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**SENATE BILL 6258**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Senators McCoy, Lovelett, Conway, Dhingra, Cleveland, Hasegawa, Kuderer, Randall, Stanford, Wilson, C., Carlyle, Das, Nguyen, Keiser, Van De Wege, and Darneille

AN ACT Relating to addressing the suicide and addiction crisis among American Indians and Alaska Natives in this state; and amending RCW 43.71B.901 and 43.71B.010.

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

**Sec.**  RCW 43.71B.901 and 2019 c 282 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) As set forth in 25 U.S.C. Sec. 1602, it is the policy of the nation, in fulfillment of its special trust responsibilities and legal obligations to American Indians and Alaska Natives, to:

(i) Ensure the highest possible health status for American Indians and Alaska Natives and to provide all resources necessary to effect that policy;

(ii) Raise the health status of American Indians and Alaska Natives to at least the levels set forth in the goals contained within the healthy people 2020 initiative or successor objectives; and

(iii) Ensure tribal self-determination and maximum participation by American Indians and Alaska Natives in the direction of health care services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of tribes and American Indian and Alaska Native communities;

(b) According to the northwest tribal epidemiology center and the department of health, American Indians and Alaska Natives in the state experience some of the greatest health disparities compared to other groups, including ((~~excessively high rates of~~)):

(i) ((~~Premature~~)) Disproportionately high rates of premature mortality due to ((~~suicide, overdose, unintentional injury, and various~~)) chronic diseases and unintentional injury; ((~~and~~))

(ii) ((~~Asthma~~)) Disproportionately high rates of asthma, coronary heart disease, hypertension, diabetes, prediabetes, obesity, dental caries, poor mental health, youth depressive feelings, cigarette smoking and vaping, and cannabis use;

(iii) A drug overdose death rate in 2016 in this state that is three times higher than the national American Indian and Alaska Native rate and has increased thirty-six percent since 2012 and almost three hundred percent since 2000 in contrast to a relatively stable rate for the state overall population. Over seventy-two percent of these overdose deaths involved an opioid;

(iv) A suicide mortality rate in this state that is more than one and four-fifths times higher than the rate for non-American Indians and Alaska Natives. Since 2001, the suicide mortality rate for American Indians and Alaska Natives in this state has increased by fifty-eight percent which is more than three times the rate of increase among non-American Indians and Alaska Natives. Nationally, the highest suicide rates among American Indians and Alaska Natives are for adolescents and young adults, while rates among non-Hispanic whites are highest in older age groups, suggesting that different risk factors might contribute to suicide in these groups; and

(v) A rate of exposure to significant adverse childhood experiences between 2009 and 2011 that is nearly twice the rate of non-Hispanic whites;

(c) These health disparities are a direct result of both historical trauma, leading to adverse childhood experiences across multiple generations, and inadequate levels of federal funding to the Indian health service;

(d) Under a 2016 update in payment policy from the centers for medicare and medicaid services, the state has the opportunity to shift more of the cost of care for American Indian and Alaska Native medicaid enrollees from the state general fund to the federal government if all of the federal requirements are met;

(e) Because the federal requirements to achieve this cost shift and obtain the new federal funds place significant administrative burdens on Indian health service and tribal health facilities, the state has no way to shift these costs of care to the federal government unless the state provides incentives for tribes to take on these administrative burdens; and

(f) The federal government's intent for this update in payment policy is to help states, the Indian health service, and tribes to improve delivery systems for American Indians and Alaska Natives by increasing access to care, strengthening continuity of care, and improving population health.

(2) The legislature, therefore, intends to:

(a) Establish that it is the policy of this state and the intent of this chapter, in fulfillment of the state's unique relationships and shared respect between sovereign governments, to:

(i) Recognize the United States' special trust responsibility to provide quality health care and allied health services to American Indians and Alaska Natives, including those individuals who are residents of this state; and

(ii) Implement the national policies of Indian self-determination with the goal of reducing health inequities for American Indians and Alaska Natives;

(b) Establish the governor's Indian health advisory council to:

(i) Adopt a biennial Indian health improvement advisory plan, developed by the reinvestment committee;

(ii) Address issues with tribal implications that are not able to be resolved at the agency level; ((~~and~~))

(iii) Provide oversight of the Indian health improvement reinvestment account; and

(iv) Draft recommended legislation to address Indian health improvement needs including, but not limited to, crisis coordination between Indian health care providers and the state's behavioral health system;

(c) Establish the Indian health improvement reinvestment account in order to provide incentives for tribes to assume the administrative burdens created by the federal requirements for the state to shift health care costs to the federal government;

(d) Appropriate and deposit into the reinvestment account all of the new state savings, subject to federal appropriations and less agreed upon administrative costs to maintain fiscal neutrality to the state general fund; ((~~and~~))

(e) Require the funds in the reinvestment account to be spent only on costs for projects, programs, or activities identified in the advisory plan;

(f) Address the ongoing suicide and addiction crisis among American Indians and Alaska Natives by:

(i) Including Indian health care providers among entities eligible to receive available resources as defined in RCW 71.24.025 for the delivery of behavioral health services to American Indians and Alaska Natives;

(ii) Strengthening the state's behavioral health system crisis coordination with tribes and Indian health care providers by removing barriers to the federal trust responsibility to provide for American Indians and Alaska Natives; and

(g) Recognize the sovereign authority of tribal governments to act as public health authorities in providing for the health and safety of their community members including those individuals who may be experiencing a behavioral health crisis.

**Sec.**  RCW 43.71B.010 and 2019 c 282 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory council" means the governor's Indian health advisory council established in RCW 43.71B.020.

(2) "Advisory plan" means the plan described in RCW 43.71B.030.

(3) "American Indian" or "Alaska Native" means any individual who is: (a) A member of a federally recognized tribe; or (b) eligible for the Indian health service.

(4) "Authority" means the health care authority.

(5) "Board" means the northwest Portland area Indian health board, an Oregon nonprofit corporation wholly controlled by the tribes in the states of Idaho, Oregon, and Washington.

(6) "Commission" means the American Indian health commission for Washington state, a Washington nonprofit corporation wholly controlled by the tribes and urban Indian organizations in the state.

(7) "Community health aide" means a tribal community health provider certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l, who can perform a wide range of duties within the provider's scope of certified practice in health programs of a tribe, tribal organization, Indian health service facility, or urban Indian organization to improve access to culturally appropriate, quality care for American Indians and Alaska Natives and their families and communities, including but not limited to community health aides, community health practitioners, behavioral health aides, behavioral health practitioners, dental health aides, and dental health aide therapists.

(8) "Community health aide program" means a community health aide certification board for the state consistent with 25 U.S.C. Sec. 1616l and the training programs and certification requirements established thereunder.

(9) "Fee-for-service" means the state's medicaid program for which payments are made under the state plan, without a managed care entity, in accordance with the fee-for-service payment methodology.

(10) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in 25 U.S.C. Sec. 1603.

(11) "Indian health service" means the federal agency within the United States department of health and human services.

(12) "New state savings" means the savings to the state general fund that are achieved as a result of the centers for medicare and medicaid services state health official letter 16-002 and related guidance, calculated as the difference between (a) medicaid payments received from the centers for medicare and medicaid services based on the one hundred percent federal medical assistance percentage; and (b) medicaid payments received from the centers for medicare and medicaid services based on the federal medical assistance percentage that would apply in the absence of state health official letter 16-002 and related guidance.

(13) "Reinvestment account" means the Indian health improvement reinvestment account created in RCW 43.71B.040.

(14) "Reinvestment committee" means the Indian health improvement reinvestment committee established in RCW 43.71B.020(4).

(15) "Tribal organization" has the meaning set forth in 25 U.S.C. Sec. 5304.

(16) "Tribally operated facility" means a health care facility operated by one or more tribes or tribal organizations to provide specialty services, including but not limited to evaluation and treatment services, secure detox services, inpatient psychiatric services, nursing home services, and residential substance use disorder services.

(17) "Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native claims settlement act (43 U.S.C. Sec. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(18) "Urban Indian" means any individual who resides in an urban center and is: (a) A member of a tribe terminated since 1940 and those tribes recognized now or in the future by the state in which they reside, or who is a descendant, in the first or second degree, of any such member; (b) an Eskimo or Aleut or other Alaska Native; (c) considered by the secretary of the interior to be an Indian for any purpose; or (d) considered by the United States secretary of health and human services to be an Indian for purposes of eligibility for Indian health services, including as a California Indian, Eskimo, Aleut, or other Alaska Native.

(19) "Urban Indian organization" means an urban Indian organization, as defined by 25 U.S.C. Sec. 1603.

(20) "Historical trauma" means situations where a community experienced traumatic events, the events generated high levels of collective distress, and the events were perpetuated by outsiders with a destructive or genocidal intent.

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