rate" means the per capita amount, negotiated by the
29 administrator with and paid to a participating managed health care
30 system, that is based upon the enrollment of enrollees in the plan and
31 in that system.

32 **Sec. 114.** RCW 70.47.030 and 1992 c 232 s 907 are each amended to
33 read as follows:

34 (1) The basic health plan trust account is hereby established in
35 the state treasury. (~~All~~) Any nongeneral fund-state funds collected
36 for this program shall be deposited in the basic health plan trust
37 account and may be expended without further appropriation. Moneys in
38 the account shall be used exclusively for the purposes of this chapter,

1 including payments to participating managed health care systems on
2 behalf of enrollees in the plan and payment of costs of administering
3 the plan. After July 1, 1993, the administrator shall not expend or
4 encumber for an ensuing fiscal period amounts exceeding (~~ninety-five~~)
5 ninety-seven percent of the amount anticipated to be spent for
6 purchased services during the fiscal year.

7 (2) The basic health plan subscription account is created in the
8 custody of the state treasurer. All receipts from amounts due under
9 RCW 70.47.060(10) (a) and (b) shall be deposited into the account.
10 Funds in the account shall be used exclusively for the purposes of this
11 chapter, including payments to participating managed health care
12 systems on behalf of enrollees in the plan and payment of costs of
13 administering the plan. The account is subject to allotment
14 procedures under chapter 43.88 RCW, but no appropriation is required
15 for expenditures.

16 (3) The administrator shall take every precaution to see that none
17 of the funds in the separate accounts created in this section or that
18 any premiums paid either by subsidized or nonsubsidized enrollees are
19 commingled in any way, except that the administrator may combine funds
20 designated for administration of the plan into a single administrative
21 account.

22 **Sec. 115.** RCW 70.47.060 and 1992 c 232 s 908 are each amended to
23 read as follows:

24 The administrator has the following powers and duties:

25 (1) To design and from time to time revise a schedule of covered
26 basic health care services, including physician services, inpatient and
27 outpatient hospital services, and other services that may be necessary
28 for basic health care, which enrollees in any participating managed
29 health care system under the Washington basic health plan shall be
30 entitled to receive in return for premium payments to the plan. The
31 schedule of services shall emphasize proven preventive and primary
32 health care and shall include all services necessary for prenatal,
33 postnatal, and well-child care. (~~However, for the period ending June~~
34 ~~30, 1993,~~) With respect to coverage for groups of subsidized
35 enrollees, the administrator shall not contract for prenatal or
36 postnatal services that are provided under the medical assistance
37 program under chapter 74.09 RCW except to the extent that such services
38 are necessary over not more than a one-month period in order to

1 maintain continuity of care after diagnosis of pregnancy by the managed
2 care provider, or except to provide any such services associated with
3 pregnancies diagnosed by the managed care provider before July 1, 1992.
4 The schedule of services shall also include a separate schedule of
5 basic health care services for children, eighteen years of age and
6 younger, for those enrollees who choose to secure basic coverage
7 through the plan only for their dependent children. In designing and
8 revising the schedule of services, the administrator shall consider the
9 guidelines for assessing health services under the mandated benefits
10 act of 1984, RCW 48.42.080, and such other factors as the administrator
11 deems appropriate. After July 1, 1997, services offered under chapter
12 . . . , Laws of 1993 (this act) shall equal the uniform benefit package
13 and may only be purchased from certified insurance plans.

14 (2) To design and implement a structure of periodic premiums due
15 the administrator from enrollees that is based upon gross family
16 income, giving appropriate consideration to family size as well as the
17 ages of all family members. The enrollment of children shall not
18 require the enrollment of their parent or parents who are eligible for
19 the plan.

20 (a) An employer or other financial sponsor may, with the approval
21 of the administrator, pay the premium on behalf of any enrollee, by
22 arrangement with the enrollee and through a mechanism acceptable to the
23 administrator, but in no case shall the payment made on behalf of the
24 enrollee exceed eighty percent of total premiums due from the enrollee.

25 (b) Premiums due from nonsubsidized enrollees, who are not
26 otherwise eligible to be enrollees, shall be in an amount equal to the
27 cost charged by the managed health care system provider to the state
28 for the plan plus the administrative cost of providing the plan to
29 those enrollees.

30 (3) To design and implement a structure of nominal copayments due
31 a managed health care system from enrollees. The structure shall
32 discourage inappropriate enrollee utilization of health care services,
33 but shall not be so costly to enrollees as to constitute a barrier to
34 appropriate utilization of necessary health care services.

35 ~~(4) ((To design and implement, in concert with a sufficient number~~
36 ~~of potential providers in a discrete area, an enrollee financial~~
37 ~~participation structure, separate from that otherwise established under~~
38 ~~this chapter, that has the following characteristics:~~

1 ~~(a) Nominal premiums that are based upon ability to pay, but not~~
2 ~~set at a level that would discourage enrollment;~~

3 ~~(b) A modified fee-for-services payment schedule for providers;~~

4 ~~(c) Coinsurance rates that are established based on specific~~
5 ~~service and procedure costs and the enrollee's ability to pay for the~~
6 ~~care. However, coinsurance rates for families with incomes below one~~
7 ~~hundred twenty percent of the federal poverty level shall be nominal.~~
8 ~~No coinsurance shall be required for specific proven prevention~~
9 ~~programs, such as prenatal care. The coinsurance rate levels shall not~~
10 ~~have a measurable negative effect upon the enrollee's health status;~~
11 ~~and~~

12 ~~(d) A case management system that fosters a provider-enrollee~~
13 ~~relationship whereby, in an effort to control cost, maintain or improve~~
14 ~~the health status of the enrollee, and maximize patient involvement in~~
15 ~~her or his health care decision-making process, every effort is made by~~
16 ~~the provider to inform the enrollee of the cost of the specific~~
17 ~~services and procedures and related health benefits.~~

18 ~~The potential financial liability of the plan to any such providers~~
19 ~~shall not exceed in the aggregate an amount greater than that which~~
20 ~~might otherwise have been incurred by the plan on the basis of the~~
21 ~~number of enrollees multiplied by the average of the prepaid capitated~~
22 ~~rates negotiated with participating managed health care systems under~~
23 ~~RCW 70.47.100 and reduced by any sums charged enrollees on the basis of~~
24 ~~the coinsurance rates that are established under this subsection.~~

25 ~~(5)) To limit enrollment of persons who qualify for subsidies so~~
26 ~~as to prevent an overexpenditure of appropriations for such purposes.~~
27 ~~Whenever the administrator finds that there is danger of such an~~
28 ~~overexpenditure, the administrator shall close enrollment until the~~
29 ~~administrator finds the danger no longer exists.~~

30 ~~((6)) (5) To limit the payment of a subsidy to an enrollee, as~~
31 ~~defined in RCW 70.47.020, whose gross family income at the time of~~
32 ~~enrollment does not exceed three times the federal poverty level~~
33 ~~adjusted for family size and determined annually by the federal~~
34 ~~department of health and human services.~~

35 ~~(6) To adopt a schedule for the orderly development of the delivery~~
36 ~~of services and availability of the plan to residents of the state,~~
37 ~~subject to the limitations contained in RCW 70.47.080.~~

38 ~~In the selection of any area of the state for the initial operation~~
39 ~~of the plan, the administrator shall take into account the levels and~~

1 rates of unemployment in different areas of the state, the need to
2 provide basic health care coverage to a population reasonably
3 representative of the portion of the state's population that lacks such
4 coverage, and the need for geographic, demographic, and economic
5 diversity.

6 ~~((Before July 1, 1988, the administrator shall endeavor to secure
7 participation contracts with managed health care systems in discrete
8 geographic areas within at least five congressional districts.))~~

9 (7) To solicit and accept applications from managed health care
10 systems, as defined in this chapter, for inclusion as eligible basic
11 health care providers under the plan. The administrator shall endeavor
12 to assure that covered basic health care services are available to any
13 enrollee of the plan from among a selection of two or more
14 participating managed health care systems. In adopting any rules or
15 procedures applicable to managed health care systems and in its
16 dealings with such systems, the administrator shall consider and make
17 suitable allowance for the need for health care services and the
18 differences in local availability of health care resources, along with
19 other resources, within and among the several areas of the state.

20 (8) To receive periodic premiums from enrollees, deposit them in
21 the basic health plan operating account, keep records of enrollee
22 status, and authorize periodic payments to managed health care systems
23 on the basis of the number of enrollees participating in the respective
24 managed health care systems.

25 (9) To accept applications from individuals residing in areas
26 served by the plan, on behalf of themselves and their spouses and
27 dependent children, for enrollment in the Washington basic health plan,
28 to establish appropriate minimum-enrollment periods for enrollees as
29 may be necessary, and to determine, upon application and at least
30 annually thereafter, or at the request of any enrollee, eligibility due
31 to current gross family income for sliding scale premiums. An enrollee
32 who remains current in payment of the sliding-scale premium, as
33 determined under subsection (2) of this section, and whose gross family
34 income has risen above ~~((twice))~~ three times the federal poverty level,
35 may continue enrollment ~~((unless and until the enrollee's gross family
36 income has remained above twice the poverty level for six consecutive
37 months,))~~ by making payment at the unsubsidized rate required for the
38 managed health care system in which he or she may be enrolled plus the
39 administrative cost of providing the plan to that enrollee. No subsidy

1 may be paid with respect to any enrollee whose current gross family
2 income exceeds (~~twice~~) three times the federal poverty level or,
3 subject to RCW 70.47.110, who is a recipient of medical assistance or
4 medical care services under chapter 74.09 RCW. If a number of
5 enrollees drop their enrollment for no apparent good cause, the
6 administrator may establish appropriate rules or requirements that are
7 applicable to such individuals before they will be allowed to re-enroll
8 in the plan.

9 (10)(a) To accept applications from business owners on behalf of
10 themselves and their employees, spouses, and dependent children who
11 reside in an area served by the plan. The administrator may require
12 all or the substantial majority of the eligible employees of such
13 businesses to enroll in the plan and establish those procedures
14 necessary to facilitate the orderly enrollment of groups in the plan
15 and into a managed health care system. For the purposes of this
16 subsection, an employee means an individual who works for the employer.
17 Enrollment under this subsection shall be limited to those not
18 otherwise eligible for medicare, whose gross family income is greater
19 than three hundred percent of the federal poverty level, who wish to
20 enroll in the plan at no cost to the state and choose to obtain the
21 basic health care coverage and services from a managed health care
22 system participating in the plan. The administrator shall adjust the
23 amount determined to be due on behalf of or from all such enrollees
24 whenever the amount negotiated by the administrator with the
25 participating managed health care system or systems is modified or the
26 administrative cost of providing the plan to such enrollees changes.
27 No enrollee of a business group enrolled according to this subsection
28 shall be eligible for any subsidy from the plan and at no time shall
29 the administrator allow the credit of the state or funds from the trust
30 account to be used or extended on their behalf.

31 (b) To accept applications from individuals residing in areas
32 serviced by the plan, on behalf of themselves and their spouses and
33 dependent children, under sixty-five years of age and not otherwise
34 eligible for medicare, whose gross family income at the time of
35 enrollment exceeds three times the federal poverty level, who wish to
36 enroll in the plan at no cost to the state and choose to obtain the
37 basic health care coverage and services from a managed health care
38 system participating in the plan. Any such nonsubsidized enrollees
39 must pay the amount negotiated by the administrator with the

1 participating managed health care system and the administrative cost of
2 providing the plan to such nonsubsidized enrollees and shall not be
3 eligible for any subsidy from the plan.

4 ~~(11)~~ (11) To determine the rate to be paid to each participating managed
5 health care system in return for the provision of covered basic health
6 care services to enrollees in the system. ~~((Although the schedule of~~
7 ~~covered basic health care services will be the same for similar~~
8 ~~enrollees,))~~ The rates negotiated with participating managed health
9 care systems may vary among the systems. In negotiating rates with
10 participating systems, the administrator shall consider the
11 characteristics of the populations served by the respective systems,
12 economic circumstances of the local area, the need to conserve the
13 resources of the basic health plan trust account, and other factors the
14 administrator finds relevant. In determining the rate to be paid on
15 behalf of nonsubsidized enrollees, the administrator shall pay no more
16 than the cost of the lowest priced quality provider in the area of the
17 state served by the plan.

18 ~~((11))~~ (12) To monitor the provision of covered services to
19 enrollees by participating managed health care systems in order to
20 assure enrollee access to good quality basic health care, to require
21 periodic data reports concerning the utilization of health care
22 services rendered to enrollees in order to provide adequate information
23 for evaluation, and to inspect the books and records of participating
24 managed health care systems to assure compliance with the purposes of
25 this chapter. In requiring reports from participating managed health
26 care systems, including data on services rendered enrollees, the
27 administrator shall endeavor to minimize costs, both to the managed
28 health care systems and to the administrator. The administrator shall
29 coordinate any such reporting requirements with other state agencies,
30 such as the insurance commissioner and the department of health, to
31 minimize duplication of effort.

32 ~~((12))~~ (13) To monitor the access that state residents have to
33 adequate and necessary health care services, determine the extent of
34 any unmet needs for such services or lack of access that may exist from
35 time to time, and make such reports and recommendations to the
36 legislature as the administrator deems appropriate.

37 ~~((13))~~ (14) To evaluate the effects this chapter has on private
38 employer-based health care coverage and to take appropriate measures

1 consistent with state and federal statutes that will discourage the
2 reduction of such coverage in the state.

3 ~~((14))~~ (15) To develop a program of proven preventive health
4 measures and to integrate it into the plan wherever possible and
5 consistent with this chapter.

6 ~~((15))~~ (16) To provide, consistent with available resources,
7 technical assistance for rural health activities that endeavor to
8 develop needed health care services in rural parts of the state.

9 **Sec. 116.** RCW 70.47.080 and 1987 1st ex.s. c 5 s 10 are each
10 amended to read as follows:

11 On and after July 1, 1988, the administrator shall accept for
12 enrollment applicants eligible to receive covered basic health care
13 services from the respective managed health care systems which are then
14 participating in the plan. ~~((The administrator shall not allow the
15 total enrollment of those eligible for subsidies to exceed thirty
16 thousand.))~~

17 Thereafter, ~~((total))~~ the average monthly enrollment of those
18 eligible for subsidies during any biennium shall not exceed the number
19 established by the legislature in any act appropriating funds to the
20 plan, and total subsidized enrollment shall not result in expenditures
21 that exceed the total amount that has been made available by the
22 legislature in any act appropriating funds to the plan. The
23 legislature may establish income limits for enrollees in the omnibus
24 appropriations act to ensure the orderly development of the plan. The
25 legislature intends however, to offer subsidized enrollment to all
26 state residents whose family incomes fall below two hundred percent of
27 the federal poverty level by July 1995, and to offer subsidized
28 enrollment to all state residents whose family incomes fall below three
29 hundred percent of the federal poverty level by July 1997. Subsidized
30 enrollees shall receive first dollar coverage, meaning the enrollees
31 shall not be required to pay a deductible.

32 ~~((Before July 1, 1988, the administrator shall endeavor to secure
33 participation contracts from managed health care systems in discrete
34 geographic areas within at least five congressional districts of the
35 state and in such manner as to allow residents of both urban and rural
36 areas access to enrollment in the plan. The administrator shall make
37 a special effort to secure agreements with health care providers in one
38 such area that meets the requirements set forth in RCW 70.47.060(4).))~~

1 The administrator shall at all times closely monitor growth
2 patterns of enrollment so as not to exceed that consistent with the
3 orderly development of the plan as a whole, in any area of the state or
4 in any participating managed health care system. The annual or
5 biennial enrollment limitations derived from operation of the plan
6 under this section do not apply to nonsubsidized enrollees as defined
7 in RCW 70.47.020(5).

8 **Sec. 117.** RCW 70.47.120 and 1987 1st ex.s. c 5 s 14 are each
9 amended to read as follows:

10 In addition to the powers and duties specified in RCW 70.47.040 and
11 70.47.060, the administrator has the power to enter into contracts for
12 the following functions and services:

13 (1) With public or private agencies, to assist the administrator in
14 her or his duties to design or revise the schedule of covered basic
15 health care services, and/or to monitor or evaluate the performance of
16 participating managed health care systems.

17 (2) With public or private agencies, to provide technical or
18 professional assistance to health care providers, particularly public
19 or private nonprofit organizations and providers serving rural areas,
20 who show serious intent and apparent capability to participate in the
21 plan as managed health care systems.

22 (3) With public or private agencies, including health care service
23 contractors registered under RCW 48.44.015, and doing business in the
24 state, for marketing and administrative services in connection with
25 participation of managed health care systems, enrollment of enrollees,
26 billing and collection services to the administrator, and other
27 administrative functions ordinarily performed by health care service
28 contractors, other than insurance except that the administrator may
29 purchase or arrange for the purchase of reinsurance, or self-insure for
30 reinsurance, on behalf of its participating managed health care
31 systems. Any activities of a health care service contractor pursuant
32 to a contract with the administrator under this section shall be exempt
33 from the provisions and requirements of Title 48 RCW.

34 NEW SECTION. **Sec. 118.** A new section is added to chapter 74.09
35 RCW to read as follows:

36 FEDERAL WAIVER FOR STATE MEDICAID PROGRAM. (1) The department
37 shall negotiate with the United States congress and the federal

1 department of health and human services to obtain a waiver of
2 provisions of the medicaid statute, Title XIX of the federal social
3 security act to permit medicaid-eligible individuals to:

4 (a) Enroll in the state basic health plan and receive the benefits
5 offered to basic health plan enrollees; and

6 (b) Participate financially in purchasing health care benefits
7 through such means as premium sharing, copayments, and deductibles
8 provided that such contributions will be implemented in a manner to
9 encourage the appropriate use of effective medical care services and do
10 not serve as a barrier to receiving necessary medical care services.

11 (2) The department shall report to the appropriate policy and
12 fiscal standing committees of the senate and house of representatives
13 by October 31, 1994, on the progress of such negotiations.

14 **PART II**

15 **INCOME TAX**

16 **A. GENERAL PROVISIONS**

17 NEW SECTION. **Sec. 201.** INTENT. It is the intent of the
18 legislature in adopting this act to provide the necessary revenues for
19 the support of health care for citizens of this state.

20 **B. DEFINITIONS**

21 NEW SECTION. **Sec. 202.** INTRODUCTORY. Unless the context clearly
22 requires otherwise, the definitions in sections 203 through 213 of this
23 act apply throughout this title.

24 NEW SECTION. **Sec. 203.** ADJUSTED GROSS INCOME. "Adjusted gross
25 income" means adjusted gross income as determined under the Internal
26 Revenue Code.

27 NEW SECTION. **Sec. 204.** DEPARTMENT. "Department" means the state
28 department of revenue.

29 NEW SECTION. **Sec. 205.** FEDERAL BASE INCOME. "Federal base
30 income" means adjusted gross income.

1 NEW SECTION. **Sec. 206.** INDIVIDUAL. "Individual" means a natural
2 person.

3 NEW SECTION. **Sec. 207.** INTERNAL REVENUE CODE. "Internal Revenue
4 Code" means the United States Internal Revenue Code of 1986 and
5 amendments thereto, as existing on January 1, 1992.

6 NEW SECTION. **Sec. 208.** PERSON. "Person" includes individuals.

7 NEW SECTION. **Sec. 209.** RESIDENT. "Resident" includes an
8 individual who:

9 (1) Has resided in this state for the entire tax year;

10 (2) Is domiciled in this state unless the individual:

11 (a) Maintains no permanent place of abode in this state;

12 (b) Does not maintain a permanent place of abode elsewhere; and

13 (c) Spends in the aggregate not more than thirty days in the tax
14 year in this state;

15 (3) Is not domiciled in this state, but maintains a permanent place
16 of abode in this state and spends in the aggregate more than one
17 hundred eighty-three days of the tax year in this state unless the
18 individual proves that the individual is in the state only for
19 temporary or transitory purposes; or

20 (4) Claims the state of Washington as the individual's tax home for
21 federal income tax purposes.

22 NEW SECTION. **Sec. 210.** TAXABLE INCOME. "Taxable income" means
23 federal base income as modified under sections 220 through 226 of this
24 act.

25 NEW SECTION. **Sec. 211.** TAXABLE YEAR. "Taxable year" means the
26 taxpayer's taxable year as defined under the Internal Revenue Code.

27 NEW SECTION. **Sec. 212.** TAXPAYER. "Taxpayer" means a person
28 receiving income subject to tax under this title.

29 NEW SECTION. **Sec. 213.** DEFINITION OF TERMS GENERALLY. Except as
30 provided in sections 202 through 212 of this act, any term used in this
31 title has the same meaning as when used in a comparable context in the
32 Internal Revenue Code.

1 **C. DETERMINATION OF TAX**

2 NEW SECTION. **Sec. 214.** TAX IMPOSED--RATE. A tax is imposed at
3 the rate of one percent on all taxable income of individuals for each
4 taxable year.

5 The tax under this title shall be phased in using the following
6 schedule: For the period beginning January 1, 1994, to December 31,
7 1994, persons with income of five hundred thousand dollars and below
8 are exempt from the tax under this title. For the period beginning
9 January 1, 1995, to December 31, 1995, persons with income of seventy
10 thousand dollars and below are exempt from the tax under this title.
11 For the period beginning January 1, 1996, to December 31, 1996, persons
12 with income of sixty thousand dollars and below are exempt from the tax
13 under this title. For the period beginning January 1, 1997, to
14 December 31, 1997, persons with income of fifty-five thousand dollars
15 and below are exempt from the tax under this title. From January 1,
16 1998, to December 31, 1998, persons with income of fifty thousand
17 dollars and below are exempt from the tax under this title. From
18 January 1, 1999, and thereafter, persons with income of forty-five
19 thousand dollars and below are exempt from the tax under this title.

20 NEW SECTION. **Sec. 215.** EXEMPTION. The tax imposed by section 214
21 of this act shall not apply to an individual for a taxable year in
22 which the adjusted gross income of the individual is less than forty-
23 five thousand dollars.

24 NEW SECTION. **Sec. 216.** CREDIT FOR INCOME TAXES DUE ANOTHER
25 JURISDICTION. (1) A resident individual is allowed a credit against
26 the tax imposed under this title for the amount of any income tax
27 imposed by another state, foreign country, or political subdivision of
28 another state or foreign country on income taxed under this title,
29 subject to the following conditions:

30 (a) The credit is allowed only for taxes imposed by the other
31 jurisdiction on net income from sources within that jurisdiction.

32 (b) The amount of the credit shall not exceed the smaller of:

33 (i) The amount of tax paid to the other jurisdiction on net income
34 from sources within the other jurisdiction; or

35 (ii) The amount of tax due under this title multiplied by a
36 fraction. The numerator of the fraction is the portion of the

1 taxpayer's adjusted gross income subject to tax in the other
2 jurisdiction. The denominator of the fraction is the taxpayer's
3 taxable income. The fraction shall never be greater than one.

4 (2) If, in lieu of a credit similar to the credit allowed under
5 subsection (1) of this section, the laws of the taxpayer's place of
6 residence contain a provision exempting a resident of this state from
7 liability for the payment of income taxes on income earned for personal
8 services performed in that place, then the director is authorized to
9 enter into a reciprocal agreement with that place providing a similar
10 tax exemption for its residents on income earned for personal services
11 performed in this state.

12 NEW SECTION. **Sec. 217.** DUAL RESIDENCE. If an individual is
13 regarded as a resident both of this state and another jurisdiction for
14 personal income tax purposes, the department shall reduce the tax on
15 that portion of the taxpayer's income that is subjected to tax in both
16 jurisdictions solely by virtue of dual residence, if the other taxing
17 jurisdiction allows a similar reduction. The reduction shall equal the
18 lower of the two taxes applicable to the income taxed twice multiplied
19 by a fraction. The numerator of the fraction is the tax imposed by
20 this state on the income taxed twice. The denominator of the fraction
21 is the tax imposed by both jurisdictions on the income taxed twice.
22 The fraction shall never be greater than one.

23 NEW SECTION. **Sec. 218.** BUSINESS AND OCCUPATION TAX CREDIT. (1)
24 There shall be allowed a credit against the tax imposed by this title
25 in the amount of the state of Washington business and occupation tax
26 paid by the taxpayer in the tax year subject to the limitation of
27 subsection (2) of this section.

28 (2) The credit shall not exceed the smaller of:

29 (a) The amount of business and occupation tax paid; or

30 (b) The amount of tax of the taxpayer imposed by this title before
31 the application of the credits allowed by this title, multiplied by a
32 fraction:

33 (i) The numerator is the amount of taxpayer's adjusted gross income
34 attributable to activities subject to business and occupation tax; and

35 (ii) The denominator being the taxpayer's adjusted gross income as
36 modified by this title. The fraction shall never be greater than one.

1 NEW SECTION. **Sec. 223.** NET OPERATING LOSS. There shall be
2 allowed as a deduction from federal base income the amount of net
3 operating loss as allowed in section 172 of the Internal Revenue Code.
4 The calculation of the loss amount shall reflect the modifications to
5 federal base income as provided in this title and a net operating loss
6 deduction may include a loss carried forward to the tax year but shall
7 not include a loss carried back from a future year.

8 NEW SECTION. **Sec. 224.** CARRY-OVERS. To adjusted gross income,
9 add amounts which have been deducted in computing adjusted gross income
10 to the extent the amounts have been carried over from taxable years
11 ending before the effective date of this act.

12 NEW SECTION. **Sec. 225.** FEDERAL BONDS. From adjusted gross
13 income, deduct, to the extent included in adjusted gross income, income
14 derived from obligations of the United States that this state is
15 prohibited by federal law from subjecting to a net income tax.
16 However, the amount deducted under this section shall be reduced by any
17 expense, including amortizable bond premium, incurred in the production
18 of such income to the extent the expense has been deducted in
19 calculating adjusted gross income.

20 NEW SECTION. **Sec. 226.** TAX RETURNS FOR FRACTIONAL YEAR. If the
21 first taxable year of any taxpayer with respect to which a tax is
22 imposed by this title ends before December 31st of the calendar year in
23 which this title becomes effective, referred to in this section as a
24 fractional taxable year, the taxable income for the fractional taxable
25 year shall be the taxpayer's taxable income for the entire taxable
26 year, adjusted by one of the following methods, at the taxpayer's
27 election:

28 (1) The taxable income shall be multiplied by a fraction. The
29 numerator of the fraction is the number of days in the fractional
30 taxable year. The denominator of the fraction is the number of days in
31 the entire taxable year.

32 (2) The taxable income shall be adjusted, in accordance with rules
33 of the department, so as to include only such income and be reduced
34 only by such deductions as can be clearly determined from the permanent
35 records of the taxpayer to be attributable to the fractional taxable
36 year.

1 **E. DIVISION OF INCOME, MODIFICATIONS, AND CREDITS**

2 NEW SECTION. **Sec. 227.** APPORTIONMENT AND ALLOCATION OF INCOME.

3 (1) For resident individuals all income shall be apportioned and
4 allocated to this state.

5 (2) For nonresident individuals income derived from sources within
6 this state shall be apportioned and allocated to this state. For
7 purposes of this title:

8 (a) The adjusted gross income of a nonresident derived from sources
9 within this state is the net amount of income, gain, loss, and
10 deduction of the nonresident's federal adjusted gross income that are
11 derived from or connected with sources in this state including any
12 distributive share of partnership income and deductions, and share of
13 estate or trust income and deductions, including any unrelated business
14 income of an otherwise tax exempt trust or organization.

15 (b) Items of income, gain, loss, and deductions derived from or
16 connected with sources within this state are those items attributable
17 to the ownership or disposition of any interest in real or tangible
18 personal property in this state, and a business, trade, profession, or
19 occupation carried on within this state. The department shall issue
20 rules to provide consistency of this section with the excise tax
21 provisions.

22 (c) Deduction with respect to expenses, capital losses, and net
23 operating losses shall be based solely on income, gains, losses, and
24 deductions derived from or connected with sources in this state but
25 shall otherwise be determined in the same manner as the corresponding
26 federal deduction except as provided in this title.

27 (d) Income from intangible personal property, including annuities,
28 dividends, interest, and gains from the disposition of intangible
29 personal property, constitutes income derived from sources within the
30 state of Washington only to the extent such income is from property
31 employed in a business, trade, profession, or occupation carried on
32 within this state. Distributed and undistributed income of electing S
33 corporations for federal tax purposes derived from or connected with
34 sources within this state is income derived from sources within this
35 state for a nonresident shareholder. A net operating loss of such
36 corporation does constitute a loss or deduction connected with sources
37 within this state for a nonresident shareholder.

1 (e) Compensation paid by the United States for service in the armed
2 forces of the United States performed in this state by a nonresident
3 does not constitute income derived from sources within this state.

4 (f) If a business, trade, profession, or occupation is carried on
5 partly within and partly without this state, the determination of net
6 income derived or connected with sources within this state as provided
7 in this section, shall be made by apportionment and allocation of
8 chapter 82.56 RCW.

9 NEW SECTION. **Sec. 228.** PARTNERSHIPS AND S CORPORATIONS. (1)

10 Partnerships are not subject to tax under this title. Partners are
11 subject to tax in their separate or individual capacities.

12 (2) S corporations are not subject to tax under this title.
13 Shareholders of S corporations are subject to tax in their separate or
14 individual capacities.

15 (3) The taxable incomes of partners shall be computed by including
16 a share of the modifications under sections 221 through 225 of this act
17 and the credits allowed under sections 215, 217, and 218 of this act,
18 if the modification or credit relates to the income of the partnership.
19 Each partner's share of a modification or credit is the amount of
20 modification or credit multiplied by a fraction. The numerator of the
21 fraction is the partner's distributive share of partnership income.
22 The denominator of the fraction is the total partnership income. The
23 fraction shall never be greater than one.

24 (4) The taxable incomes of shareholders shall be computed by
25 including a share of the modifications under sections 221 through 225
26 of this act and the credits allowed under sections 215, 217, and 218 of
27 this act, if the modification or credit relates to the income of the S
28 corporation. Each shareholder's share of a modification or credit is
29 the amount of modification or credit multiplied by a fraction. The
30 numerator of the fraction is the shareholder's pro rata share of S
31 corporation income. The denominator of the fraction is the total S
32 corporation income. The fraction shall never be greater than one.

33 (5) As used in this section:

34 (a) "Shareholder" means a shareholder of an S corporation.

35 (b) "S corporation income" includes both distributed and
36 undistributed federal taxable income of the S corporation.

37 (c) "Pro rata share" means pro rata share as determined under
38 section 1366(a) of the Internal Revenue Code.

1 **F. INCOME TAX--WITHHOLDING--ESTIMATED TAX**

2 NEW SECTION. **Sec. 229.** EMPLOYER WITHHOLDING--REQUIREMENTS. (1)

3 Every employer making a payment of wages or salaries earned in this
4 state, regardless of the place where the payment is made, and who is
5 required by the Internal Revenue Code to withhold taxes, shall deduct
6 and withhold a tax as prescribed by the department by rule. The rules
7 prescribed shall reasonably reflect the annual tax liability of the
8 employee under this title. Every employer making such a deduction and
9 withholding shall furnish to the employee a record of the amount of tax
10 deducted and withheld from the employee on forms provided by the
11 department.

12 (2) If the employee is a resident of this state and earns income
13 from personal services entirely performed in another state which
14 imposes an income tax on the income, and the employer withholds income
15 taxes under the laws of the state in which the income is earned, the
16 employer is not required to withhold any tax imposed by this title on
17 the income if the laws of the state in which the income is earned allow
18 a similar exemption for its residents who earn income in this state.

19 NEW SECTION. **Sec. 230.** LIABILITY OF EMPLOYER FOR TAX WITHHELD.

20 Any person required to deduct and withhold the tax imposed by this
21 title is liable for the payment of the amount deducted and withheld to
22 the department, and is not liable to any other person for the amount of
23 tax deducted and withheld under this title. The amount of tax so
24 deducted and withheld shall be held to be a special fund in trust for
25 this state.

26 NEW SECTION. **Sec. 231.** WITHHOLDING BY GOVERNMENTAL ENTITY. If

27 the employer is the United States, a foreign country, or this state, or
28 any political subdivision thereof, or an agency or instrumentality of
29 any one or more of the foregoing, then the return of the amount
30 deducted and withheld upon any wages or salaries may be made by any
31 officer of the employer having control of the payment of the wages and
32 salaries or appropriately designated for that purpose.

33 NEW SECTION. **Sec. 232.** CREDIT FOR TAX WITHHELD--HOW CLAIMED. The

34 amount deducted and withheld as tax under sections 214 through 216 of
35 this act during any taxable year shall be allowed as a credit against

1 the tax imposed for the taxable year by this title. If the tax
2 liability of any individual for taxes, interest, penalties, or other
3 amounts due the state of Washington is less than the total amount of
4 the credit that the individual is entitled under this section, the
5 individual is entitled to a refund in the amount of the excess of the
6 credit over the tax otherwise due. If any individual entitled to claim
7 a credit under this section is not otherwise required by this title to
8 file a return, a refund may be obtained in the amount of the credit by
9 filing a return, with applicable sections completed, to claim the
10 refund. No credit or refund is allowed under this section unless the
11 credit or refund is claimed on a return filed for the taxable year for
12 which the amount was deducted and withheld.

13 NEW SECTION. **Sec. 233.** WITHHOLDING--EXEMPTION DECLARATIONS. An
14 employee shall be entitled to use and an employer shall use the
15 withholding declaration on file with the employer for federal income
16 tax purposes. The department may redetermine the number of withholding
17 exemptions to which the employee is entitled, and the department may
18 require an additional withholding exemption declaration to be filed on
19 a form prescribed by the department where the department finds that the
20 exemption declaration filed for federal income tax purposes does not
21 properly reflect the number of withholding exemptions to which the
22 employee is entitled.

23 NEW SECTION. **Sec. 234.** WITHHOLDING--FAILURE TO PAY OR COLLECT--
24 PENALTIES. (1) The tax required to be collected by this chapter by the
25 employer shall be deemed to be held in trust by the employer until paid
26 to the department.

27 (2) In case any employer, or responsible person within the meaning
28 of Internal Revenue Code 6672, fails to collect the tax imposed in this
29 title or having collected the tax, fails to pay it to the department,
30 the employer or responsible person shall, nevertheless, be personally
31 liable to the state for the amount of the tax. The interest and
32 penalty provisions of chapter 82.32 RCW shall apply to this section.

33 NEW SECTION. **Sec. 235.** ESTIMATED TAX IMPOSED--DUE DATE OF
34 ESTIMATED TAXES--AMOUNT OF ESTIMATED TAX--UNDERPAYMENT PENALTY. (1)
35 Each individual subject to taxation by this title who is required by
36 the Internal Revenue Code to make payment of estimated taxes shall pay

1 to the department on forms prescribed by the department the estimated
2 taxes due under this title.

3 (2) The provisions of the Internal Revenue Code relating to the
4 determination of reporting periods and due dates of payments of
5 estimated tax applies to the estimated tax payments due under this
6 section.

7 (3) The amount of the estimated tax shall be the annualized tax
8 divided by the number of months in the reporting period. No estimated
9 tax shall be due if the annualized tax is less than five hundred
10 dollars. The provisions of RCW 82.32.050 and 82.32.090 shall apply to
11 underpayments of estimated tax, but shall not apply to underpayments,
12 as defined by the Internal Revenue Code, if the tax remitted to the
13 department is either ninety percent of the tax shown on the return or
14 one hundred percent of the tax shown on the previous year's tax return.

15 (4) For purposes of this section, the annualized tax is the
16 taxpayer's projected tax liability for the tax year as computed
17 pursuant to Internal Revenue Code section 6654 and the regulations
18 under section 6654.

19 **G. CRIMES**

20 NEW SECTION. **Sec. 236.** CRIMES. (1) A person who knowingly
21 attempts to evade or defeat the tax imposed under this title or payment
22 of the tax is guilty of a class C felony as provided in chapter 9A.20
23 RCW.

24 (2) A person required to collect tax imposed under this title who
25 knowingly fails to collect, truthfully account for, or pay over the tax
26 is guilty of a class C felony as provided in chapter 9A.20 RCW.

27 (3) A person who knowingly fails to pay tax, pay estimated tax,
28 make returns, keep records, or supply information, as required under
29 this title, is guilty of a gross misdemeanor as provided in chapter
30 9A.20 RCW.

31 **H. ADMINISTRATIVE PROVISIONS**

32 NEW SECTION. **Sec. 237.** METHOD OF ACCOUNTING. (1) A taxpayer's
33 method of accounting for purposes of the tax imposed under this title
34 shall be the same as the taxpayer's method of accounting for federal
35 income tax purposes. If no method of accounting has been regularly

1 used by a taxpayer for federal income tax purposes, tax due under this
2 title shall be computed by a method of accounting that in the opinion
3 of the department fairly reflects income.

4 (2) If a person's method of accounting is changed for federal
5 income tax purposes, it shall be similarly changed for purposes of this
6 title.

7 NEW SECTION. **Sec. 238.** PERSONS REQUIRED TO FILE RETURNS. (1) All
8 taxpayers shall file with the department, on forms prescribed by the
9 department, an income tax return for each tax year. Each person
10 required to file a return under this title shall, without assessment,
11 notice, or demand, pay any tax due thereon, to the department on or
12 before the date fixed for filing the return.

13 (2) The department may by rule require that certain taxpayers file,
14 on forms prescribed by the department, informational returns for any
15 period. Each person required by rule to file an informational return
16 shall, without assessment, notice, or demand, pay any tax due thereon,
17 to the department on or before the date fixed for filing of the
18 informational return.

19 (3) In the event an adjustment to a taxpayer's federal return is
20 made by the taxpayer or the internal revenue service, the taxpayer
21 shall, within ninety days of the final determination of the adjustment
22 by the internal revenue service or within thirty days of the filing of
23 a federal return adjusted by the taxpayer, file a corrected return
24 reflecting the adjustments as finally determined or returned. The
25 taxpayer shall pay any additional tax resulting from the finally
26 determined internal revenue service adjustment or a taxpayer adjustment
27 without notice and assessment. Notwithstanding any provision of this
28 title or any other title to the contrary, the period of limitations for
29 the correction of an additional tax, interest, and penalty due as a
30 result of an adjustment by a taxpayer or a finally determined internal
31 revenue service adjustment shall begin at the later of thirty days
32 following the final determination of the adjustment or the date of the
33 filing of the corrected return.

34 NEW SECTION. **Sec. 239.** DUE DATE FOR FILING A RETURN--EXTENSIONS--
35 INTEREST AND PENALTIES. The due date of a return required to be filed
36 with the department shall be the due date of the federal income tax
37 return or informational return for federal income tax purposes. The

1 department shall have the authority to grant extensions of times by
2 which returns required to be filed by this title may be submitted. The
3 department shall also have the authority to grant extensions of time to
4 pay tax with regard to taxes imposed by this title. Interest at the
5 rate specified in RCW 82.32.050 shall accrue during any extension
6 period and the interest and penalty provisions of chapter 82.32 RCW
7 shall apply to late payments and deficiencies. Notwithstanding the
8 limitation of RCW 82.32.090, in the case of the late filing of an
9 informational return, there shall be imposed a penalty, the amount of
10 which shall be established by the department by rule. The penalty
11 shall not exceed fifty dollars per month for a maximum of ten months.
12 RCW 82.32.105 shall apply to this section.

13 NEW SECTION. **Sec. 240.** JOINT RETURN. (1) If the federal income
14 tax liabilities of both spouses are determined on a joint federal
15 return for the taxable year, they shall file a joint return under this
16 title unless one spouse is a resident and the other is a nonresident.

17 (2) If neither spouse is required to file a federal income tax
18 return for the taxable year, a joint return may be filed under this
19 title under the same conditions under which a joint return may be filed
20 for purposes of the federal income tax.

21 (3) If the federal income tax liability of either spouse is
22 determined on a separate federal return for the taxable year, they
23 shall file separate returns under this title.

24 (4) If one spouse is a resident and the other is a nonresident,
25 they shall file separate returns under this title, unless they elect to
26 determine their tax liabilities under this title on a joint return as
27 if they were both residents, and:

28 (a) Their federal tax liability for the taxable year was determined
29 on a joint federal return; or

30 (b) Neither spouse has filed a federal income tax return for the
31 taxable year and they would be permitted to file a joint federal return
32 for the taxable year.

33 (5) In any case in which a joint return is filed under this
34 section, the liability of the husband and wife is joint and several,
35 unless the spouse is relieved of liability under section 6013 of the
36 Internal Revenue Code.

1 NEW SECTION. **Sec. 241.** RECORDS--RETURNS. (1) Every taxpayer and
2 every person required to deduct and withhold the tax imposed under this
3 title shall keep records, render statements, make returns, file
4 reports, and perform other acts, as the department requires by rule.
5 Each return shall be made under penalty of perjury and on forms
6 prescribed by the department. The department may require other
7 statements and reports be made under penalty of perjury and on forms
8 prescribed by the department. The department may require any taxpayer
9 and any person required to deduct and withhold the tax imposed under
10 this title to furnish to the department a correct copy of any return or
11 document which the taxpayer has filed with the internal revenue service
12 or received from the internal revenue service.

13 (2) All books and records and other papers and documents required
14 to be kept under this title are subject to inspection by the department
15 at all times during business hours of the day.

16 NEW SECTION. **Sec. 242.** ESTIMATION AGREEMENTS. The department may
17 reasonably estimate the items of business or nonbusiness income of a
18 taxpayer having an office within the state and one or more other states
19 or foreign countries which may be apportioned or allocated to the state
20 and may enter into estimation agreements with such taxpayers for the
21 determination of their liability for the tax imposed by this title.

22 NEW SECTION. **Sec. 243.** PROVISIONS OF INTERNAL REVENUE CODE
23 CONTROL. (1) To the extent possible without being inconsistent with
24 this title, all of the provisions of the Internal Revenue Code relating
25 to the following subjects apply to the taxes imposed under this title:

- 26 (a) Time and manner of payment of tax imposed under this title,
27 including tax withheld under sections 229 through 231 of this act;
28 (b) Liability of transferees;
29 (c) Time and manner of making returns, extensions of time for
30 filing returns, verification of returns, and the time when a return is
31 deemed filed.

32 (2) The department by rule may provide modifications and exceptions
33 to the provisions listed in subsection (1) of this section if
34 reasonably necessary to facilitate the prompt, efficient, and equitable
35 collection of tax under this title.

1 and 84.16 RCW, if filed with the board of tax appeals within thirty
2 days after mailing of the determination, the right to such appeal being
3 hereby established.

4 (5) Appeals by an assessor, landowner, or owner of an intercounty
5 public utility or private car company from a determination of any
6 county indicated ratio for such county compiled by the department of
7 revenue pursuant to RCW 84.48.075: PROVIDED, That

8 (a) Said appeal be filed after review of the ratio under RCW
9 84.48.075(3) and not later than fifteen days after the mailing of the
10 certification; and

11 (b) The hearing before the board shall be expeditiously held in
12 accordance with rules prescribed by the board and shall take precedence
13 over all matters of the same character.

14 (6) Appeals from the decisions of sale price of second class
15 shorelands on navigable lakes by the department of natural resources
16 pursuant to RCW 79.94.210.

17 (7) Appeals from urban redevelopment property tax apportionment
18 district proposals established by governmental ordinances pursuant to
19 RCW 39.88.060.

20 (8) Appeals from interest rates as determined by the department of
21 revenue for use in valuing farmland under current use assessment
22 pursuant to RCW 84.34.065.

23 (9) Appeals from revisions to stumpage value tables used to
24 determine value by the department of revenue pursuant to RCW 84.33.091.

25 (10) Appeals from denial of tax exemption application by the
26 department of revenue pursuant to RCW 84.36.850.

27 (11) Appeals pursuant to RCW 84.40.038(2).

28 (12) Appeals relating to income tax deficiencies and refunds
29 including penalties and interest under Title 82A RCW (sections 201
30 through 245 of this act).

31 **Sec. 247.** RCW 82.03.140 and 1988 c 222 s 4 are each amended to
32 read as follows:

33 In all appeals over which the board has jurisdiction under RCW
34 82.03.130, a party taking an appeal may elect either a formal or an
35 informal hearing, such election to be made according to rules of
36 practice and procedure to be promulgated by the board: PROVIDED, That
37 nothing shall prevent the assessor or taxpayer, as a party to an appeal
38 pursuant to RCW 84.08.130, within twenty days from the date of the

1 receipt of the notice of appeal, from filing with the clerk of the
2 board notice of intention that the hearing be a formal one: PROVIDED,
3 HOWEVER, That nothing herein shall be construed to modify the
4 provisions of RCW 82.03.190: AND PROVIDED FURTHER, That upon an appeal
5 under RCW 82.03.130 (5) or (12), the director of revenue may, within
6 ten days from the date of its receipt of the notice of appeal, file
7 with the clerk of the board notice of its (~~intention that the hearing~~
8 ~~be held pursuant to chapter 34.05 RCW~~) election of a formal hearing.
9 In the event that appeals are taken from the same decision, order, or
10 determination, as the case may be, by different parties and only one of
11 such parties elects a formal hearing, a formal hearing shall be
12 granted.

13 **J. CONSTRUCTION--CODIFICATION--EFFECTIVE DATE**

14 NEW SECTION. **Sec. 248.** SEVERABILITY. If any provision of this
15 act or its application to any person or circumstance is held invalid,
16 the remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 249.** CODIFICATION. (1) Sections 101 through
19 111 of this act constitute a new chapter in Title 48 RCW.

20 (2) Sections 201 through 245 of this act shall be codified as a new
21 title in the Revised Code of Washington, to be numbered Title 82A RCW.

22 NEW SECTION. **Sec. 250.** CAPTIONS AND PART HEADINGS. Section
23 captions and part headings as used in this act constitute no part of
24 the law.

25 NEW SECTION. **Sec. 251.** EFFECTIVE DATE. Sections 201 through 250
26 of this act shall take effect on January 1, 1994.

27 **PART III**

28 **ALTERNATIVE TO INITIATIVE MEASURE NO. 141**

29 NEW SECTION. **Sec. 301.** ALTERNATIVE TO INITIATIVE MEASURE NO.
30 141--PLACEMENT ON BALLOT--FORCE AND EFFECT OF CHAPTER. This act
31 constitutes an alternative to Initiative Measure No. 141. The
32 secretary of state is directed to place this act on the ballot in

1 conjunction with Initiative Measure No. 141 at the next general
2 election to be held in this state.

3 This act shall continue in force and effect until the secretary of
4 state certifies the election results on this act. If affirmatively
5 approved at the general election, this act shall continue in effect
6 thereafter.

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