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**SENATE BILL 6451**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senators Frockt, Lovelett, Hunt, Keiser, Salomon, Darneille, Randall, Hasegawa, Nguyen, Wellman, Kuderer, Das, and Lias

1 AN ACT Relating to funding for individuals who are not eligible  
2 for federal insurance subsidies and for foundational public health  
3 services; reenacting and amending RCW 43.84.092; adding a new section  
4 to chapter 48.43 RCW; adding a new section to chapter 43.70 RCW;  
5 creating a new section; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that nonprofit  
8 health insurance carriers in the state must:

9 (a) Be committed to a nonprofit corporate structure;

10 (b) Provide individuals, businesses, and other groups with  
11 affordable and accessible health insurance; and

12 (c) Recognize a responsibility to contribute to the improvement  
13 of the overall health status of the residents of the jurisdictions in  
14 which they operate.

15 (2) The legislature further finds that access to health insurance  
16 and public services play a critical role in improving the health  
17 status of Washington residents.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43  
19 RCW to read as follows:

1 (1) By July 1, 2021, and annually thereafter, nonprofit health  
2 carriers must submit to the commissioner the amount of the carrier's  
3 surplus.

4 (2)(a) By October 1, 2021, and annually thereafter, the  
5 commissioner must determine whether a nonprofit health carrier's  
6 surplus is excessive.

7 (b) The surplus of a nonprofit health carrier must be determined  
8 to be excessive if the surplus is greater than four hundred percent  
9 of the nonprofit health carrier's RBC requirements, in accordance  
10 with the formula set forth in the RBC instructions.

11 (3) Except when a reduction in payment is permitted under  
12 subsection (4) of this section, if the commissioner determines the  
13 surplus of a nonprofit health carrier to be excessive, within ninety  
14 days of the determination the nonprofit health carrier must pay three  
15 percent of the excessive surplus to the commissioner's office for  
16 deposit into the fund.

17 (4)(a) Within thirty days of a determination by the commissioner  
18 that a nonprofit health carrier's surplus is excessive, a nonprofit  
19 health carrier may request a hearing by the commissioner to consider  
20 a reduction in the required amount of excessive surplus payment to  
21 the fund.

22 (b) The commissioner may only reduce a nonprofit health carrier's  
23 payment to the fund if the nonprofit health carrier presents clear  
24 and compelling evidence to the commissioner that the required amount  
25 of excessive surplus payment would render the nonprofit health  
26 carrier financially impaired under the laws of this state or any  
27 other state in which the nonprofit health carrier is authorized to do  
28 business.

29 (c) The hearing must be conducted in accordance with chapter  
30 34.05 RCW.

31 (5) The commissioner may adopt rules to implement this section.

32 (6) The definitions in this subsection apply throughout this  
33 section and section 3 of this act unless the context clearly requires  
34 otherwise.

35 (a) "Excessive surplus" means the amount of a nonprofit health  
36 carrier's surplus above four hundred percent of the nonprofit health  
37 carrier's RBC requirements, as determined in subsection (2) of this  
38 section.

39 (b) "Fund" means the nonprofit health carrier community benefit  
40 fund created in section 3 of this act.

1 (c) "RBC" means risk-based capital.

2 (d) "RBC instructions" has the same meaning as in RCW 48.43.300.

3 (e) "Surplus" means the amount by which a nonprofit health  
4 carrier's assets exceed its liabilities.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.70  
6 RCW to read as follows:

7 (1) The nonprofit health carrier community benefit fund is  
8 created in the state treasury. Moneys in the account may be spent  
9 only after appropriation.

10 (2) All receipts from nonprofit health carrier excessive surplus  
11 payments collected by the insurance commissioner pursuant to section  
12 2 of this act must be deposited in the nonprofit health carrier  
13 community benefit fund.

14 (3) Expenditures from the nonprofit health carrier community  
15 benefit fund must be used exclusively for:

16 (a) Subsidies for individuals purchasing individual market  
17 insurance coverage who are not eligible for federal insurance  
18 subsidies; and

19 (b) Foundational public health services pursuant to RCW  
20 43.70.515.

21 **Sec. 4.** RCW 43.84.092 and 2019 c 421 s 15, 2019 c 403 s 14, 2019  
22 c 365 s 19, 2019 c 287 s 19, and 2019 c 95 s 6 are each reenacted and  
23 amended to read as 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  
28 receive funds associated with federal programs as required by the  
29 federal cash management improvement act of 1990. The treasury income  
30 account is subject in all respects to chapter 43.88 RCW, but no  
31 appropriation is required for refunds or allocations of interest  
32 earnings required by the cash management improvement act. Refunds of  
33 interest to the federal treasury required under the cash management  
34 improvement act fall under RCW 43.88.180 and shall not require  
35 appropriation. The office of financial management shall determine the  
36 amounts due to or from the federal government pursuant to the cash  
37 management improvement act. The office of financial management may  
38 direct transfers of funds between accounts as deemed necessary to

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

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

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

18 (a) The following accounts and funds shall receive their  
19 proportionate share of earnings based upon each account's and fund's  
20 average daily balance for the period: The abandoned recreational  
21 vehicle disposal account, the aeronautics account, the aircraft  
22 search and rescue account, the Alaskan Way viaduct replacement  
23 project account, the brownfield redevelopment trust fund account, the  
24 budget stabilization account, the capital vessel replacement account,  
25 the capitol building construction account, the Cedar River channel  
26 construction and operation account, the Central Washington University  
27 capital projects account, the charitable, educational, penal and  
28 reformatory institutions account, the Chehalis basin account, the  
29 cleanup settlement account, the Columbia river basin water supply  
30 development account, the Columbia river basin taxable bond water  
31 supply development account, the Columbia river basin water supply  
32 revenue recovery account, the common school construction fund, the  
33 community forest trust account, the connecting Washington account,  
34 the county arterial preservation account, the county criminal justice  
35 assistance account, the deferred compensation administrative account,  
36 the deferred compensation principal account, the department of  
37 licensing services account, the department of licensing tuition  
38 recovery trust fund, the department of retirement systems expense  
39 account, the developmental disabilities community trust account, the  
40 diesel idle reduction account, the drinking water assistance account,

1 the drinking water assistance administrative account, the early  
2 learning facilities development account, the early learning  
3 facilities revolving account, the Eastern Washington University  
4 capital projects account, the education construction fund, the  
5 education legacy trust account, the election account, the electric  
6 vehicle account, the energy freedom account, the energy recovery act  
7 account, the essential rail assistance account, The Evergreen State  
8 College capital projects account, the federal forest revolving  
9 account, the ferry bond retirement fund, the freight mobility  
10 investment account, the freight mobility multimodal account, the  
11 grade crossing protective fund, the nonprofit health carrier  
12 community benefit fund, the public health services account, the state  
13 higher education construction account, the higher education  
14 construction account, the highway bond retirement fund, the highway  
15 infrastructure account, the highway safety fund, the hospital safety  
16 net assessment fund, the industrial insurance premium refund account,  
17 the Interstate 405 and state route number 167 express toll lanes  
18 account, the judges' retirement account, the judicial retirement  
19 administrative account, the judicial retirement principal account,  
20 the local leasehold excise tax account, the local real estate excise  
21 tax account, the local sales and use tax account, the marine  
22 resources stewardship trust account, the medical aid account, the  
23 mobile home park relocation fund, the money-purchase retirement  
24 savings administrative account, the money-purchase retirement savings  
25 principal account, the motor vehicle fund, the motorcycle safety  
26 education account, the multimodal transportation account, the  
27 multiuse roadway safety account, the municipal criminal justice  
28 assistance account, the natural resources deposit account, the oyster  
29 reserve land account, the pension funding stabilization account, the  
30 perpetual surveillance and maintenance account, the pollution  
31 liability insurance agency underground storage tank revolving  
32 account, the public employees' retirement system plan 1 account, the  
33 public employees' retirement system combined plan 2 and plan 3  
34 account, the public facilities construction loan revolving account  
35 beginning July 1, 2004, the public health supplemental account, the  
36 public works assistance account, the Puget Sound capital construction  
37 account, the Puget Sound ferry operations account, the Puget Sound  
38 Gateway facility account, the Puget Sound taxpayer accountability  
39 account, the real estate appraiser commission account, the  
40 recreational vehicle account, the regional mobility grant program

1 account, the resource management cost account, the rural arterial  
2 trust account, the rural mobility grant program account, the rural  
3 Washington loan fund, the sexual assault prevention and response  
4 account, the site closure account, the skilled nursing facility  
5 safety net trust fund, the small city pavement and sidewalk account,  
6 the special category C account, the special wildlife account, the  
7 state employees' insurance account, the state employees' insurance  
8 reserve account, the state investment board expense account, the  
9 state investment board commingled trust fund accounts, the state  
10 patrol highway account, the state route number 520 civil penalties  
11 account, the state route number 520 corridor account, the state  
12 wildlife account, the statewide broadband account, the statewide  
13 tourism marketing account, the student achievement council tuition  
14 recovery trust fund, the supplemental pension account, the Tacoma  
15 Narrows toll bridge account, the teachers' retirement system plan 1  
16 account, the teachers' retirement system combined plan 2 and plan 3  
17 account, the tobacco prevention and control account, the tobacco  
18 settlement account, the toll facility bond retirement account, the  
19 transportation 2003 account (nickel account), the transportation  
20 equipment fund, the transportation future funding program account,  
21 the transportation improvement account, the transportation  
22 improvement board bond retirement account, the transportation  
23 infrastructure account, the transportation partnership account, the  
24 traumatic brain injury account, the tuition recovery trust fund, the  
25 University of Washington bond retirement fund, the University of  
26 Washington building account, the voluntary cleanup account, the  
27 volunteer firefighters' and reserve officers' relief and pension  
28 principal fund, the volunteer firefighters' and reserve officers'  
29 administrative fund, the vulnerable roadway user education account,  
30 the Washington judicial retirement system account, the Washington law  
31 enforcement officers' and firefighters' system plan 1 retirement  
32 account, the Washington law enforcement officers' and firefighters'  
33 system plan 2 retirement account, the Washington public safety  
34 employees' plan 2 retirement account, the Washington school  
35 employees' retirement system combined plan 2 and 3 account, the  
36 Washington state health insurance pool account, the Washington state  
37 patrol retirement account, the Washington State University building  
38 account, the Washington State University bond retirement fund, the  
39 water pollution control revolving administration account, the water  
40 pollution control revolving fund, the Western Washington University

1 capital projects account, the Yakima integrated plan implementation  
2 account, the Yakima integrated plan implementation revenue recovery  
3 account, and the Yakima integrated plan implementation taxable bond  
4 account. Earnings derived from investing balances of the agricultural  
5 permanent fund, the normal school permanent fund, the permanent  
6 common school fund, the scientific permanent fund, the state  
7 university permanent fund, and the state reclamation revolving  
8 account shall be allocated to their respective beneficiary accounts.

9 (b) Any state agency that has independent authority over accounts  
10 or funds not statutorily required to be held in the state treasury  
11 that deposits funds into a fund or account in the state treasury  
12 pursuant to an agreement with the office of the state treasurer shall  
13 receive its proportionate share of earnings based upon each account's  
14 or fund's average daily balance for the period.

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

18 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2021.

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