

2 **SHB 1569** - H COMM AMD
3 By Committee on Revenue
4

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

7 "NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and
8 cited as the omnibus community-based long-term care secured benefit
9 act."

10 "NEW SECTION. **Sec. 2.** PURPOSE AND INTENT. It is the purpose and
11 intent of the legislature, through this chapter, to organize the
12 foundation for financing and providing community-based long-term care
13 and support services through an integrated, comprehensive system that
14 promotes human dignity and recognizes the individuality of all
15 functionally disabled persons. This system shall be available,
16 accessible, and responsive to all citizens based upon an assessment of
17 their functional disabilities. The legislature recognizes that
18 families, volunteers, and community organizations are absolutely
19 essential for delivery of effective and efficient community-based long-
20 term care and support services and it is a purpose of this chapter to
21 support and strengthen that private and public service infrastructure.
22 It is further a purpose of this chapter to provide secured benefit
23 assurance in perpetuity without requiring family or program beneficiary
24 impoverishment for service eligibility."

25 "NEW SECTION. **Sec. 3.** DEFINITIONS. Unless the context clearly
26 requires otherwise, the definitions in this section apply throughout
27 this chapter.

1 (1) "Administrative entity" means an agency of state, regional, or
2 local government or a private nonprofit organization that has entered
3 into an agreement with the board to administer any part of the program.

4 (2) "Board" means the community-based long-term care secured
5 benefit program board.

6 (3) "Committee" means the community-based long-term care secured
7 benefit program policy advisory committee established pursuant to
8 section 6 of this act.

9 (4) "Community-based long-term care and support services" means
10 services and support provided to program beneficiaries in accordance
11 with section 9 of this act.

12 (5) "Federal poverty level" means the annual poverty guidelines
13 determined annually by the United States department of health and human
14 services, or its successor agency.

15 (6) "Functionally disabled person" means a person who, because of
16 a recognized chronic physical or mental condition or disease: (a)
17 Needs care, support, supervision, or monitoring to perform activities
18 of daily living or instrumental activities of daily living; or (b)
19 needs support to ameliorate or compensate for the effect of the chronic
20 physical or mental condition or disease.

21 (7) "Habilitation service" means services to assist persons in
22 acquiring and maintaining life skills and to raise, maintain, or
23 support their levels of physical, mental, social, and vocational
24 functioning. "Habilitation services" shall not include major
25 rehabilitative services to assist persons in regaining previously
26 existing bodily functions and life skills.

27 (8) "Program" means the community-based long-term care secured
28 benefit program established by this chapter.

1 (9) "Program beneficiary" means a person who has been determined to
2 be functionally disabled and eligible to receive services through the
3 program."

4 "PART I
5 ADMINISTRATION OF THE COMMUNITY-BASED
6 LONG-TERM CARE SECURED BENEFIT PROGRAM"

7 "NEW SECTION. **Sec. 4.** INTENT REGARDING PROGRAM ADMINISTRATION.

8 It is the intent of the legislature that administration of the program
9 includes active participation by program beneficiaries, their families,
10 and communities in public discussions, service planning, decision
11 making, and service delivery. An independent board, representing
12 payors and functionally disabled persons, shall administer this chapter
13 within statutory guidelines established by the legislature.
14 Administrative entities shall encourage creativity, innovation, and
15 community involvement in the development and implementation of
16 services. Information systems shall be developed to assess program
17 outcomes and to assure state-wide adherence to baseline levels of
18 service availability and quality. A simplified, independent
19 inspection, monitoring and correction function shall be established
20 within the system."

21 "NEW SECTION. **Sec. 5.** ESTABLISHMENT AND POWERS OF BOARD. (1) The
22 community-based long-term care secured benefit program board is hereby
23 established. The board shall be composed of five members appointed by
24 the governor. The members of the board shall be representative of
25 public payors, private payors, and functionally disabled persons. The
26 chairperson of the board shall be chosen by the vote of a majority of
27 the members of the board.

1 (2) The governor shall appoint the initial members of the board to
2 staggered terms not to exceed eight years, with three members of the
3 board serving at least four years. Members appointed thereafter shall
4 serve four-year terms, and may serve for up to two terms. Members of
5 the board shall be compensated in accordance with RCW 43.03.250 and
6 shall be reimbursed for their travel expenses while on official
7 business in accordance with RCW 43.03.050 and 43.03.060. Meetings of
8 the board shall be at the call of the chairperson.

9 (3) The board shall have the following powers and duties:

10 (a) To plan, design, and administer a regionally operated system of
11 community-based long-term care and support services that provides a
12 coordinated system of care and support for functionally disabled
13 persons through regional administrative entities, using family,
14 volunteer, and community resources to the greatest extent possible, in
15 which functionally disabled persons and resources are directed toward
16 the least restrictive and least costly service appropriate for each
17 such person;

18 (b) To manage the current expense account and reserve account of
19 the secured benefit fund established by section 20 of this act;

20 (c) To administer program benefits, and to determine the scope of
21 community-based long-term care and support services covered by the
22 program in accordance with section 9 of this act;

23 (i) In determining the scope of services, the board shall maintain
24 the financial integrity of the secured benefit fund;

25 (ii) The board shall define the scope of transportation services
26 that can be funded by the program in accordance with section 9 of this
27 act. In defining the scope of transportation services, the board shall
28 consider the appropriate role of paratransit systems;

29 (d) To develop uniform functional disability assessments that
30 accurately measure the abilities and disabilities of functionally

1 disabled persons of all ages, and determine the entity or entities
2 responsible for conducting such assessments;

3 (e) To develop performance standards, to the extent not
4 specifically established by this chapter, based upon the
5 recommendations of the long-term care commission and its technical
6 advisory committees, with input from functionally disabled persons,
7 their families, long-term care service providers, and administrators.
8 Performance standards shall emphasize outcomes, rather than the manner
9 in which services are administered. Performance standards shall, to the
10 greatest extent practicable, promote leveraging of family and community
11 resources available to each program beneficiary and shall include
12 consideration of the extent to which each program beneficiary's plan of
13 care builds on the support available to that individual from their
14 family and the community;

15 (f) To administer and adjust program beneficiary cost-sharing as
16 necessary, in accordance with section 10 of this act;

17 (g) To engage in quality assurance activities in accordance with
18 section 7 of this act;

19 (h) To develop payment and cost control mechanisms for community-
20 based long-term care and support services;

21 (i) To design and administer a long-term care information system in
22 accordance with section 16 of this act;

23 (j) To develop mechanisms to assure that the program is coordinated
24 with the acute health care services system and the vocational
25 rehabilitation services system;

26 (k) To coordinate with other relevant entities to plan for
27 development of an appropriately trained long-term care work force;

28 (l) To contract with and monitor administrative model projects in
29 accordance with section 14 of this act;

1 (m) To delegate its authority, when deemed appropriate by the
2 board, to other public or private entities; and

3 (n) To adopt rules pursuant to chapter 34.05 RCW necessary to carry
4 out the responsibilities established in this chapter.

5 (4) The board shall employ staff as necessary to fulfill its
6 responsibilities and duties. The program director and up to five other
7 employees are exempt from state civil service law, chapter 41.06 RCW.
8 Remaining staff are subject to the state civil service law, chapter
9 41.06 RCW. In addition, the board may contract with third parties for
10 services necessary to carry out its responsibilities and duties to the
11 extent not prohibited by RCW 41.06.380."

12 "NEW SECTION. Sec. 6. ESTABLISHMENT OF POLICY ADVISORY COMMITTEE.

13 (1) The community-based long-term care secured benefit program policy
14 advisory committee is hereby established. The committee shall be
15 composed of thirteen members appointed by the board. Committee
16 membership shall be geographically balanced, ethnically and culturally
17 diverse, and representative of persons with differing types of
18 functional disabilities. At least half of the members shall be
19 functionally disabled persons or their advocates, who shall not be paid
20 long-term care services providers.

21 (2) The committee shall:

22 (a) Advise the board regarding planning and administration of the
23 program; and

24 (b) Review and comment upon state policies, programs, and actions
25 that affect program beneficiaries, with the intent of assuring maximum
26 coordination with long-term care and support services, and maximum
27 responsiveness to the needs of program beneficiaries.

1 (3) The committee shall meet at least quarterly. Committee members
2 shall be reimbursed for travel expenses pursuant to RCW 43.03.050 and
3 43.03.060."

4 "NEW SECTION. Sec. 7. QUALITY ASSURANCE. (1) The board is
5 responsible for quality assurance activities relating to licensing,
6 monitoring, and enforcement of performance standards applicable to
7 administrative entities. The department of health shall be responsible
8 for licensing and monitoring community-based long-term care and support
9 service providers. In its quality assurance activities, the board
10 shall emphasize review of service outcomes, rather than the manner in
11 which services are administered.

12 (2) Quality assurance activities shall include but not be limited
13 to:

14 (a) Establishment of licensure and certification requirements for
15 and monitoring of administrative entities. The department of health
16 shall administer existing licensing and monitoring programs for
17 community-based long-term care and support service providers, and their
18 employees. The board may request that licensing standards be developed
19 by the legislature or the department of health for community-based
20 long-term care and support services that are not regulated under
21 existing statutes or rules.

22 (b) Monitoring and investigation of performance by administrative
23 entities and community-based long-term care and support service
24 providers, and their employees, including the establishment of
25 mechanisms to receive and respond to reports of abuse, neglect,
26 malpractice, misfeasance, and contractual violations by such entities
27 and providers;

28 (c) Imposition of sanctions against administrative entities for
29 abuse, neglect, malpractice, misfeasance, and contractual violations,

1 which shall include withholding or requiring the withholding of
2 payment, terminating or requiring the termination of contracts,
3 injunctive remedies, civil penalties, receivership, and referral for
4 prosecution; and

5 (d) Retrospective monitoring of data gathered through the
6 information system established by section 16 of this act.

7 (3) The board shall provide for an independent office of the
8 inspector general to assist in carrying out the quality assurance
9 powers and duties established in this section, which office shall
10 report directly to the board and which shall annually report to the
11 legislature on the quality of community-based long-term care and
12 support services provided to functionally disabled persons.

13 (4) By petition to the board, a program beneficiary may initiate,
14 or intervene in, any proceeding in which the board is taking an
15 enforcement action against an administrative entity or community-based
16 long-term care provider serving the program beneficiary.

17 (5) Contracts with administrative entities shall specify the
18 quality assurance activities that will be undertaken by the
19 administrative entity. Such activities shall include monitoring of
20 contracts between administrative entities and community-based long-term
21 care and support services providers, establishment of program
22 beneficiary complaint resolution mechanisms, and other activities
23 deemed appropriate by the board."

24 "PART II

25 COMMUNITY-BASED LONG-TERM CARE SERVICES"

26 "NEW SECTION. **Sec. 8.** INTENT REGARDING SERVICES. It is the
27 intent of sections 9 through 11 of this act relating to community-based
28 long-term care and support services that such services be defined as

1 noninstitutional services that are primarily habilitative which would
2 allow program beneficiaries to live and otherwise function in their
3 community as independently as practicable. Although these services do
4 not include nursing homes, state institutions, or health care
5 facilities, it is necessary that these functions be coordinated with
6 the community-based long-term care system. Technical, demographic, and
7 cultural changes make it impossible to prescribe a complete list of
8 services or define by program the array of services that could meet the
9 intent and purposes of this chapter. It is the intent of this section
10 to include those services commonly considered "community-based," and to
11 allow flexibility in defining new or additional services that will
12 contribute to the purpose and intent of this chapter. It is recognized
13 that uniform systems of assessment and case management are essential
14 for monitoring equity and quality in service delivery, measuring
15 outcomes, and assuring the most effective use of public and private
16 expenditures. It is recognized that availability of services does not
17 guarantee their use, and that aggressive targeting and outreach, and
18 culturally and linguistically accessible and appropriate services, are
19 necessary to assure that services are available to the most
20 dispossessed in our communities."

21 "NEW SECTION. **Sec. 9.** COMMUNITY-BASED LONG-TERM CARE AND SUPPORT
22 SERVICES. (1) The services available to program beneficiaries shall
23 include, at a minimum, those services included in subsection (2) of
24 this section and provided in accordance with subsection (3) of this
25 section. Community-based long-term care and support services may be
26 provided in a nonresidential setting, a program beneficiary's home, or
27 other residential settings not specifically excluded pursuant to
28 subsection (4) of this section.

1 (2) Community-based long-term care and support services shall
2 include at least the following services:

3 (a) Public education;

4 (b) Telephone information and assistance, including screening and
5 possible referral for case management assessment;

6 (c) Gatekeeper, or other outreach component;

7 (d) Case management, which shall include:

8 (i) A multidimensional assessment of the functionally disabled
9 person's health and long-term care needs. No cost-sharing shall be
10 imposed for this modality;

11 (ii) Development of a comprehensive care plan negotiated by the
12 program beneficiary and his or her case manager, which meets minimum
13 standards established by the board to prevent overly subjective
14 determinations of service needs, and which is subject to an appeal
15 mechanism that provides an opportunity for informal review prior to a
16 fair hearing;

17 (iii) Initiation, coordination, and monitoring of all long-term
18 care services needed by a program beneficiary, including those services
19 not funded by the program;

20 (iv) Involvement of each program beneficiary's family and other
21 support systems; and

22 (v) Reassessment and service termination;

23 (e) Personal and household assistance services to assist
24 individuals with activities of daily living and instrumental activities
25 of daily living;

26 (f) Respite care and family support services necessary to maintain
27 the program beneficiary in his or her family home;

28 (g) Nursing services;

29 (h) Day care and day health care for functionally disabled persons;

30 (i) Mental health day treatment and other mental health counseling;

1 (j) Habilitation services; and

2 (k) Transportation services, to the extent that the administrative
3 entity can demonstrate positive planning by the community through the
4 use of a local option tax or other method to provide paratransit or
5 specialized transportation services to program beneficiaries.

6 (3) Each functionally disabled person's participation in a
7 functional assessment performed by an entity designated by the board
8 pursuant to section 5 of this act shall be a precondition to receipt of
9 all long-term care services, including those long-term care services
10 not provided through the program.

11 (4) Services performed by the following institutions shall not be
12 funded by the secured benefit fund, except as provided in subsection
13 (5) of this section:

14 (a) Nursing homes licensed pursuant to chapter 18.51 RCW;

15 (b) State institutions for developmentally disabled persons,
16 defined as residential habilitation centers in chapter 71A.20 RCW; and

17 (c) State institutions for mentally ill persons, including but not
18 limited to Eastern State Hospital and Western State Hospital.

19 (5) The board may establish criteria for funding community-based
20 long-term care and support services provided in a nursing home or other
21 health care facility, to the extent that use of such settings is cost-
22 effective and offers appropriate high quality services to program
23 beneficiaries.

24 (6) In determining whether services not explicitly included
25 pursuant to subsection (2) of this section or excluded pursuant to
26 subsection (4) of this section can be offered through the program, the
27 board shall consider the following criteria:

28 (a) Protection of the financial integrity of the secured benefit
29 fund established in section 20 of this act;

- 1 (b) The extent to which the service is consistent with the intent
2 and purposes of this chapter;
- 3 (c) The extent to which the service supports individual dignity and
4 independence;
- 5 (d) The needs of individual local communities;
- 6 (e) The effectiveness and efficiency of the service; and
- 7 (f) The extent of local community and volunteer participation in
8 providing the service."

9 "NEW SECTION. **Sec. 10.** PROGRAM BENEFICIARY COST-SHARING. (1) The
10 board shall establish a sliding fee scale to determine a program
11 beneficiary's contribution to the cost of community-based long-term
12 care and support services provided to him or her through the program.
13 The sliding fee scale shall be designed to generate a minimum of twenty
14 percent of operating costs of the new system. Sliding fee and other
15 program beneficiary cost sharing payments shall not be imposed prior to
16 state-wide implementation of the program unless a program beneficiary
17 resides within a county served by a regional administrative model
18 project and cost sharing payments for community-based long-term care
19 and support services that program beneficiary is receiving are not
20 prohibited by federal law.

21 (2) The sliding fee scale shall:

22 (a) Base the level of a program beneficiary's contribution on that
23 individual's gross household income, giving appropriate consideration
24 to family size. In determining gross household income, the income of
25 an applicant's spouse shall be considered available to the applicant,
26 and the income of a minor applicant's parents shall be considered
27 available to that minor. The board shall define "income" and other
28 relevant criteria by rule;

1 (b) Provide that for program beneficiaries with gross household
2 income below one hundred fifty percent of the federal poverty level,
3 cost-sharing shall not have the effect of discouraging appropriate use
4 of necessary community-based long-term care and support services;

5 (c) Provide for limits on annual cost-sharing obligation for each
6 program beneficiary's household.

7 (3) To affect community-based long-term care and support service
8 utilization, the board may establish copayments or deductibles which:

9 (a) May be imposed in lieu of the sliding fee scale for program
10 beneficiaries requiring small amounts of community-based long-term care
11 and support services; and

12 (b) Shall not have the effect of discouraging appropriate use of
13 necessary community-based long-term care and support services for
14 program beneficiaries with gross household incomes below one hundred
15 fifty percent of the federal poverty level."

16 "NEW SECTION. **Sec. 11.** RIGHT TO REFUSE SERVICES. Nothing
17 contained in this chapter shall be construed to require a program
18 beneficiary to accept services, except to the extent provided otherwise
19 by chapters 71.05, 11.88, and 11.92 RCW."

20 "PART III
21 IMPLEMENTING THE NEW COMMUNITY-BASED
22 LONG-TERM CARE SYSTEM"

23 "NEW SECTION. **Sec. 12.** INTENT RELATING TO IMPLEMENTATION. It is
24 the intent of the legislature that state-wide community-based long-term
25 care and support services be modeled through regional pilot projects
26 that will test various administrative structures. Lessons learned
27 through the pilot projects will be applied to development of the state-

1 wide community-based system. During the initial phase, additional
2 community-based long-term care and support services will be provided
3 through medicaid and other expansions using revenue from the secured
4 benefit fund to serve unmet needs."

5 "NEW SECTION. Sec. 13. IMPLEMENTATION. (1) The board shall adopt
6 a schedule for the orderly development of the delivery of services and
7 availability of the program to functionally disabled residents of the
8 state, giving full consideration to the results of the evaluation of
9 administrative model projects conducted in accordance with section 14
10 of this act.

11 (2) Based upon knowledge gained from the administrative model
12 projects established pursuant to section 14 of this act, current
13 categorical long-term care systems shall merge into the program on a
14 fixed future date, to be determined by the board after authorization by
15 the legislature. Upon merger of these categorical systems, the needs
16 of all disability groups shall be equitably addressed through the
17 program, regardless of the administrative model adopted by the board."

18 "NEW SECTION. Sec. 14. REGIONAL ADMINISTRATIVE MODEL PROJECTS.
19 (1) Regional administrative model projects shall plan, coordinate, and
20 administer community-based long-term care and support services for a
21 designated region composed of one or more counties with a total
22 population of at least forty thousand.

23 (2) Regional administrative model projects shall satisfy the
24 following criteria:

25 (a) Have the support of the county authority for the county or
26 counties included in the project site;

27 (b) Build upon support available to each program beneficiary from
28 the individual's family, community, and local business;

1 (c) Existing regional and local advisory councils, such as councils
2 on aging, developmental disabilities, and mental health established
3 under state or federal law, and multicultural and multi-ethnic groups
4 will be involved in the proposed long-term care delivery system;

5 (d) Services to minimize the effects of degenerative and
6 debilitating conditions that result in a loss of independence will be
7 offered. Such a plan might include a mechanism to support people who
8 are at risk of rapid deterioration without support;

9 (e) Identify mechanisms that will be used to coordinate services
10 with the acute health care and vocational rehabilitation systems;

11 (f) Identify mechanisms to coordinate services with regional
12 support networks established pursuant to chapter 71.24 RCW, including,
13 but not limited to, formal interagency agreements detailing the roles
14 and responsibilities of the regional support network and the regional
15 administrative model project in meeting the needs of persons whose
16 functional disability is related in whole or in part to mental illness;

17 (g) Transportation needs will be assessed and addressed;

18 (h) Identify mechanisms that will be used to control nursing costs;

19 (i) Provide directly or by contract case management services that
20 include:

21 (i) A multidimensional assessment of the functionally disabled
22 person's health and long-term care needs. No cost-sharing shall be
23 imposed for this modality;

24 (ii) Development of a comprehensive care plan negotiated by the
25 program beneficiary and his or her case manager, which meets minimum
26 standards established by the board to prevent overly subjective
27 determinations of service needs, and which is subject to an appeal
28 mechanism that provides an opportunity for informal review prior to a
29 fair hearing;

1 (iii) Initiation, coordination, and monitoring of all long-term
2 care services needed by a program beneficiary, including those services
3 not funded by the program;

4 (iv) Involvement of each program beneficiary's family and other
5 support systems; and

6 (v) Reassessment and service termination;

7 (j) Include mechanisms to ensure access to culturally and
8 linguistically appropriate services by minority and limited English
9 speaking populations.

10 (3) In contracting for regional administrative model project sites,
11 the board shall:

12 (i) Utilize competitive bidding procedures;

13 (ii) Issue planning grants and contracts to operate regional
14 administrative model projects in no more than five sites. To the
15 greatest extent possible, giving consideration to applications received
16 and an applicant's ability to comply with relevant performance
17 standards:

18 (A) Two sites shall be comprised of more than one county west of
19 the Cascade mountains;

20 (B) One site shall be comprised of a single county west of the
21 Cascade mountains;

22 (C) One site shall be comprised of more than one county east of the
23 Cascade mountains; and

24 (D) One site shall be comprised of a single county east of the
25 Cascade mountains.

26 Planning grants shall have a duration of July 1, 1992, through June
27 30, 1993. Contracts to operate regional administrative model projects
28 shall have a duration of three years, beginning on or after July 1,
29 1993;

1 (iii) To the greatest extent possible, contract for a diversity of
2 case management models. At least one of the models shall utilize a
3 case management model in which the case manager authorizes and manages
4 services within budgeted funds.

5 (iv) Include remedies in the contracts for failure to comply with
6 the terms of the contract, including intermediate remedies in addition
7 to termination of a contract."

8 "NEW SECTION. **Sec. 15.** EVALUATION OF REGIONAL ADMINISTRATIVE
9 MODEL PROJECTS. The board shall develop criteria to evaluate the
10 success and failure of the regional administrative model projects
11 established pursuant to section 14 of this act in meeting the intent
12 and purposes of this chapter. The board shall contract with an
13 independent entity to evaluate:

14 (1) The regional administrative model projects using the criteria
15 developed pursuant to this section; and

16 (2) The actions taken by the board to implement this chapter giving
17 consideration to this chapter's intent and purposes.

18 A report detailing the results of the evaluation shall be submitted
19 to the governor and appropriate committees of the legislature no later
20 than three years following initiation of the regional administrative
21 model projects."

22 "NEW SECTION. **Sec. 16.** INFORMATION SYSTEM. The board shall
23 design and administer a long-term care information system. In
24 designing the information system, the board shall pursue the following
25 objectives:

26 (1) Use of a single common identifier for each functionally
27 disabled person using long-term care services;

1 (2) Ability to track each functionally disabled person's use of
2 long-term care services;

3 (3) Protection of confidentiality for functionally disabled persons
4 using long-term care services; and

5 (4) Access to nonconfidential information relating to available
6 long-term care services, training information for caregivers, and
7 service utilization and cost data for planners and policymakers."

8 "NEW SECTION. Sec. 17. ADMINISTRATION OF LONG-TERM CARE SERVICES
9 PENDING STATE-WIDE IMPLEMENTATION OF PROGRAM. Pending merger of
10 current categorical long-term care systems into the program as provided
11 in section 13 of this act, other than in the regional administrative
12 model project sites, current long-term care services administration
13 shall continue. During this period, subject to board approval,
14 agencies administering community-based long-term care and support
15 services may make administrative changes consistent with the intent and
16 purposes of this chapter and as otherwise authorized by law."

17 "PART IV
18 FINANCING COMMUNITY-BASED
19 LONG-TERM CARE SERVICES"

20 "NEW SECTION. Sec. 18. INTENT RELATING TO FINANCING. Recognizing
21 that financial stability is essential to success of a comprehensive
22 long-term care system and that current and future demands are exceeding
23 available financial resources, a dedicated fund comprised of state
24 general funds, matching federal funds, public insurance funds, and
25 sliding fee contributions by program beneficiaries shall be
26 established. The legislature recognizes that development and
27 implementation of the program will involve significant cooperation and

1 partnership between Washington state and the federal government. It is
2 the intent of the legislature that a minimum of fifty percent of annual
3 revenues generated by public insurance on or after January 1, 1995, be
4 held in an ongoing trust account that will accrue principal and
5 interest until at least the year 2010 and then be expended only for
6 services eligible under this chapter."

7 "NEW SECTION. Sec. 19. FEDERAL/STATE RELATIONSHIP. The board
8 shall identify and request federal statutory waivers necessary to allow
9 federal funds currently used for community-based long-term care and
10 support services to be deposited into the secured benefit fund and
11 expended as provided in this chapter."

12 "NEW SECTION. Sec. 20. FINANCING. (1) The secured benefit fund
13 is created in the state treasury. All receipts from sources specified
14 in this section shall be deposited in the fund. Moneys in the fund may
15 be spent only after appropriation and may be used only for carrying out
16 the purposes of this chapter.

17 (2) The secured benefit fund shall consist of:

18 (a) The insurance contributions specified in this section and
19 payable by each employer as defined in RCW 50.04.080 and an amount
20 equivalent to the insurance contributions specified in this section
21 payable by each corporate officer, partner in a partnership, sole
22 proprietor, or individual who is an employee for whom an insurance
23 contribution is not required under Title 50 RCW or who earns self-
24 employment or partnership income which is essentially equivalent to
25 wages as defined in RCW 50.04.320. The department of revenue shall
26 provide to the employment security department such taxpayer
27 registration information as requested to assist the employment security
28 department in the identification of persons subject to this section;

1 (b) Legislative appropriations for general fund-state spending for
2 community-based long-term care and support services;

3 (c) Federal funds received by the state as payment for community-
4 based long-term care and support services, including but not limited to
5 the medicare program, Title XVIII of the federal social security act,
6 and the medicaid program, Title XIX of the federal social security act;
7 and

8 (d) Program beneficiary cost-sharing as provided in section 10 of
9 this act.

10 (3) Moneys in the secured benefit fund shall be held as follows:

11 (a) Fifty percent of the annual revenues from public insurance
12 contributions under subsection (2)(a) of this section collected for
13 calendar years beginning on or after January 1, 1995, shall be held in
14 a trust account, to be invested by the state investment board. Such
15 revenues shall remain in the trust account, until the year 2010, at
16 which time the board may transfer moneys to the current expenditure
17 account as it deems necessary; and

18 (b) All of the revenues from contributions under subsection (2)(a)
19 of this section collected for calendar years 1992, 1993, and 1994, and
20 fifty percent of the revenues from contributions under subsection
21 (2)(a) of this section collected for calendar years beginning on or
22 after January 1, 1995, and the remainder of funds deposited in the
23 fund, shall be held in a current expenditure account and a reserve
24 account to support the current expenditure account, at a level to be
25 determined by the board. Funds held in the current expenditure account
26 shall constitute the global budget for program services.

27 (4)(a) Insurance contributions under subsection (2)(a) of this
28 section shall become due and be paid under rules adopted by the
29 commissioner of the employment security department. Contributions
30 shall be collected on a semi-annual basis, with the first period

1 consisting of the six calendar months ending June 30, and the second
2 period consisting of the six calendar months ending December 31, of
3 each calendar year. Up to one-half of the contribution may be deducted
4 from the remuneration of individuals in the employ of the employer.
5 Any deduction greater than one-half from individuals is in violation of
6 this section and is unlawful, and is subject to penalty under Title 50
7 RCW for an unlawful deduction.

8 (b) For employers described in RCW 50.44.010 and 50.44.030 who have
9 properly elected to make payments in lieu of contributions, employers
10 who are required to make payments in lieu of contributions, and
11 employers paying contributions under RCW 50.44.035, the contributions
12 shall be paid according to rules adopted by the commissioner.

13 (c) The insurance contribution of each corporate officer, partner
14 in a partnership, sole proprietor, or individual who is an employee for
15 whom an insurance contribution is not required under Title 50 RCW or
16 who earns self-employment or partnership income which is essentially
17 equivalent to wages as defined in RCW 50.04.320 shall be determined
18 according to rules adopted by the commissioner of the employment
19 security department. The rules shall include provisions that require
20 contributions on remuneration that is comparable to the wages subject
21 to contributions under subsection (5) of this section.

22 (5)(a) No contribution shall be paid on wages of any individual
23 earning wages of less than one thousand five hundred dollars per
24 calendar quarter. The contribution rate applicable to wages paid shall
25 be:

26 (i) 0.10 percent for the period of January 1, 1992, through
27 December 31, 1992;

28 (ii) 0.20 percent for the period of January 1, 1993, through
29 December 31, 1993;

1 (iii) 0.30 percent for the period of January 1, 1994, through
2 December 31, 1994;

3 (iv) 0.40 percent for the period of January 1, 1995, through
4 December 31, 1995; and

5 (v) 0.50 percent for any calendar year that begins on or after
6 January 1, 1996.

7 (b) "Wages" under this subsection shall include all remuneration
8 for contribution purposes as defined under RCW 50.04.320.

9 (6) In the payment of any insurance contribution under this
10 section, a fractional part of a cent shall be disregarded unless it
11 amounts to one-half cent or more, in which case it shall be increased
12 to one cent.

13 (7) Late reports or contributions, and penalties and interest shall
14 be determined and administered as provided under Title 50 RCW. In
15 administering this section, the commissioner of the employment security
16 department shall have the same authority as is provided for
17 administering and enforcing the collection of contributions under Title
18 50 RCW."

19 "NEW SECTION. Sec. 21. PRIVATE LONG-TERM CARE INSURANCE. The
20 private long-term care insurance commission is hereby established. The
21 commission shall be composed of seven members who shall be appointed by
22 the insurance commissioner. Commission members shall be reimbursed for
23 travel expenses pursuant to RCW 43.03.050 and 43.03.060.

24 (2) The commission shall review and make recommendations regarding
25 the role of long-term care insurance in the new system. The commission
26 shall report its recommendations to the board, the insurance
27 commissioner, and appropriate committees of the legislature on or
28 before December 1, 1992."

1 administration, monitoring, data collection, and evaluation also be
2 derived from these insurance contributions. The service expansions
3 authorized by this act shall be temporary measures pending state-wide
4 implementation of the community-based long-term care secured benefit
5 program, at which time such expansions shall be incorporated, in whole
6 or in part, into the state-wide program."

7 "NEW SECTION. Sec. 24. (1) During the transitional period from
8 the effective date of this section until state-wide implementation of
9 the program, the legislature shall appropriate, and the executive shall
10 administer, all community-based long-term care funds except those
11 necessary to administer and provide services through regional
12 administrative model projects, and matching funds and program
13 beneficiary cost sharing collected through such projects.

14 (2) Regional model administrative project funds shall be
15 administered by the board. Regional model administrative projects
16 shall receive funding for the number of functionally disabled persons
17 in the county or counties served by the project in an amount equal to
18 the per capita community-based long-term care expenditures for
19 functionally disabled persons currently receiving state and federally
20 funded services, and such additional funds determined by the board to
21 be necessary for administration of the projects, including monitoring,
22 data collection, and evaluation.

23 (3) Upon completion and evaluation of the regional administrative
24 model projects and enactment of legislation establishing the state-wide
25 administrative structure of the program, all community-based long-term
26 care funds shall be deposited into the secured benefit fund pursuant to
27 section 20 of this act and administered by the board."

1 **"Sec. 25.** RCW 74.09.510 and 1989 1st ex.s. c 10 s 8 are each
2 amended to read as follows:

3 Medical assistance may be provided in accordance with eligibility
4 requirements established by the department of social and health
5 services, as defined in the social security Title XIX state plan for
6 mandatory categorically needy persons and: (1) Individuals who would
7 be eligible for cash assistance except for their institutional status;
8 (2) individuals who are under twenty-one years of age, who would be
9 eligible for aid to families with dependent children, but do not
10 qualify as dependent children and who are in (a) foster care, (b)
11 subsidized adoption, (c) an intermediate care facility or an
12 intermediate care facility for the mentally retarded, or (d) inpatient
13 psychiatric facilities; (3) the aged, blind, and disabled who: (a)
14 Receive only a state supplement, or (b) would not be eligible for cash
15 assistance if they were not institutionalized; (4) individuals who
16 would be eligible for but choose not to receive cash assistance; (5)
17 individuals who are enrolled in managed health care systems, who have
18 otherwise lost eligibility for medical assistance, but who have not
19 completed a current six-month enrollment in a managed health care
20 system, and who are eligible for federal financial participation under
21 Title XIX of the social security act; (6) children and pregnant women
22 allowed by federal statute for whom funding is appropriated; (7)
23 disabled children eighteen years of age or younger who require a level
24 of care provided in a hospital, nursing home, or intermediate care
25 facility for the mentally retarded and can be cared for in the
26 community for less than the cost of such institutional care, if such a
27 child would be eligible for medical assistance if he or she were in a
28 medical institution; and ~~((+7))~~ (8) other individuals eligible for
29 medical services under RCW 74.09.035 and 74.09.700 for whom federal

1 financial participation is available under Title XIX of the social
2 security act."

3 "Sec. 26. RCW 74.09.520 and 1990 c 33 s 594 and 1990 c 25 s 1 are
4 each reenacted and amended to read as follows:

5 (1) The term "medical assistance" may include the following care
6 and services: (a) Inpatient hospital services; (b) outpatient hospital
7 services; (c) other laboratory and x-ray services; (d) skilled nursing
8 home services; (e) physicians' services, which shall include prescribed
9 medication and instruction on birth control devices; (f) medical care,
10 or any other type of remedial care as may be established by the
11 secretary; (g) home health care services; (h) private duty nursing
12 services; (i) dental services; (j) physical therapy and related
13 services; (k) prescribed drugs, dentures, and prosthetic devices; and
14 eyeglasses prescribed by a physician skilled in diseases of the eye or
15 by an optometrist, whichever the individual may select; (l) personal
16 care services, as provided in this section; (m) hospice services; (n)
17 community-supported living arrangements for developmentally disabled
18 persons; (o) other diagnostic, screening, preventive, and
19 rehabilitative services; and ~~((+o))~~ (p) like services when furnished
20 to a handicapped child by a school district as part of an
21 individualized education program established pursuant to RCW
22 28A.155.010 through 28A.155.100. For the purposes of this section, the
23 department may not cut off any prescription medications, oxygen
24 supplies, respiratory services, or other life-sustaining medical
25 services or supplies.

26 "Medical assistance," notwithstanding any other provision of law,
27 shall not include routine foot care, or dental services delivered by
28 any health care provider, that are not mandated by Title XIX of the
29 social security act unless there is a specific appropriation for these

1 services. Services included in an individualized education program for
2 a handicapped child under RCW 28A.155.010 through 28A.155.100 shall not
3 qualify as medical assistance prior to the implementation of the
4 funding process developed under RCW 74.09.524.

5 (2) The department shall amend the state plan for medical
6 assistance under Title XIX of the federal social security act to
7 include personal care services, as defined in 42 C.F.R. 440.170(f), in
8 the categorically needy program.

9 (3) The department shall adopt, amend, or rescind such
10 administrative rules as are necessary to ensure that Title XIX personal
11 care services are provided to eligible persons in conformance with
12 federal regulations.

13 (a) These administrative rules shall include financial eligibility
14 indexed according to the requirements of the social security act
15 providing for medicaid eligibility.

16 (b) The rules shall require clients be assessed as having a medical
17 condition requiring assistance with personal care tasks. Plans of care
18 must be approved by a physician and reviewed by a nurse every ninety
19 days.

20 (4) The department shall design and implement a means to assess the
21 level of functional disability of persons eligible for personal care
22 services under this section. The personal care services benefit shall
23 be provided to the extent funding is available according to the
24 assessed level of functional disability. Any reductions in services
25 made necessary for funding reasons should be accomplished in a manner
26 that assures that priority for maintaining services is given to persons
27 with the greatest need as determined by the assessment of functional
28 disability.

29 (5) The department shall report to the appropriate fiscal
30 committees of the legislature on the utilization and associated costs

1 of the personal care option under Title XIX of the federal social
2 security act, as defined in 42 C.F.R. 440.170(f), in the categorically
3 needy program. This report shall be submitted by January 1, 1990, and
4 submitted on a yearly basis thereafter.

5 (6) Effective July 1, 1989, the department shall offer hospice
6 services in accordance with available funds. The department shall
7 provide a complete accounting of the costs of providing hospice
8 services under this section by December 20, 1990. The report shall
9 include an assessment of cost savings which may result by providing
10 hospice to persons who otherwise would use hospitals, nursing homes, or
11 more expensive care. The hospice benefit under this section shall
12 terminate on June 30, 1991, unless extended by the legislature."

13 "Sec. 27. RCW 74.09.700 and 1989 c 87 s 3 are each amended to read
14 as follows:

15 (1) To the extent of available funds, medical care may be provided
16 under the limited casualty program to persons not otherwise eligible
17 for medical assistance or medical care services who are medically needy
18 as defined in the social security Title XIX state plan and medical
19 indigents in accordance with medical eligibility requirements
20 established by the department. This includes residents of skilled
21 nursing homes, intermediate care facilities, and intermediate care
22 facilities for the mentally retarded who are aged, blind, or disabled
23 as defined in Title XVI of the federal social security act and whose
24 income exceeds three hundred percent of the federal supplement security
25 income benefit level.

26 (2) Determination of the amount, scope, and duration of medical
27 coverage under the limited casualty program shall be the responsibility
28 of the department, subject to the following:

1 (a) Only inpatient hospital services; outpatient hospital and rural
2 health clinic services; physicians' and clinic services; prescribed
3 drugs, dentures, prosthetic devices, and eyeglasses; skilled nursing
4 home services, intermediate care facility services, and intermediate
5 care facility services for the mentally retarded; home health services;
6 other laboratory and x-ray services; rehabilitative services; medically
7 necessary transportation; and other services for which funds are
8 specifically provided in the omnibus appropriations act shall be
9 covered;

10 (b) Personal care and hospice services shall be covered for persons
11 who are medically needy as defined in the social security Title XIX
12 state plan;

13 (c) Persons who are medically indigent and are not eligible for a
14 federal aid program shall satisfy a deductible of not less than one
15 hundred dollars nor more than five hundred dollars in any twelve-month
16 period;

17 ((+e)) (d) Medical care services provided to the medically
18 indigent and received no more than seven days prior to the date of
19 application shall be retroactively certified and approved for payment
20 on behalf of a person who was otherwise eligible at the time the
21 medical services were furnished: PROVIDED, That eligible persons who
22 fail to apply within the seven-day time period for medical reasons or
23 other good cause may be retroactively certified and approved for
24 payment.

25 (3) The department shall establish standards of assistance and
26 resource and income exemptions. All nonexempt income and resources of
27 limited casualty program recipients shall be applied against the cost
28 of their medical care services."

1 "NEW SECTION. **Sec. 28.** A new section is added to chapter 74.09
2 RCW to read as follows:

3 The department shall make the following changes in the community
4 options program entry system program waiver, to the extent such changes
5 are permissible under section 1915(c) of the federal social security
6 act, to increase that program's ability to meet the community-based
7 long-term care needs of functionally disabled persons who would
8 otherwise require nursing-home care:

9 (1) Cover services such as assisted living housing units, adult day
10 care, respite care, home-delivered meals, home modifications, and
11 electronic emergency response systems;

12 (2) Change the monthly service expenditure lid so that, in the
13 aggregate, the cost of services to recipients does not exceed the cost
14 of nursing-home care, rather than applying such test to each such
15 individual recipient; and

16 (3) Provide that the personal maintenance costs that are covered
17 with a recipient's own income are no longer counted against the monthly
18 service expenditure lid on the cost of their care plan."

19 "NEW SECTION. **Sec. 29.** A new section is added to chapter 71A.12
20 RCW to read as follows:

21 For each developmentally disabled person who is moved from a
22 residential habilitation center into the community, a biennial amount
23 adjusted for inflation equivalent to the amount of state funds that
24 would have been spent to care for that individual in the residential
25 habilitation center shall be deposited into the secured benefit fund
26 established pursuant to section 20 of this act, to finance long-term
27 care services in the community where the individual resides."

1 "NEW SECTION. **Sec. 30.** A new section is added to chapter 74.09
2 RCW to read as follows:

3 The department shall make every practicable effort to develop, in
4 cooperation with one or more health maintenance organizations
5 registered pursuant to chapter 48.46 RCW, a request for a demonstration
6 waiver under the federal social security act to establish a social
7 health maintenance organization."

8 "NEW SECTION. **Sec. 31.** SEVERABILITY. If any provision of this
9 act or its application to any person or circumstance is held invalid,
10 the remainder of the act or the application of the provision to other
11 persons or circumstances is not affected."

12 "NEW SECTION. **Sec. 32.** EFFECTIVE DATE. (1) Sections 1 through
13 22, 24, and 31 of this act are necessary for the immediate preservation
14 of the public peace, health, or safety, or support of the state
15 government and its existing public institutions, and shall take effect
16 July 1, 1991.

17 (2) Sections 23, 25 through 30, and 36 of this act shall take
18 effect July 1, 1992."

19 "NEW SECTION. **Sec. 33.** Part and section headings as used in
20 this act do not constitute any part of the law."

21 "NEW SECTION. **Sec. 34.** Sections 1 through 22, 24, and 31 of
22 this act shall constitute a new chapter in Title 70 RCW."

23 "NEW SECTION. **Sec. 35.** The sum of dollars (the
24 essential requirements level of state funding), or as much thereof as
25 may be necessary, is appropriated for the biennium ending June 30,

1 1993, from the general fund to the community-based long-term care
2 secured benefit program board for the purposes of sections 1 through 22
3 and 24 of this act."

4 "NEW SECTION. Sec. 36. The sum of dollars, or as much
5 thereof as may be available in the secured benefit fund from public
6 contributions deposited pursuant to section 20 of this act for the
7 period of January 1, 1992, through June 30, 1993, after deducting
8 planning grants for regional administrative model projects pursuant to
9 section 14 of this act, is appropriated for the period beginning July
10 1, 1992, and ending June 30, 1993, from the secured benefit fund to the
11 department of social and health services, to carry out sections 23 and
12 25 through 30 of this act.

13 (1) Of this amount, dollars is provided solely for the
14 medicaid expansions provided in sections 25 through 28 of this act.

15 (2) Remaining funds shall be appropriated for community-based long-
16 term care and support services as determined in the biennial operating
17 budget."

18 **SHB 1569** - H COMM AMD
19 By Committee on Revenue

20

21 On page 1, line 3 of the title, after "persons;" strike the
22 remainder of the title and insert "amending RCW 74.09.510 and
23 74.09.700; reenacting and amending RCW 74.09.520; adding a new chapter
24 to Title 70 RCW; adding new sections to chapter 74.09 RCW; adding a new
25 section to chapter 71A.12 RCW; creating new sections; prescribing
26 penalties; making appropriations; providing effective dates; and
27 declaring an emergency."