

# SENATE BILL REPORT

## SB 5149

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As Reported by Senate Committee On:  
Health & Long Term Care, February 12, 2021

**Title:** An act relating to funding foundational public health services.

**Brief Description:** Funding foundational public health services.

**Sponsors:** Senators Robinson, Conway, Das, Dhingra, Kuderer, Lias, Nobles, Saldaña and Wilson, C.; by request of Office of the Governor.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/27/21, 2/12/21 [DPS-WM, DNP].

**Brief Summary of First Substitute Bill**

- Establishes a covered lives assessment for health carriers, Medicaid managed care organizations, and third-party administrator assessed and collected by the Office of the Insurance Commissioner.
- Requires third-party administrators to register with the Office of the Insurance Commissioner annually.
- Directs money collected from the assessment to the Foundational Public Health Services Account.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** That Substitute Senate Bill No. 5149 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Conway, Keiser, Randall, Robinson and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senators Muzzall, Ranking Member; Holy, Padden, Rivers and Wilson, J.

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

**Staff:** Greg Attanasio (786-7410)

**Background:** The Foundational Public Health Services Account holds money used to:

- fund foundational health services;
- fund tobacco, vapor product, and nicotine control and prevention;
- fund enforcement by the Liquor and Cannabis Board to prevent sales of vapor products to minors; and
- support increased access and training of public health professionals at public health programs at accredited public institutions of higher education in Washington.

The account is funded with half of the money collected from the vapor products tax.

All funding for foundational public health services must be appropriated to the Office of Financial Management (OFM). OFM may only allocate funding to the Department of Health (DOH) if DOH, after consultation with federally recognized Indian tribes, jointly certifies with a state association representing local health jurisdictions and the State Board of Health, that they are in agreement on the distribution and uses of the funds across the public health system. If joint certification is provided, DOH shall distribute the funding according to the agreed-upon distribution and uses. If joint certification is not provided, appropriations for this purpose shall lapse.

The Washington Vaccine Association collects and remits adequate funds from health carriers and third-party administrators for the cost of vaccines provided to certain children in Washington State. All third-party administrators conducting business on behalf of residents of Washington or Washington health care providers and facilities are required to register with the association.

**Summary of Bill (First Substitute):** Beginning March 1, 2022, and annually thereafter, each health carrier, Medicaid managed care organization, and third-party administrator with more than 50 covered lives must file a statement of covered lives with the Office of the Insurance Commissioner (OIC).

The assessment amounts are:

- For fiscal year 2022, up to \$1.54 per member per month, for a total assessment not to exceed \$100,000,000;
- For fiscal year 2023, up to \$1.92 per member per month, for a total assessment not to exceed \$125,000,000;
- For fiscal year 2024, up to \$2.30 per member per month, for a total assessment not to exceed \$150,000,000;
- For fiscal year 2025, up to \$2.69 per member per month, for a total assessment not to exceed \$175,000,000; and
- For fiscal year 2026 and beyond, up to \$3.07 per member per month, for a total not to exceed \$200,000,000.

OIC must annually, on or before June 1st, calculate and bill each health carrier, Medicaid managed care organization, and third-party administrator for its portion of the assessment, and the assessment is due by July 1st of each year.

OIC may use assessment factors from the prior year to calculate the assessment if the necessary financial records are not available for the current year. If an entity fails to pay the assessment by July 31st it must be assessed a penalty of 5 percent of the total assessment due. If an entity fails to pay the assessment within 45 days of the due date, it must be assessed a penalty of 10 percent of the total assessment due. If an entity fails to pay the assessment within 60 days of the due date, it must be assessed a penalty of 20 percent of the total assessment due. Interest will begin to accrue on the assessment due 61 days after it is due.

Assessments and penalties collected by OIC must be deposited into the Foundational Public Health Services Account and 100 percent of the funds collected must be used to fund foundational public health services.

Every third-party administrator must register with OIC by December 31, 2021, and renew its registration annually thereafter. Third-party administrators that begin administering health benefits in Washington on or after December 31, 2021, must register with OIC within 30 days of when they begin administering such benefits. OIC may fine a third-party administrator up to \$5,000 per violation for failing to register or providing incomplete, misleading, incorrect, or materially untrue information. Upon request of OIC, the Secretary of Health and the Washington Vaccine Association must provide OIC with any available information maintained by the association needed to initiate third-party administrator registration.

**EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):**

- Sets a maximum per member per month rate and total assessment to be collected for each fiscal year.
- Begins collection of the covered lives assessment in fiscal year 2022.
- Removes limited health care services plans from the definition of covered lives.
- Amends the public health services account to direct 100 percent of the covered lives assessment to fund public health services.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Public health is not being fully funded and is struggling because of a lack of funding. The bill offers a sustainable and stable funding source. Funding will fully prepare us for the next pandemic. The public health system cannot prevent preventable diseases without adequate funding. Everyone deserves equitable access to services, but the system is severely limited currently. Responding quickly has been impossible and workforce has been strained. When funding was adequate services were robust. Even modest public health funding can result in large savings for future health care costs. Lack of funds directly affect the most vulnerable in society. The current funding source is unpredictable. Funding will ensure continuity of services for the whole state.

CON: There is no unique nexus between public health and health insurance. Funding should be broader than just insurance carriers, who are already heavily taxed. The cost would be a pass through to employers. Individual and small group markets are already subject to a premium tax that self-insured plans are not paying. An additional assessment would be inequitable. The source is a direct tax on union members. Employers who do not provide insurance to employees should be required to contribute. Taxing low wage employees is a regressive approach to funding public health. Every dollar has to be passed on to union members. The funding of the system should be broadly based. Taxes aimed at coverage will increase premiums. Businesses are operating slim margins and can not afford additional expenses.

OTHER: There is no consensus among health carriers, but any assessment should be equitable and broad based. The assessment will affect affordability for individuals and small business. All sectors of the economy should contribute.

**Persons Testifying:** PRO: Senator June Robinson, Prime Sponsor; Heidi Wilson; Kim Thorburn; Jonathan Seib, Molina Healthcare; Paul Dillon, Planned Parenthood of Greater Washington and North Idaho; Amy Brackenbury, Public Health Roundtable; Jose Romo, King County Public Health; Jane Beyer, Office of the Insurance Commissioner; Justin Gill, Washington State Nurses Association; Sean Graham, Washington State Medical Association; Anthony Chen, Tacoma-Pierce County Health Department; Matt Schanz, NE Tri-County Health District; Jaime Bodden, Washington State Association of Local Public Health Officials; Molly Voris, Senior Policy Advisor, Office of the Governor; Umair Shah, Washington State Department of Health; Michelle Davis, Washington State Board of Health; Maria Courogen, Washington State Department of Health.

CON: Gary Strannigan, Premera Blue Cross; Danielle Huston, WAHU; Tom Kwieciak, Building Industry Association of Washington; Mark Riker, Washington State Building and Construction Trades Council; Stefan Moritz, UNITE HERE Local 8; Joseph Mizrahi, UFCW 21; Nia Ray, Cigna; Amy Anderson, Association of Washington Business; Carolyn Logue, Washington Food Industry Association.

OTHER: Zach Snyder, Regence Blue Shield; Maddie Foutch, SEIU 775; Abbie Zulock,

Washington State Council of County and City Employees; Chris Bandoli, Association of Washington Healthcare Plans; Courtney Smith, Kaiser Permanente.

**Persons Signed In To Testify But Not Testifying:** CON: Joe Mizrahi, UFCW 21; Nia Ray, Cigna; Joseph Mizrahi.