

# HOUSE BILL REPORT

## EHB 2965

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### As Amended by the Senate

**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.

#### Brief Summary of Engrossed Bill

- Appropriates \$100 million from the Budget Stabilization Account, via the Disaster Response Account, 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 Department of Social and Health Services to determine nursing facility payments to adequately resource facilities responding to 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

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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 2 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 for the period two calendar years previous.

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.

### **Summary of Engrossed Bill:**

The sum of \$100 million is appropriated from the Budget Stabilization Account to the Disaster Response Account. In turn, \$100 million is appropriated from the Disaster Response Account 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. The funding may not supplant existing federal, state, or 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 a state of emergency declared by the Governor, including the COVID-19 outbreak. The Medicaid payments must be determined by the Department, as appropriate to respond to the 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.

### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendments appropriate the sum of \$25 million General Fund-Federal to the Office of Financial Management for response to the Coronavirus Disease 2019 (COVID-19) outbreak. Federally recognized tribes are added to the non-supplant and federal reimbursement requirements. A severability clause is added with respect to any part of the bill that conflicts with federal requirements for the allocation of federal funds or receipt of federal tax credits.

The Senate amendments limit the authority of the Department of Social and Health Services to determine nursing facility payment rates for facilities responding to a state of emergency to only the COVID-19 outbreak, rather than any Governor-declared state of emergency. The authority expires on June 30, 2021.

The Senate amendments establish an exemption 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, to persons who are under quarantine or isolation as directed by a public health official during the COVID-19 outbreak.

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**Appropriation:** The sum of \$100 million.

**Fiscal Note:** Not requested.

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