

HOUSE BILL REPORT

EHB 2965

As Passed Legislature

Title: An act relating to the state's response to the novel coronavirus.

Brief Description: Concerning the state's response to the novel coronavirus.

Sponsors: Representatives Cody, Schmick, Riccelli, Bergquist, Callan, Dufault, Hudgins, Leavitt, Shewmake, Tharinger, Maycumber, Ramos, Ortiz-Self and Stonier.

Brief History:

Committee Activity:

None.

Floor Activity:

Passed House: 3/3/20, 96-0.

Senate Amended.

Passed Senate: 3/4/20, 47-0.

House Refused to Concur.

Senate Receded.

Senate Amended.

Passed Senate: 3/12/20, 48-0.

House Concurred.

Passed House: 3/12/20, 96-0.

Passed Legislature.

Brief Summary of Engrossed Bill

- Appropriates \$175 million from the Budget Stabilization Account, via the Disaster Response Account, and \$25 million of federal general funds to be allotted to state agencies and distributed to local governments and federally recognized tribes for response to the Coronavirus Disease 2019 (COVID-19).
- Authorizes the State Board of Education to establish an emergency waiver program to grant local education agencies and private schools flexibility from graduation requirements due to the COVID-19 outbreak.
- Authorizes the Department of Social and Health Services to determine nursing facility payments to adequately resource facilities responding to the COVID-19 outbreak.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Establishes the COVID-19 Unemployment Account to cover the unemployment benefit charges of employers who have employees receiving unemployment insurance benefits as a direct or indirect result of the COVID-19 outbreak.

Staff: Chris Blake (786-7392).

Background:

Budget Stabilization Account.

In 2007 the voters ratified a constitutional amendment that created the Budget Stabilization Account (BSA) as Article VII, section 12 of the Washington Constitution. Each year, the State Treasurer must deposit 1 percent of general state revenues into the constitutionally created BSA. The term "general state revenues" is defined in the Washington Constitution and is generally synonymous with the statutory State General Fund.

In general, appropriations from the BSA require a three-fifths majority in each house of the Legislature, but in the case of low employment growth or a state of emergency resulting from a catastrophic event, the Legislature may appropriate from the BSA with a constitutional majority vote of each chamber.

Disaster Response Account.

The Disaster Response Account (DRA) is a dedicated account in the State Treasury. Money may be placed in the DRA from legislative appropriations and transfers, federal appropriations, and other lawful sources. Expenditures from the DRA are used to support state agency and local government disaster response and recovery efforts.

Legislative Balanced Budget Requirement.

Legislation enacted in 2012 established requirements for the Legislature to pass a state operating budget that is balanced over a four-year period comprising the current biennium and the next ensuing biennium. The legislative balanced budget requirement applies to revenues and expenditures from the General Fund and related funds. "Related funds" are defined as the Washington Opportunity Pathways Account and the Education Legacy Trust Account. The legislative balanced budget requirement does not apply to any bill that makes net reductions in the General Fund and related funds and is enacted between July 1 and February 15 of any year. In addition, the requirement to balance in the ensuing biennium does not apply in any fiscal biennium in which money is appropriated from the BSA.

Coronavirus Disease 2019.

Coronavirus Disease 2019 (COVID-19) is a respiratory illness that can be transmitted from person-to-person. Reported cases have resulted in mild to severe illness as well as death. Symptoms, such as fever, cough, shortness of breath, may appear two to 14 days after exposure. There is no vaccine or treatment for COVID-19, but medical care can relieve the symptoms.

On January 30, 2020, the World Health Organization declared the recent outbreak of COVID-19 to be a public health emergency of international concern. On January 31, 2020,

the federal Department of Health and Human Services declared a public health emergency for the United States. On February 29, 2020, the Governor issued a proclamation to declare a state of emergency in all counties of Washington and directed state agencies to take all reasonable measures to assist affected local governments to respond to and recover from the COVID-19 outbreak.

Nursing Facility Rate Methodology.

Medicaid rates paid to nursing facilities are unique to each facility and reflect each facility's mix of Medicaid payors and resident acuity levels.

The nursing facility payment rate system consists of three primary components: direct care, indirect care, and capital. The direct care component represents nursing and related care provided to residents, including food, laundry, and dietary services. The indirect care rate component includes administrative expenses, maintenance costs, tax reimbursements, and housekeeping services. Rates are based on cost reports submitted by nursing facilities to the Department of Social and Health Services (Department) at the end of each calendar year.

The direct and indirect care rate components are rebased in odd-numbered state fiscal years using cost reports submitted by nursing facilities over the previous two calendar years.

The statewide weighted average daily rate is identified in the operating budget and is also known as the "budget dial." The Department is authorized to reduce rates proportionally to all nursing facilities if the budget dial is exceeded in a fiscal year.

Unemployment Compensation.

The unemployment compensation system provides partial wage replacement benefits for workers who are unemployed through no fault of their own. Eligible unemployed workers receive benefits based on their earnings in their base year. An unemployed person is eligible for benefits if the person: has registered for work at an employment office; is able and available to accept any work offered in any position for which the person is reasonably fitted; participates in reemployment services, if referred; and has been unemployed for a waiting period of one week. Most covered employers pay contributions through payroll taxes to finance unemployment compensation benefits. The tax rate for these employers is experience rated so the rate is determined, in part, by the benefits paid to its employees. The Employment Security Department administers this system.

Graduation Requirements.

The State Board of Education is required under state law to establish high school graduation requirements. Beginning with the class of 2019, graduation requirements will include a 24-credit framework. Of the 24 credits, 17 of the credits are mandatory core credits. Of the remaining seven flexible credits, two may be waived for students with unusual circumstances, as defined by local policies.

Summary of Engrossed Bill:

The sum of \$175 million is appropriated from the Budget Stabilization Account (BSA) to the Disaster Response Account. In turn, \$175 million from the Disaster Response Account and \$25 million of general federal funds are appropriated to the Office of Financial Management

(OFM) for allotment to state agencies and distribution to local governments and federally recognized tribes for response to the Coronavirus Disease 2019 (COVID-19) outbreak pursuant the Governor's declaration of emergency on February 29, 2020. The appropriation does not alter requirements to balance the budget. The OFM must provide monthly updates to the fiscal committees of the Legislature on spending from the appropriation using appropriation and expenditure codes unique to COVID-19 response spending. The funding may not supplant existing federal, state, tribal, and local funds for services and activities to assist in the response to COVID-19. State agencies and local governments must maximize federal funds for COVID-19 response and recovery before seeking funds from the state appropriation and must remit to the State Treasurer any federal payments received after having spent state funds. By July 1, 2021, the OFM must certify to the State Treasurer that amount of unobligated funds related to the appropriation and the State Treasurer must transfer the money back to the Budget Stabilization Account.

The Department of Social and Health Services (Department) may determine nursing facility payments to adequately resource facilities that are responding to the COVID-19 outbreak. The Medicaid payments must be determined by the Department, as appropriate to respond to this state of emergency, and are exempt from the state's Medicaid methodology. Such nursing facility payments may not be included in the calculation of the annual statewide weighted average nursing facility payment rate. The additional payment authority expires June 30, 2021.

Persons who are under quarantine or isolation as directed by a public health official during the COVID-19 outbreak are exempt from the requirement that an unemployed person must be able to work and available to work in order to receive waiting period credits for unemployment insurance. The exemption applies through June 30, 2021.

The COVID-19 Unemployment Account is created as a non-appropriated account. The sum of \$25 million is appropriated from the BSA to the COVID-19 Unemployment Account. Employers who have employees receiving unemployment insurance benefits as a direct or indirect result of the COVID-19 outbreak may apply by September 30, 2020, for the COVID-19 Unemployment Account to cover the unemployment benefit charges of the employer. Federal funds for COVID-19 that may be used for this purpose must be used before moneys in the COVID-19 Unemployment Account.

The State Board of Education may establish an emergency waiver program to grant local education agencies and private schools flexibility from graduation requirements due to the COVID-19 outbreak. The emergency waiver program applies to students in the 2020 graduating class and earlier who were on track to graduate before the Governor's declaration of emergency on February 29, 2020 so that they are not negatively impacted by measures taken in response to COVID-19. The State Board of Education may adopt rules to allow school districts, charter schools, and tribal compact schools to waive provisions for students who cannot meet the statewide minimum credit and subject area graduation requirements due to COVID-19. The emergency waiver program expires July 31, 2020.

Appropriation: The sum of \$175 million from the Budget Stabilization Account is appropriated into the Disaster Response Account for spending by Office of Financial Management (OFM) to address the Coronavirus Disease 2019 (COVID-19) outbreak. The sum of \$25 million of federal general funds is appropriated to OFM for spending to address the COVID-19 outbreak. The sum of \$25 million from the Budget Stabilization Account is appropriated to the COVID-19 Unemployment Account for the Employment Security Department to provide approved employers with unemployment benefit charging relief.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.