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**HOUSE BILL 1201**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Riccelli, Macri, Bateman, Sullivan, Kloba, Simmons, Cody, Ramel, Ortiz-Self, Bergquist, Tharinger, Fey, Pollet, and Harris-Talley; by request of Office of the Governor

Read first time 01/14/21. Referred to Committee on Finance.

1 AN ACT Relating to funding foundational public health services;  
2 amending RCW 48.14.060, 70.290.060, and 82.25.015; adding new  
3 sections to chapter 48.02 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) A strong public health system improves the health and well-  
7 being of all state residents. Prevention of chronic diseases and  
8 illness and health promotion activities benefit all state residents  
9 and communities, including residents receiving medicaid.

10 (2) COVID-19 has dramatically exposed the vulnerabilities and  
11 limitations of the public health system. The shortcomings of the  
12 system are front and center during the pandemic response.  
13 Additionally, the lack of a national pandemic strategy has  
14 significantly burdened state and local health departments and further  
15 strained the system. As the worst of COVID-19 comes to an end in the  
16 coming year, there is a need to address the chronically underfunded  
17 public health system.

18 (3) Health status is impacted both by social determinants of  
19 health and untreated or inadequately treated health conditions.  
20 Consequently, it is vital that public and private sectors work to  
21 enhance public health capabilities and capacity.

1 (4) Medicaid treats patients who generally have poorer health  
2 outcomes than the overall population, and adults with medicaid  
3 coverage are more likely to have chronic conditions. Therefore,  
4 public health investments will benefit medicaid enrollees with  
5 improving their overall health and well-being. Additionally, there  
6 are over 800,000 children enrolled in medicaid who benefit from the  
7 strong vaccination programs that public health provides.

8 (5) With any state funding of foundational public health  
9 services, the state expects that measurable benefits will be realized  
10 to the health of communities in Washington as a result of the  
11 improved capacity of the governmental public health system.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.02  
13 RCW to read as follows:

14 (1) Beginning March 1, 2022, and annually thereafter, each health  
15 carrier, medicaid managed care organization, and third-party  
16 administrator must file with the commissioner a statement of covered  
17 lives using the form or forms prescribed and furnished by the  
18 commissioner.

19 (2) For fiscal year 2023, the commissioner shall assess health  
20 carriers, medicaid managed care organizations, and third-party  
21 administrators for a per member per month assessment of \$3.25.

22 (3) The covered lives assessment will be \$143,000,000 for fiscal  
23 year 2024 and \$200,000,000 for fiscal year 2025 and each fiscal year  
24 thereafter. Based on the number of covered lives reported, all health  
25 carriers, medicaid managed care organizations, and third-party  
26 administrators must pay a pro rata share of the total assessment.

27 (4) The covered lives assessment collected from each health  
28 carrier, medicaid managed care organization, and third-party  
29 administrator is that proportion of the total assessment amount for  
30 the ensuing fiscal year that is represented by the health carrier's,  
31 medicaid managed care organization's, or third-party administrator's  
32 proportion of covered lives in this state during the previous fiscal  
33 year.

34 (5) The commissioner must annually, on or before July 1st,  
35 calculate and bill each health carrier, medicaid managed care  
36 organization, and third-party administrator for the amount of the  
37 covered lives assessment. The assessment is due and payable by July  
38 15th of each year. However, if the necessary financial records are  
39 not available in time to carry out such calculations and bill such

1 assessments within the time specified, the commissioner may use the  
2 assessment factors from the prior year as the basis for the  
3 assessment and, if necessary, the commissioner may impose  
4 supplemental assessments to fully and properly charge the health  
5 carriers, medicaid managed care organizations, and third-party  
6 administrators. Any health carrier, medicaid managed care  
7 organization, or third-party administrator failing to pay the  
8 assessment by July 31st must pay the same penalties as the penalties  
9 for failure to pay taxes when due under RCW 48.14.060. The assessment  
10 required by this section is in addition to all other taxes and fees  
11 now imposed or that may be subsequently imposed.

12 (6) Assessments and penalties collected under this section must  
13 be deposited in the foundational public health services account and  
14 spent according to RCW 43.70.515.

15 (7) A health carrier, medicaid managed care organization, or  
16 third-party administrator is not subject to an assessment under this  
17 section if it has 50 or fewer covered lives in Washington.

18 (8) If an assessment against a health carrier, medicaid managed  
19 care organization, or third-party administrator is prohibited by  
20 court order, the assessment for the remaining health carriers,  
21 medicaid managed care organizations, and third-party administrators  
22 may be adjusted in a manner consistent with subsection (4) of this  
23 section to ensure that the net assessment amount calculated in  
24 subsection (3) of this section will be collected.

25 (9) The definitions in this subsection apply throughout this  
26 section unless the context clearly requires otherwise.

27 (a) "Covered lives" means all persons residing in Washington  
28 state who are:

29 (i) Covered under an individual or group health plan or an  
30 individual or group limited health care service plan offered by a  
31 limited health care service contractor in accordance with RCW  
32 48.44.035 that is issued or delivered in Washington state or an  
33 individual or group health plan that otherwise provides health  
34 benefits to Washington residents;

35 (ii) Covered under a self-funded multiple employer welfare  
36 arrangement as defined in RCW 48.125.010; or

37 (iii) Enrolled in a group health plan administered by a third-  
38 party administrator.

39 (b) "Covered lives assessment" means the fees imposed by this  
40 section.

1 (c) "Health carrier" means every health care service contractor,  
2 as defined in RCW 48.44.010, every health maintenance organization,  
3 as defined in RCW 48.46.020, or self-funded multiple employer welfare  
4 arrangement, as defined in RCW 48.125.010, registered to do business  
5 in this state.

6 (d) "Health plan" has the same meaning as defined in RCW  
7 48.43.005.

8 (e) "Medicaid managed care organization" means a managed health  
9 care system under contract with the state of Washington to provide  
10 services to medicaid enrollees under RCW 74.09.522.

11 (f) "Third-party administrator" means any person or entity who,  
12 on behalf of an employer, an affiliated employer under common  
13 management and control, a multiple employer welfare arrangement, a  
14 Taft-Hartley benefit trust, or other health care purchaser, receives  
15 or collects charges, contributions, or premiums for, or adjusts or  
16 settles health services claims on or for, residents of Washington  
17 state. Third-party administrator does not include health care benefit  
18 managers as defined in RCW 48.200.020. An administrator who is  
19 contracted with the state of Washington to administer a self-funded  
20 health benefits plan under chapter 41.05 RCW is a third-party  
21 administrator for purposes of this act.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.02  
23 RCW to read as follows:

24 (1) Every third-party administrator must register with the  
25 commissioner by December 31, 2021, and must annually renew their  
26 registration. Third-party administrators that begin administering  
27 health benefits in Washington state on or after December 31, 2021,  
28 must register with the commissioner within 30 days of when they begin  
29 administering such benefits and must annually renew their  
30 registration. Registrants shall report a change of legal name,  
31 business name, business address, or business telephone number to the  
32 commissioner within 10 days after the change.

33 (2) The commissioner shall define the data elements and  
34 procedures necessary to implement this section. To minimize  
35 administrative burdens on third-party administrators, in developing  
36 the data elements and procedures for registration and renewal, the  
37 commissioner may adopt the data elements and procedures adopted by  
38 the Washington vaccine association under RCW 70.290.075.

1 (3) Subject to chapter 48.04 RCW, if the commissioner finds that  
2 a third-party administrator has failed to register or to renew their  
3 registration, or has provided incorrect, misleading, incomplete, or  
4 materially untrue information to the commissioner, the commissioner  
5 may fine the third-party administrator up to \$5,000 per violation and  
6 issue an order requiring the third-party administrator to remedy the  
7 violation of this section.

8 (4) "Third-party administrator" has the same meaning provided in  
9 section 2 of this act.

10 **Sec. 4.** RCW 48.14.060 and 2003 c 341 s 1 are each amended to  
11 read as follows:

12 (1) Any insurer or taxpayer, as defined in RCW 48.14.0201,  
13 failing to file its tax statement and to pay the specified tax or  
14 prepayment of tax on premiums and prepayments for health care  
15 services by the last day of the month in which the tax becomes due  
16 shall be assessed a penalty of five percent of the amount of the tax;  
17 and if the tax is not paid within forty-five days after the due date,  
18 the insurer will be assessed a total penalty of ten percent of the  
19 amount of the tax; and if the tax is not paid within sixty days of  
20 the due date, the insurer will be assessed a total penalty of twenty  
21 percent of the amount of the tax. The tax may be collected by  
22 distraint, and the penalty recovered by any action instituted by the  
23 commissioner in any court of competent jurisdiction. The amount of  
24 any penalty collected must be paid to the state treasurer and  
25 credited to the general fund.

26 (2) In addition to the penalties set forth in subsection (1) of  
27 this section, interest will accrue on the amount of the unpaid tax or  
28 prepayment at the maximum legal rate of interest permitted under RCW  
29 19.52.020 commencing sixty-one days after the tax is due until paid.  
30 This interest will not accrue on taxes imposed under RCW 48.15.120.

31 (3) The commissioner may revoke the certificate of authority or  
32 registration of any delinquent insurer or taxpayer, and the  
33 certificate of authority or registration will not be reissued until  
34 all taxes, prepayments of tax, interest, and penalties have been  
35 fully paid and the insurer or taxpayer has otherwise qualified for  
36 the certificate of authority or registration.

37 (4) Any health carrier, medicaid managed care organization, or  
38 third-party administrator who fails to pay the assessment under

1 section 2 of this act is subject to the penalties provided under  
2 subsection (1) and (2) of this section.

3 **Sec. 5.** RCW 70.290.060 and 2020 c 291 s 8 are each amended to  
4 read as follows:

5 In addition to the duties and powers enumerated elsewhere in this  
6 chapter:

7 (1) The association may, pursuant to either vote of its board of  
8 directors or request of the secretary, audit compliance with  
9 reporting obligations established under the association's plan of  
10 operation. Upon failure of any entity that has been audited to  
11 reimburse the costs of such audit as certified by vote of the  
12 association's board of directors within forty-five days of notice of  
13 such vote, the secretary shall assess a civil penalty of one hundred  
14 fifty percent of the amount of such costs.

15 (2) The association may establish an interest charge for late  
16 payment of any assessment under this chapter. The secretary shall  
17 assess a civil penalty against any health carrier or third-party  
18 administrator that fails to pay an assessment within three months of  
19 notification under RCW 70.290.030. The civil penalty under this  
20 subsection is one hundred fifty percent of such assessment.

21 (3) The secretary and the association are authorized to file  
22 liens and seek judgment to recover amounts in arrears and civil  
23 penalties, and recover reasonable collection costs, including  
24 reasonable attorneys' fees and costs. Civil penalties so levied must  
25 be deposited in the universal vaccine purchase account created in RCW  
26 43.70.720.

27 (4) The secretary may adopt rules under chapter 34.05 RCW as  
28 necessary to carry out the purposes of this section.

29 (5) Upon request of the health care authority, the secretary and  
30 the association must provide the health care authority with any  
31 available information maintained by the association needed to  
32 calculate the proportional share of program costs under RCW  
33 71.24.064.

34 (6) Upon request of the insurance commissioner, the secretary and  
35 the association must provide the insurance commissioner with any  
36 available information maintained by the association needed to  
37 initiate third-party administrator registration under section 3 of  
38 this act.

1       **Sec. 6.** RCW 82.25.015 and 2019 c 445 s 103 are each amended to  
2 read as follows:

3       The foundational public health services account is created in the  
4 state treasury. Half of all of the moneys collected from the tax  
5 imposed on vapor products under RCW (~~66.44.010~~) 82.25.010 must be  
6 deposited into the account. Moneys in the account may be spent only  
7 after appropriation. Moneys in the account collected from the tax  
8 imposed on vapor products under RCW 82.25.010 are to be used for the  
9 following purposes:

10       (1) To fund foundational health services. In the 2019-2021  
11 biennium, at least twelve million dollars of the funds deposited into  
12 the account must be appropriated for this purpose. Beginning in the  
13 2021-2023 biennium, fifty percent of the funds deposited into the  
14 account, but not less than twelve million dollars each biennium, are  
15 to be used for this purpose;

16       (2) To fund tobacco, vapor product, and nicotine control and  
17 prevention, and other substance use prevention and education.  
18 Beginning in the 2021-2023 biennium, seventeen percent of the funds  
19 deposited into the account are to be used for this purpose;

20       (3) To support increased access and training of public health  
21 professionals at public health programs at accredited public  
22 institutions of higher education in Washington. Beginning in the  
23 2021-2023 biennium, five percent of the funds deposited into the  
24 account are to be used for this purpose;

25       (4) To fund enforcement by the state liquor and cannabis board of  
26 the provisions of this chapter to prevent sales of vapor products to  
27 minors and related provisions for control of marketing and product  
28 safety, provided that no more than eight percent of the funds  
29 deposited into the account may be appropriated for these enforcement  
30 purposes.

31       NEW SECTION.       **Sec. 7.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the  
33 remainder of the act or the application of the provision to other  
34 persons or circumstances is not affected.

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