

# SENATE BILL REPORT

## EHB 2965

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As Passed Senate - Amended, March 12, 2020

**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:** Passed House: 3/03/20, 96-0; 3/12/20, 96-0.

**Committee Activity:**

**Floor Activity:**

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

### Brief Summary of Amended Bill

- Appropriates \$175 million from the Budget Stabilization Account to the Disaster Response Account.
- Appropriates \$175 million from the Disaster Response Account and \$25 million from the General Fund-Federal for the Office of Financial Management to provide to state agencies and distribute to local governments and federally recognized tribes for response to the Coronavirus Disease 2019 (COVID-19).
- Authorizes, until June 30, 2021, the Department of Social and Health Services to determine nursing facility payments to adequately resource facilities responding to the COVID-19 outbreak.
- Provides that until June 30, 2021, an individual under quarantine or isolation during the novel coronavirus outbreak does not need to meet the requirement to be able and available to work in order to be eligible to receive unemployment insurance benefits.
- Appropriates \$25 million from the Budget Stabilization Account to the newly created COVID-19 unemployment account.
- Allows employers who have employees receiving unemployment insurance benefits as a direct or indirect result of the COVID-19 outbreak to apply by September 30, 2020, for the COVID-19 unemployment account to cover the unemployment benefit charges of the employer.

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- Reduces relief proportionally among all approved employers if \$25 million is insufficient to provide 100 percent relief.
- Authorizes the State Board of Education to establish an emergency waiver program to grant schools flexibility from graduation requirements due to the novel coronavirus outbreak.

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**Background:** Budget Stabilization Account. In 2007, the voters ratified a constitutional amendment that created the Budget Stabilization Account (BSA). 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 constitution and is largely equivalent to the statutory state general fund. Appropriations from the BSA require a three-fifths majority in each chamber of the Legislature, but in the case of a catastrophic event or low employment growth, the Legislature may appropriate from the BSA with a constitutional majority vote of each chamber.

Disaster Response Account. The Disaster Response Account (DRA) is an 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. 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. 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, and shortness of breath, may appear 2 to 14 days after exposure. There is currently 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 (DSHS) 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. DSHS 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 (ESD) administers this system.

Graduation Requirements. The State Board of Education (SBE) 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 Amended Bill:** The sum of \$175 million is appropriated from the Budget Stabilization Account to the Disaster Response Account. The Office of Financial Management (OFM) is appropriated \$175 million from the Disaster Response Account and \$25 million from the General Fund-Federal for allotment to state agencies and distribution to local governments and federally recognized tribes for response to the COVID-19 outbreak pursuant the Governor's declaration of emergency on February 29, 2020. The appropriation does not alter requirements to balance the budget.

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, federally recognized tribes, 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, OFM must certify to the state treasurer the amount of unobligated funds related to the appropriation and the state treasurer must transfer the money back to the Budget Stabilization Account. OFM must create unique appropriation and expenditure codes in the statewide accounting system for COVID-19 spending that state agencies and higher education institutions must use to track spending from the Disaster Response Account and for other unanticipated spending using funding from the operating budget.

Until June 30, 2021, DSHS may determine nursing facility payments to adequately resource facilities responding to a state of emergency declared by the Governor for the COVID-19 outbreak. The Medicaid payments must be determined by DSHS, 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.

Until June 30, 2021, an individual under quarantine or isolation during the novel coronavirus outbreak does not need to meet the requirement to be able and available to work in order to be eligible to receive unemployment insurance benefits.

Twenty-five million of the Budget Stabilization Account is appropriated into the newly created COVID-19 unemployment account, a non-appropriated fund. Employers who have employees receiving unemployment insurance benefits as a direct or indirect result of the COVID-19 outbreak are allowed to apply to ESD by September 30, 2020, for the COVID-19 unemployment account to cover the unemployment benefit charges of the employer. If the \$25 million is not enough to provide 100 percent relief, the amount of relief will be reduced proportionally among all approved employers. ESD is required to use federal funds for the same purpose first and to reimburse the Budget Stabilization Account, if necessary, for any federal funding or relief. Any unobligated funds in the account on July 1, 2021, must be transferred back to the Budget Stabilization Account.

The State Board of Education is authorized to establish an emergency waiver program to grant local education agencies and private schools flexibility from graduation requirements due to the novel coronavirus outbreak, and to adopt rules to waive provisions for private schools due to the novel coronavirus. The authorization for the emergency waiver program expires July 31, 2020.

**Appropriation:** One hundred seventy-five million from the Budget Stabilization Account is appropriated into the Disaster Response Account for spending by OFM to address the novel coronavirus outbreak. Twenty-five million from the Budget Stabilization Account is appropriated to the COVID-19 Unemployment Account for ESD to provide approved employers with unemployment benefit charging relief.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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