
HOUSE BILL 2361

State of Washington

56th Legislature

2000 Regular Session

By Representatives Cody, Kastama, Edwards, Edmonds, Conway, Kagi, Schual-Berke, Rockefeller, Tokuda, Murray, Wolfe, Ogden, Morris, Ruderman, Stensen, Hurst, Lovick, Voloria, Poulsen, Wood, Kessler, Regala, Linville, Cooper, Scott, Anderson and Santos

Read first time 01/11/2000. Referred to Committee on Health Care.

1 AN ACT Relating to reducing the cost of prescription drugs to
2 qualifying residents of the state; reenacting and amending RCW
3 43.84.092, 43.84.092, and 43.84.092; adding new sections to chapter
4 74.09 RCW; providing effective dates; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 74.09 RCW
7 to read as follows:

8 (1) The department shall conduct the Washington low-cost
9 prescription drug program. The intent of the program is to provide
10 low-cost prescription drugs to qualifying residents of the state.

11 (2) The definitions in this subsection apply throughout this
12 section unless the context clearly requires otherwise.

13 (a) "Program" means the Washington low-cost prescription drug
14 program, as created in this section.

15 (b) "Resident" means a legal resident of the state who is over
16 fifty-five years old or disabled, and whose annual income is no greater
17 than two hundred percent of the federal poverty level, as determined
18 annually by the United States department of health and human services.

1 (c) "Retail pharmacy" means a retail pharmacy located in the state,
2 or another business licensed to dispense prescription drugs in the
3 state, that voluntarily elects to participate in the program and that
4 provides discounts to residents as provided in subsection (5) of this
5 section.

6 (3) A drug manufacturer that sells prescription drugs in the state
7 may voluntarily elect to enter into a rebate agreement with the
8 department. The agreement must be modeled after section 1927 of the
9 United States social security act and must include the requirement that
10 the manufacturer make rebate payments to the state each calendar
11 quarter or according to a schedule established by the department.

12 (4) The rebate amount required from a manufacturer to the state is
13 equivalent to the rebate amount calculated under the medicaid rebate
14 program pursuant to 42 U.S.C. Sec. 1396r-8.

15 (5) A retail pharmacy that sells drugs covered by an agreement
16 under subsection (3) of this section shall discount the retail price of
17 those drugs sold to a resident. The department shall adopt rules to
18 establish discounts for covered drugs and rules that promote the use of
19 efficacious and lower-cost drugs. The amount of the discount for
20 covered drugs must be determined by considering an average of all
21 rebates provided under subsection (4) of this section, weighted by
22 sales of drugs subject to these rebates over the most recent twelve-
23 month period for which the information is available. The total
24 aggregate discount amount for all covered drugs must be equivalent to
25 the total aggregate rebate amount for all covered drugs sold, less the
26 administrative costs of the program under subsection (8) of this
27 section.

28 (6) Retail pharmacies shall submit claims to the department to
29 verify the amount of discount due the resident. The department may not
30 impose charges on retail pharmacies that submit claims or receive
31 payments under the program. The retail pharmacies shall charge
32 residents the current retail price charged by each retail pharmacy for
33 that prescription drug to persons purchasing that drug who are not
34 covered by insurance or third-party payor plans, less the discount
35 amount, under subsection (5) of this section. The amount of the
36 discount must be indicated on the resident's receipt. On a weekly or
37 biweekly basis, the retail pharmacy must be reimbursed by the
38 department for drug discounts provided to residents. The department
39 shall collect the necessary utilization data from the retail pharmacies

1 submitting claims in order to comply with U.S.C. Sec. 1396r-8. The
2 department shall protect the confidentiality of all information as
3 required by state and federal laws, rules, or regulations.

4 (7) Discrepancies in rebate amounts must be resolved using the
5 process established in this subsection.

6 (a) If there is a discrepancy in the manufacturer's favor between
7 the amount claimed by a pharmacy and the amount rebated by the
8 manufacturer, the department, at the department's expense, may hire a
9 mutually agreed-upon independent auditor. Following the audit, if a
10 discrepancy still exists, the manufacturer shall justify the reason for
11 the discrepancy or make payment to the department for any additional
12 amount due.

13 (b) If there is a discrepancy against the interest of the
14 manufacturer in the information provided by the department to the
15 manufacturer regarding the manufacturer's rebate, the manufacturer, at
16 the manufacturer's expense, may hire a mutually agreed-upon independent
17 auditor to verify the accuracy of the data supplied to the department.
18 Following the audit, if a discrepancy still exists, the department
19 shall justify the reason for the discrepancy or refund to the
20 manufacturer any excess payment made by the manufacturer.

21 (c) Following the procedures established in (a) or (b) of this
22 subsection, either the department or the manufacturer may request a
23 hearing under chapter 34.05 RCW. Supporting documentation must
24 accompany the request for a hearing.

25 (8) Administrative and computer costs for the program must be
26 funded solely from the rebates received from the pharmaceutical
27 manufacturers.

28 (9) The obligation of retail pharmacies to discount drugs to
29 qualifying residents begins three months after the drug manufacturer
30 begins to pay the rebate to the department.

31 (10) The department shall report on the status of the program to
32 the legislature annually. The report must include information on
33 changes in third-party prescription drug coverage and the financial
34 status of the program.

35 (11) The department shall adopt rules to implement this section.

36 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW
37 to read as follows:

1 The prescription drug dedicated account is created in the custody
2 of the state treasurer. All receipts from revenues received from
3 rebates paid by pharmaceutical manufacturers under section 1 of this
4 act must be deposited into the account. Expenditures from the account
5 may be used only for the reimbursement of retail pharmacies for
6 discounts provided to residents under the plan created in section 1 of
7 this act and to reimburse the department for administrative expenses
8 and associated computer costs incurred by the plan created under
9 section 1 of this act. Only the secretary of the department or the
10 secretary's designee may authorize expenditures from the account.
11 Surplus moneys in the account must be used to increase the amount of
12 discounts given to residents under the program created in section 1 of
13 this act. The account is subject to allotment procedures under chapter
14 43.88 RCW, but an appropriation is not required for expenditures.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09 RCW
16 to read as follows:

17 The department is authorized to receive rebates from drug
18 manufacturers under the Washington low-cost prescription drug program
19 created in section 1 of this act, beginning July 1, 2000, or as soon
20 thereafter as rules are adopted to implement the program.

21 **Sec. 4.** RCW 43.84.092 and 1999 c 380 s 8, 1999 c 309 s 928, 1999
22 c 268 s 4, and 1999 c 94 s 2 are each reenacted and amended to read as
23 follows:

24 (1) All earnings of investments of surplus balances in the state
25 treasury shall be deposited to the treasury income account, which
26 account is hereby established in the state treasury.

27 (2) The treasury income account shall be utilized to pay or receive
28 funds associated with federal programs as required by the federal cash
29 management improvement act of 1990. The treasury income account is
30 subject in all respects to chapter 43.88 RCW, but no appropriation is
31 required for refunds or allocations of interest earnings required by
32 the cash management improvement act. Refunds of interest to the
33 federal treasury required under the cash management improvement act
34 fall under RCW 43.88.180 and shall not require appropriation. The
35 office of financial management shall determine the amounts due to or
36 from the federal government pursuant to the cash management improvement
37 act. The office of financial management may direct transfers of funds

1 between accounts as deemed necessary to implement the provisions of the
2 cash management improvement act, and this subsection. Refunds or
3 allocations shall occur prior to the distributions of earnings set
4 forth in subsection (4) of this section.

5 (3) Except for the provisions of RCW 43.84.160, the treasury income
6 account may be utilized for the payment of purchased banking services
7 on behalf of treasury funds including, but not limited to, depository,
8 safekeeping, and disbursement functions for the state treasury and
9 affected state agencies. The treasury income account is subject in all
10 respects to chapter 43.88 RCW, but no appropriation is required for
11 payments to financial institutions. Payments shall occur prior to
12 distribution of earnings set forth in subsection (4) of this section.

13 (4) Monthly, the state treasurer shall distribute the earnings
14 credited to the treasury income account. The state treasurer shall
15 credit the general fund with all the earnings credited to the treasury
16 income account except:

17 (a) The following accounts and funds shall receive their
18 proportionate share of earnings based upon each account's and fund's
19 average daily balance for the period: The capitol building
20 construction account, the Cedar River channel construction and
21 operation account, the Central Washington University capital projects
22 account, the charitable, educational, penal and reformatory
23 institutions account, the common school construction fund, the county
24 criminal justice assistance account, the county sales and use tax
25 equalization account, the data processing building construction
26 account, the deferred compensation administrative account, the deferred
27 compensation principal account, the department of retirement systems
28 expense account, the drinking water assistance account, the Eastern
29 Washington University capital projects account, the education
30 construction fund, the emergency reserve fund, the federal forest
31 revolving account, the health services account, the public health
32 services account, the health system capacity account, the personal
33 health services account, the state higher education construction
34 account, the higher education construction account, the highway
35 infrastructure account, the industrial insurance premium refund
36 account, the judges' retirement account, the judicial retirement
37 administrative account, the judicial retirement principal account, the
38 local leasehold excise tax account, the local real estate excise tax
39 account, the local sales and use tax account, the medical aid account,

1 the mobile home park relocation fund, the municipal criminal justice
2 assistance account, the municipal sales and use tax equalization
3 account, the natural resources deposit account, the perpetual
4 surveillance and maintenance account, the prescription drug dedicated
5 account, the public employees' retirement system plan 1 account, the
6 public employees' retirement system plan 2 account, the Puyallup tribal
7 settlement account, the resource management cost account, the site
8 closure account, the special wildlife account, the state employees'
9 insurance account, the state employees' insurance reserve account, the
10 state investment board expense account, the state investment board
11 commingled trust fund accounts, the supplemental pension account, the
12 teachers' retirement system plan 1 account, the teachers' retirement
13 system plan 2 account, the tobacco prevention and control account, the
14 tobacco settlement account, the transportation infrastructure account,
15 the tuition recovery trust fund, the University of Washington bond
16 retirement fund, the University of Washington building account, the
17 volunteer fire fighters' (~~relief and pension principal account, the~~
18 ~~volunteer fire fighters' relief and pension administrative account~~)
19 and reserve officers' relief and pension principal fund, the volunteer
20 fire fighters' and reserve officers' administrative fund, the
21 Washington judicial retirement system account, the Washington law
22 enforcement officers' and fire fighters' system plan 1 retirement
23 account, the Washington law enforcement officers' and fire fighters'
24 system plan 2 retirement account, the Washington state patrol
25 retirement account, the Washington State University building account,
26 the Washington State University bond retirement fund, the water
27 pollution control revolving fund, and the Western Washington University
28 capital projects account. Earnings derived from investing balances of
29 the agricultural permanent fund, the normal school permanent fund, the
30 permanent common school fund, the scientific permanent fund, and the
31 state university permanent fund shall be allocated to their respective
32 beneficiary accounts. All earnings to be distributed under this
33 subsection (4)(a) shall first be reduced by the allocation to the state
34 treasurer's service fund pursuant to RCW 43.08.190.

35 (b) The following accounts and funds shall receive eighty percent
36 of their proportionate share of earnings based upon each account's or
37 fund's average daily balance for the period: The aeronautics account,
38 the aircraft search and rescue account, the county arterial
39 preservation account, the department of licensing services account, the

1 essential rail assistance account, the ferry bond retirement fund, the
2 grade crossing protective fund, the high capacity transportation
3 account, the highway bond retirement fund, the highway safety account,
4 the marine operating fund, the motor vehicle fund, the motorcycle
5 safety education account, the pilotage account, the public
6 transportation systems account, the Puget Sound capital construction
7 account, the Puget Sound ferry operations account, the recreational
8 vehicle account, the rural arterial trust account, the safety and
9 education account, the special category C account, the state patrol
10 highway account, the transportation equipment fund, the transportation
11 fund, the transportation improvement account, the transportation
12 improvement board bond retirement account, and the urban arterial trust
13 account.

14 (5) In conformance with Article II, section 37 of the state
15 Constitution, no treasury accounts or funds shall be allocated earnings
16 without the specific affirmative directive of this section.

17 **Sec. 5.** RCW 43.84.092 and 1999 c 380 s 8, 1999 c 309 s 928, 1999
18 c 268 s 4, 1999 c 94 s 3, and 1999 c 94 s 2 are each reenacted and
19 amended to read as follows:

20 (1) All earnings of investments of surplus balances in the state
21 treasury shall be deposited to the treasury income account, which
22 account is hereby established in the state treasury.

23 (2) The treasury income account shall be utilized to pay or receive
24 funds associated with federal programs as required by the federal cash
25 management improvement act of 1990. The treasury income account is
26 subject in all respects to chapter 43.88 RCW, but no appropriation is
27 required for refunds or allocations of interest earnings required by
28 the cash management improvement act. Refunds of interest to the
29 federal treasury required under the cash management improvement act
30 fall under RCW 43.88.180 and shall not require appropriation. The
31 office of financial management shall determine the amounts due to or
32 from the federal government pursuant to the cash management improvement
33 act. The office of financial management may direct transfers of funds
34 between accounts as deemed necessary to implement the provisions of the
35 cash management improvement act, and this subsection. Refunds or
36 allocations shall occur prior to the distributions of earnings set
37 forth in subsection (4) of this section.

1 (3) Except for the provisions of RCW 43.84.160, the treasury income
2 account may be utilized for the payment of purchased banking services
3 on behalf of treasury funds including, but not limited to, depository,
4 safekeeping, and disbursement functions for the state treasury and
5 affected state agencies. The treasury income account is subject in all
6 respects to chapter 43.88 RCW, but no appropriation is required for
7 payments to financial institutions. Payments shall occur prior to
8 distribution of earnings set forth in subsection (4) of this section.

9 (4) Monthly, the state treasurer shall distribute the earnings
10 credited to the treasury income account. The state treasurer shall
11 credit the general fund with all the earnings credited to the treasury
12 income account except:

13 (a) The following accounts and funds shall receive their
14 proportionate share of earnings based upon each account's and fund's
15 average daily balance for the period: The capitol building
16 construction account, the Cedar River channel construction and
17 operation account, the Central Washington University capital projects
18 account, the charitable, educational, penal and reformatory
19 institutions account, the common school construction fund, the county
20 criminal justice assistance account, the county sales and use tax
21 equalization account, the data processing building construction
22 account, the deferred compensation administrative account, the deferred
23 compensation principal account, the department of retirement systems
24 expense account, the drinking water assistance account, the Eastern
25 Washington University capital projects account, the education
26 construction fund, the emergency reserve fund, the federal forest
27 revolving account, the health services account, the public health
28 services account, the health system capacity account, the personal
29 health services account, the state higher education construction
30 account, the higher education construction account, the highway
31 infrastructure account, the industrial insurance premium refund
32 account, the judges' retirement account, the judicial retirement
33 administrative account, the judicial retirement principal account, the
34 local leasehold excise tax account, the local real estate excise tax
35 account, the local sales and use tax account, the medical aid account,
36 the mobile home park relocation fund, the municipal criminal justice
37 assistance account, the municipal sales and use tax equalization
38 account, the natural resources deposit account, the perpetual
39 surveillance and maintenance account, the prescription drug dedicated

1 account, the public employees' retirement system plan 1 account, the
2 public employees' retirement system plan 2 account, the Puyallup tribal
3 settlement account, the resource management cost account, the site
4 closure account, the special wildlife account, the state employees'
5 insurance account, the state employees' insurance reserve account, the
6 state investment board expense account, the state investment board
7 commingled trust fund accounts, the supplemental pension account, the
8 teachers' retirement system plan 1 account, the teachers' retirement
9 system plan 2 account, the tobacco prevention and control account, the
10 tobacco settlement account, the transportation infrastructure account,
11 the tuition recovery trust fund, the University of Washington bond
12 retirement fund, the University of Washington building account, the
13 volunteer fire fighters' (~~relief and pension principal account, the~~
14 ~~volunteer fire fighters' relief and pension administrative account~~)
15 and reserve officers' relief and pension principal fund, the volunteer
16 fire fighters' and reserve officers' administrative fund, the
17 Washington judicial retirement system account, the Washington law
18 enforcement officers' and fire fighters' system plan 1 retirement
19 account, the Washington law enforcement officers' and fire fighters'
20 system plan 2 retirement account, the Washington state patrol
21 retirement account, the Washington State University building account,
22 the Washington State University bond retirement fund, the water
23 pollution control revolving fund, and the Western Washington University
24 capital projects account. Earnings derived from investing balances of
25 the agricultural permanent fund, the normal school permanent fund, the
26 permanent common school fund, the scientific permanent fund, and the
27 state university permanent fund shall be allocated to their respective
28 beneficiary accounts. All earnings to be distributed under this
29 subsection (4)(a) shall first be reduced by the allocation to the state
30 treasurer's service fund pursuant to RCW 43.08.190.

31 (b) The following accounts and funds shall receive eighty percent
32 of their proportionate share of earnings based upon each account's or
33 fund's average daily balance for the period: The aeronautics account,
34 the aircraft search and rescue account, the county arterial
35 preservation account, the department of licensing services account, the
36 essential rail assistance account, the ferry bond retirement fund, the
37 grade crossing protective fund, the high capacity transportation
38 account, the highway bond retirement fund, the highway safety account,
39 the motor vehicle fund, the motorcycle safety education account, the

1 pilotage account, the public transportation systems account, the Puget
2 Sound capital construction account, the Puget Sound ferry operations
3 account, the recreational vehicle account, the rural arterial trust
4 account, the safety and education account, the special category C
5 account, the state patrol highway account, the transportation equipment
6 fund, the transportation fund, the transportation improvement account,
7 the transportation improvement board bond retirement account, and the
8 urban arterial trust account.

9 (5) In conformance with Article II, section 37 of the state
10 Constitution, no treasury accounts or funds shall be allocated earnings
11 without the specific affirmative directive of this section.

12 **Sec. 6.** RCW 43.84.092 and 1999 c 380 s 9, 1999 c 309 s 929, 1999
13 c 268 s 5, and 1999 c 94 s 4 are each reenacted and amended to read as
14 follows:

15 (1) All earnings of investments of surplus balances in the state
16 treasury shall be deposited to the treasury income account, which
17 account is hereby established in the state treasury.

18 (2) The treasury income account shall be utilized to pay or receive
19 funds associated with federal programs as required by the federal cash
20 management improvement act of 1990. The treasury income account is
21 subject in all respects to chapter 43.88 RCW, but no appropriation is
22 required for refunds or allocations of interest earnings required by
23 the cash management improvement act. Refunds of interest to the
24 federal treasury required under the cash management improvement act
25 fall under RCW 43.88.180 and shall not require appropriation. The
26 office of financial management shall determine the amounts due to or
27 from the federal government pursuant to the cash management improvement
28 act. The office of financial management may direct transfers of funds
29 between accounts as deemed necessary to implement the provisions of the
30 cash management improvement act, and this subsection. Refunds or
31 allocations shall occur prior to the distributions of earnings set
32 forth in subsection (4) of this section.

33 (3) Except for the provisions of RCW 43.84.160, the treasury income
34 account may be utilized for the payment of purchased banking services
35 on behalf of treasury funds including, but not limited to, depository,
36 safekeeping, and disbursement functions for the state treasury and
37 affected state agencies. The treasury income account is subject in all
38 respects to chapter 43.88 RCW, but no appropriation is required for

1 payments to financial institutions. Payments shall occur prior to
2 distribution of earnings set forth in subsection (4) of this section.

3 (4) Monthly, the state treasurer shall distribute the earnings
4 credited to the treasury income account. The state treasurer shall
5 credit the general fund with all the earnings credited to the treasury
6 income account except:

7 (a) The following accounts and funds shall receive their
8 proportionate share of earnings based upon each account's and fund's
9 average daily balance for the period: The capitol building
10 construction account, the Cedar River channel construction and
11 operation account, the Central Washington University capital projects
12 account, the charitable, educational, penal and reformatory
13 institutions account, the common school construction fund, the county
14 criminal justice assistance account, the county sales and use tax
15 equalization account, the data processing building construction
16 account, the deferred compensation administrative account, the deferred
17 compensation principal account, the department of retirement systems
18 expense account, the drinking water assistance account, the Eastern
19 Washington University capital projects account, the education
20 construction fund, the emergency reserve fund, the federal forest
21 revolving account, the health services account, the public health
22 services account, the health system capacity account, the personal
23 health services account, the state higher education construction
24 account, the higher education construction account, the highway
25 infrastructure account, the industrial insurance premium refund
26 account, the judges' retirement account, the judicial retirement
27 administrative account, the judicial retirement principal account, the
28 local leasehold excise tax account, the local real estate excise tax
29 account, the local sales and use tax account, the medical aid account,
30 the mobile home park relocation fund, the municipal criminal justice
31 assistance account, the municipal sales and use tax equalization
32 account, the natural resources deposit account, the perpetual
33 surveillance and maintenance account, the prescription drug dedicated
34 account, the public employees' retirement system plan 1 account, the
35 public employees' retirement system plan 2 account, the Puyallup tribal
36 settlement account, the resource management cost account, the site
37 closure account, the special wildlife account, the state employees'
38 insurance account, the state employees' insurance reserve account, the
39 state investment board expense account, the state investment board

1 commingled trust fund accounts, the supplemental pension account, the
2 teachers' retirement system plan 1 account, the teachers' retirement
3 system combined plan 2 and plan 3 account, the tobacco prevention and
4 control account, the tobacco settlement account, the transportation
5 infrastructure account, the tuition recovery trust fund, the University
6 of Washington bond retirement fund, the University of Washington
7 building account, the volunteer fire fighters' (~~relief and pension~~
8 ~~principal account, the volunteer fire fighters' relief and pension~~
9 ~~administrative account~~) and reserve officers' relief and pension
10 principal fund, the volunteer fire fighters' and reserve officers'
11 administrative fund, the Washington judicial retirement system account,
12 the Washington law enforcement officers' and fire fighters' system plan
13 1 retirement account, the Washington law enforcement officers' and fire
14 fighters' system plan 2 retirement account, the Washington school
15 employees' retirement system combined plan 2 and 3 account, the
16 Washington state patrol retirement account, the Washington State
17 University building account, the Washington State University bond
18 retirement fund, the water pollution control revolving fund, and the
19 Western Washington University capital projects account. Earnings
20 derived from investing balances of the agricultural permanent fund, the
21 normal school permanent fund, the permanent common school fund, the
22 scientific permanent fund, and the state university permanent fund
23 shall be allocated to their respective beneficiary accounts. All
24 earnings to be distributed under this subsection (4)(a) shall first be
25 reduced by the allocation to the state treasurer's service fund
26 pursuant to RCW 43.08.190.

27 (b) The following accounts and funds shall receive eighty percent
28 of their proportionate share of earnings based upon each account's or
29 fund's average daily balance for the period: The aeronautics account,
30 the aircraft search and rescue account, the county arterial
31 preservation account, the department of licensing services account, the
32 essential rail assistance account, the ferry bond retirement fund, the
33 grade crossing protective fund, the high capacity transportation
34 account, the highway bond retirement fund, the highway safety account,
35 the motor vehicle fund, the motorcycle safety education account, the
36 pilotage account, the public transportation systems account, the Puget
37 Sound capital construction account, the Puget Sound ferry operations
38 account, the recreational vehicle account, the rural arterial trust
39 account, the safety and education account, the special category C

1 account, the state patrol highway account, the transportation equipment
2 fund, the transportation fund, the transportation improvement account,
3 the transportation improvement board bond retirement account, and the
4 urban arterial trust account.

5 (5) In conformance with Article II, section 37 of the state
6 Constitution, no treasury accounts or funds shall be allocated earnings
7 without the specific affirmative directive of this section.

8 NEW SECTION. **Sec. 7.** (1) Section 5 of this act takes effect July
9 1, 2000.

10 (2) Section 6 of this act takes effect September 1, 2000.

11 NEW SECTION. **Sec. 8.** Sections 4 and 5 of this act expire
12 September 1, 2000.

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