

SB 5415 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED 04/11/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

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

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

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

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

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

23 (i) Premature mortality due to suicide, overdose, unintentional
24 injury, and various chronic diseases; and

25 (ii) Asthma, coronary heart disease, hypertension, diabetes,
26 prediabetes, obesity, dental caries, poor mental health, youth
27 depressive feelings, cigarette smoking and vaping, and cannabis use;

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

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

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

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

17 (2) The legislature, therefore, intends to:

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

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

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

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

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

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

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

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

39 (d) Appropriate and deposit into the reinvestment account all of
40 the new state savings, subject to federal appropriations and less

1 agreed upon administrative costs to maintain fiscal neutrality to the
2 state general fund; and

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

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Advisory council" means the governor's Indian health
10 advisory council established in section 3 of this act.

11 (2) "Advisory plan" means the plan described in section 4 of this
12 act.

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

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

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

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

23 (7) "Community health aide" means a tribal community health
24 provider certified by a community health aide program of the Indian
25 health service or one or more tribes or tribal organizations
26 consistent with the provisions of 25 U.S.C. Sec. 16161, who can
27 perform a wide range of duties within the provider's scope of
28 certified practice in health programs of a tribe, tribal
29 organization, Indian health service facility, or urban Indian
30 organization to improve access to culturally appropriate, quality
31 care for American Indians and Alaska Natives and their families and
32 communities, including but not limited to community health aides,
33 community health practitioners, behavioral health aides, behavioral
34 health practitioners, dental health aides, and dental health aide
35 therapists.

36 (8) "Community health aide program" means a community health aide
37 certification board for the state consistent with 25 U.S.C. Sec.
38 16161 and the training programs and certification requirements
39 established thereunder.

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

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

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

10 (12) "New state savings" means the savings to the state general
11 fund that are achieved as a result of the centers for medicare and
12 medicaid services state health official letter 16-002 and related
13 guidance, calculated as the difference between (a) medicaid payments
14 received from the centers for medicare and medicaid services based on
15 the one hundred percent federal medical assistance percentage; and
16 (b) medicaid payments received from the centers for medicare and
17 medicaid services based on the federal medical assistance percentage
18 that would apply in the absence of state health official letter
19 16-002 and related guidance.

20 (13) "Reinvestment account" means the Indian health improvement
21 reinvestment account created in section 5 of this act.

22 (14) "Reinvestment committee" means the Indian health improvement
23 reinvestment committee established in section 3(4) of this act.

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

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

32 (17) "Tribe" means any Indian tribe, band, nation, or other
33 organized group or community, including any Alaska Native village or
34 group or regional or village corporation as defined in or established
35 pursuant to the Alaska Native claims settlement act (43 U.S.C. Sec.
36 1601 et seq.) which is recognized as eligible for the special
37 programs and services provided by the United States to Indians
38 because of their status as Indians.

39 (18) "Urban Indian" means any individual who resides in an urban
40 center and is: (a) A member of a tribe terminated since 1940 and

1 those tribes recognized now or in the future by the state in which
2 they reside, or who is a descendant, in the first or second degree,
3 of any such member; (b) an Eskimo or Aleut or other Alaska Native;
4 (c) considered by the secretary of the interior to be an Indian for
5 any purpose; or (d) considered by the United States secretary of
6 health and human services to be an Indian for purposes of eligibility
7 for Indian health services, including as a California Indian, Eskimo,
8 Aleut, or other Alaska Native.

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

11 NEW SECTION. **Sec. 3.** (1) The governor's Indian health advisory
12 council is established, consisting of:

13 (a) The following voting members:

14 (i) One representative from each tribe, designated by the tribal
15 council, who is either the tribe's commission delegate or an
16 individual specifically designated for this role, or his or her
17 designee;

18 (ii) The chief executive officer of each urban Indian
19 organization, or the urban Indian organization's commission delegate
20 if applicable, or his or her designee;

21 (iii) One member from each of the two largest caucuses of the
22 house of representatives, appointed by the speaker of the house of
23 representatives;

24 (iv) One member from each of the two largest caucuses of the
25 senate, appointed by the president of the senate; and

26 (v) One member representing the governor's office; and

27 (b) The following nonvoting members:

28 (i) One member of the executive leadership team from each of the
29 following state agencies: The authority; the department of children,
30 youth, and families; the department of commerce; the department of
31 corrections; the department of health; the department of social and
32 health services; the office of the insurance commissioner; the office
33 of the superintendent of public instruction; and the Washington
34 health benefit exchange;

35 (ii) The chief operating officer of each Indian health service
36 area office and service unit, or his or her designee;

37 (iii) The executive director of the commission, or his or her
38 designee; and

39 (iv) The executive director of the board, or his or her designee.

1 (2) The advisory council shall meet at least three times per year
2 when the legislature is not in session, in a forum that offers both
3 in-person and remote participation where everyone can hear and be
4 heard.

5 (3) The advisory council has the responsibility to:

6 (a) Adopt the biennial Indian health improvement advisory plan
7 prepared and amended by the reinvestment committee as described in
8 section 4 of this act no later than November 1st of each odd-numbered
9 year;

10 (b) Address current or proposed policies or actions that have
11 tribal implications and are not able to be resolved or addressed at
12 the agency level;

13 (c) Facilitate better understanding among advisory council
14 members and their support staff of the Indian health system, American
15 Indian and Alaska Native health disparities and historical trauma,
16 and tribal sovereignty and self-governance;

17 (d) Provide oversight of contracting and performance of service
18 coordination organizations or service contracting entities as defined
19 in RCW 70.320.010 in order to address their impacts on services to
20 American Indians and Alaska Natives and relationships with Indian
21 health care providers; and

22 (e) Provide oversight of the Indian health improvement
23 reinvestment account created in section 5 of this act, ensuring that
24 amounts expended from the reinvestment account are consistent with
25 the advisory plan adopted under section 4 of this act.

26 (4) The reinvestment committee of the advisory council is
27 established, consisting of the following members of the advisory
28 council:

29 (a) With voting rights on the reinvestment committee, every
30 advisory council member who represents a tribe or an urban Indian
31 organization; and

32 (b) With nonvoting rights on the reinvestment committee, every
33 advisory council member who represents a state agency, the Indian
34 health service area office or a service unit, the commission, and the
35 board.

36 (5) The advisory council may appoint technical advisory
37 committees, which may include members of the advisory council, as
38 needed to address specific issues and concerns.

39 (6) The authority, in conjunction with the represented state
40 agencies on the advisory council, shall supply such information and

1 assistance as are deemed necessary for the advisory council and its
2 committees to carry out its duties under this section.

3 (7) The authority shall provide (a) administrative and clerical
4 assistance to the advisory council and its committees and (b)
5 technical assistance with the assistance of the commission.

6 (8) The advisory council meetings, reports and recommendations,
7 and other forms of collaboration described in this chapter support
8 the tribal consultation process but are not a substitute for the
9 requirements for state agencies to conduct consultation or maintain
10 government-to-government relationships with tribes under federal and
11 state law.

12 NEW SECTION. **Sec. 4.** (1) With assistance from the authority,
13 the commission, and other member entities of the advisory council,
14 the reinvestment committee of the advisory council shall prepare and
15 amend from time to time a biennial Indian health improvement advisory
16 plan to:

17 (a) Develop programs directed at raising the health status of
18 American Indians and Alaska Natives and reducing the health
19 inequities that these communities experience; or

20 (b) Help the state, the Indian health service, tribes, and urban
21 Indian organizations, statewide or in regions, improve delivery
22 systems for American Indians and Alaska Natives by increasing access
23 to care, strengthening continuity of care, and improving population
24 health through investments in capacity and infrastructure.

25 (2) The advisory plan shall include the following:

26 (a) An assessment of Indian health and Indian health care in the
27 state;

28 (b) Specific recommendations for programs, projects, or
29 activities, along with recommended reinvestment account expenditure
30 amounts and priorities for expenditures, for the next two state
31 fiscal bienniums. The programs, projects, and activities may include
32 but are not limited to:

33 (i) The creation and expansion of facilities operated by Indian
34 health services, tribes, and urban Indian health programs providing
35 evaluation, treatment, and recovery services for opioid use disorder,
36 other substance use disorders, mental illness, or specialty care;

37 (ii) Improvement in access to, and utilization of, culturally
38 appropriate primary care, mental health, and substance use disorder
39 and recovery services;

1 (iii) The elimination of barriers to, and maximization of,
2 federal funding of substance use disorder and mental health services
3 under the programs established in chapter 74.09 RCW;

4 (iv) Increased availability of, and identification of barriers
5 to, crisis and related services established in chapter 71.05 RCW,
6 with recommendations to increase access including, but not limited
7 to, involuntary commitment orders, designated crisis responders, and
8 discharge planning;

9 (v) Increased access to quality, culturally appropriate, trauma-
10 informed specialty services, including adult and pediatric
11 psychiatric services, medication consultation, and addiction or
12 geriatric psychiatry;

13 (vi) A third-party administrative entity to provide, arrange, and
14 make payment for services for American Indians and Alaska Natives;

15 (vii) Expansion of suicide prevention services, including
16 culture-based programming, to instill and fortify cultural practices
17 as a protective factor;

18 (viii) Expansion of traditional healing services;

19 (ix) Development of a community health aide program, including a
20 community health aide certification board for the state consistent
21 with 25 U.S.C. Sec. 16161, and support for community health aide
22 services;

23 (x) Health information technology capability within tribes and
24 urban Indian organizations to assure the technological capacity to:

25 (A) Produce sound evidence for Indian health care provider best
26 practices; (B) effectively coordinate care between Indian health care
27 providers and non-Indian health care providers; (C) provide
28 interoperability with state claims and reportable data systems, such
29 as for immunizations and reportable conditions; and (D) support
30 patient-centered medical home models, including sufficient resources
31 to purchase and implement certified electronic health record systems,
32 such as hardware, software, training, and staffing;

33 (xi) Support for care coordination by tribes and other Indian
34 health care providers to mitigate barriers to access to care for
35 American Indians and Alaska Natives, with duties to include without
36 limitation: (A) Follow-up of referred appointments; (B) routine
37 follow-up care for management of chronic disease; (C) transportation;
38 and (D) increasing patient understanding of provider instructions;

39 (xii) Expanded support for tribal and urban Indian epidemiology
40 centers to create a system of epidemiological analysis that meets the

1 needs of the state's American Indian and Alaska Native population;
2 and

3 (xiii) Other health care services and public health services that
4 contribute to reducing health inequities for American Indians and
5 Alaska Natives in the state and increasing access to quality,
6 culturally appropriate health care for American Indians and Alaska
7 Natives in the state; and

8 (c) Review of how programs, projects, or activities that have
9 received investments from the reinvestment account have or have not
10 achieved the objectives and why.

11 NEW SECTION. **Sec. 5.** (1) The Indian health improvement
12 reinvestment account is created in the custody of the state
13 treasurer. All receipts from new state savings as defined in section
14 2 of this act and any other moneys appropriated to the account must
15 be deposited into the account. Expenditures from the account may be
16 used only for projects, programs, and activities authorized by
17 section 4 of this act. Only the director of the authority or the
18 director's designee may authorize expenditures from the account. The
19 account is subject to allotment procedures under chapter 43.88 RCW,
20 but an appropriation is not required for expenditures.

21 (2) Beginning November 1, 2019, the new state savings as defined
22 in section 2 of this act, less the state's administrative costs as
23 agreed upon by the state and the reinvestment committee, shall be
24 deposited into the reinvestment account. With advice from the
25 advisory council, the authority shall develop a report and
26 methodology to identify and track the new state savings. Each fall,
27 to assure alignment with existing budget processes, the methodology
28 selected shall involve the same forecasting procedures that inform
29 the authority's medical assistance and behavioral health
30 appropriations to prospectively identify new state savings each
31 fiscal year, as defined in section 2 of this act.

32 (3) The authority shall pursue new state savings for medicaid
33 managed care premiums on an actuarial basis and in consultation with
34 tribes.

35 NEW SECTION. **Sec. 6.** This chapter may be known and cited as the
36 "Washington Indian health improvement act."

1 **Sec. 7.** RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and
2 2018 c 127 s 6 are each reenacted and amended to read as follows:

3 (1) Money in the treasurer's trust fund may be deposited,
4 invested, and reinvested by the state treasurer in accordance with
5 RCW 43.84.080 in the same manner and to the same extent as if the
6 money were in the state treasury, and may be commingled with moneys
7 in the state treasury for cash management and cash balance purposes.

8 (2) All income received from investment of the treasurer's trust
9 fund must be set aside in an account in the treasury trust fund to be
10 known as the investment income account.

11 (3) The investment income account may be utilized for the payment
12 of purchased banking services on behalf of treasurer's trust funds
13 including, but not limited to, depository, safekeeping, and
14 disbursement functions for the state treasurer or affected state
15 agencies. The investment income account is subject in all respects to
16 chapter 43.88 RCW, but no appropriation is required for payments to
17 financial institutions. Payments must occur prior to distribution of
18 earnings set forth in subsection (4) of this section.

19 (4)(a) Monthly, the state treasurer must distribute the earnings
20 credited to the investment income account to the state general fund
21 except under (b), (c), and (d) of this subsection.

22 (b) The following accounts and funds must receive their
23 proportionate share of earnings based upon each account's or fund's
24 average daily balance for the period: The 24/7 sobriety account, the
25 Washington promise scholarship account, the Gina Grant Bull memorial
26 legislative page scholarship account, the Washington advanced college
27 tuition payment program account, the Washington college savings
28 program account, the accessible communities account, the Washington
29 achieving a better life experience program account, the community and
30 technical college innovation account, the agricultural local fund,
31 the American Indian scholarship endowment fund, the foster care
32 scholarship endowment fund, the foster care endowed scholarship trust
33 fund, the contract harvesting revolving account, the Washington state
34 combined fund drive account, the commemorative works account, the
35 county enhanced 911 excise tax account, the toll collection account,
36 the developmental disabilities endowment trust fund, the energy
37 account, the fair fund, the family and medical leave insurance
38 account, the fish and wildlife federal lands revolving account, the
39 natural resources federal lands revolving account, the food animal
40 veterinarian conditional scholarship account, the forest health

1 revolving account, the fruit and vegetable inspection account, the
2 future teachers conditional scholarship account, the game farm
3 alternative account, the GET ready for math and science scholarship
4 account, the Washington global health technologies and product
5 development account, the grain inspection revolving fund, the
6 Washington history day account, the industrial insurance rainy day
7 fund, the juvenile accountability incentive account, the law
8 enforcement officers' and firefighters' plan 2 expense fund, the
9 local tourism promotion account, the low-income home rehabilitation
10 revolving loan program account, the multiagency permitting team
11 account, the northeast Washington wolf-livestock management account,
12 the pilotage account, the produce railcar pool account, the regional
13 transportation investment district account, the rural rehabilitation
14 account, the Washington sexual assault kit account, the stadium and
15 exhibition center account, the youth athletic facility account, the
16 self-insurance revolving fund, the children's trust fund, the
17 Washington horse racing commission Washington bred owners' bonus fund
18 and breeder awards account, the Washington horse racing commission
19 class C purse fund account, the individual development account
20 program account, the Washington horse racing commission operating
21 account, the life sciences discovery fund, the Washington state
22 heritage center account, the reduced cigarette ignition propensity
23 account, the center for childhood deafness and hearing loss account,
24 the school for the blind account, the Millersylvania park trust fund,
25 the public employees' and retirees' insurance reserve fund, the
26 school employees' benefits board insurance reserve fund, (~~(the)~~)
27 the public employees' and retirees' insurance account, (~~(the)~~) the
28 school employees' insurance account, (~~and~~) the radiation perpetual
29 maintenance fund, and the Indian health improvement reinvestment
30 account.

31 (c) The following accounts and funds must 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 advanced right-of-
34 way revolving fund, the advanced environmental mitigation revolving
35 account, the federal narcotics asset forfeitures account, the high
36 occupancy vehicle account, the local rail service assistance account,
37 and the miscellaneous transportation programs account.

38 (d) Any state agency that has independent authority over accounts
39 or funds not statutorily required to be held in the custody of the
40 state treasurer that deposits funds into a fund or account in the

1 custody of the state treasurer pursuant to an agreement with the
2 office of the state treasurer shall receive its proportionate share
3 of earnings based upon each account's or fund's average daily balance
4 for the period.

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

8 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act
9 constitute a new chapter in Title 43 RCW."

10 Correct the title.

EFFECT: Removes intent language about achieving specific health
outcomes and replaces it with language regarding the goal of reducing
health inequities.

Includes in the Indian Health Improvement Advisory Plan: (1) The
creation and expansion of facilities operated by Indian Health
Services, tribes, and urban Indian health programs; (2) improvement
in access and utilization of culturally appropriate primary care,
mental health, and substance use disorder and recovery services; (3)
the elimination of barriers and maximization of federal funding of
substance use disorder and mental health services in medical
assistance programs; and (4) the increased availability of, and
identification of barriers to, crisis and related services under the
Involuntary Treatment Act.

Delays the first deposit into the Indian Health Improvement
Reinvestment Account until November 1, 2019, rather than July 1,
2019. Requires that the methodology selected for tracking the new
state savings involve the same forecasting procedures that inform the
Health Care Authority's medical assistance and behavioral health
appropriations to prospectively identify new state savings.

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