SENATE BILL REPORT
SB 5415

As Reported by Senate Committee On:
Health & Long Term Care, February 6, 2019
Ways & Means, February 26, 2019

Title: An act relating to creating a forum and a funding mechanism to improve the health of American Indians and Alaska Natives in the state.

Brief Description: Creating the Washington Indian health improvement act.

Sponsors: Senators McCoy, Rivers, Cleveland, Saldaña, Van De Wege, Billig, Conway, Frockt, Kuderer, Nguyen and Rolfes.

Brief History:
Committee Activity: Health & Long Term Care: 2/04/19, 2/06/19 [DP-WM, w/oRec].
Ways & Means: 2/19/19, 2/26/19 [DP, w/oRec].

Brief Summary of Bill

- Establishes the Governor's Indian Health Advisory Council to adopt the biennial Indian Health Improvement Advisory Plan (Advisory Plan).
- Establishes the Indian Health Improvement Reinvestment Account to collect receipts from new state savings achieved through recent federal reimbursement policy changes and to fund programs, projects, and activities that are identified in the Advisory Plan.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators Cleveland, Chair; Randall, Vice Chair; O'Ban, Ranking Member; Conway, Dhingra, Frockt, Keiser and Van De Wege.

Minority Report: That it be referred without recommendation.
Signed by Senators Bailey and Becker.

Staff: Greg Attanasio (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

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

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Honeyford, Assistant Ranking Member, Capital; Bailey, Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Liias, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Minority Report: That it be referred without recommendation.

Signed by Senators Brown, Assistant Ranking Member, Operating; Becker.

Staff: Sandy Stith (786-7710)

Background: Medicaid Reimbursement for Services for American Indians and Alaska Natives. The Indian Health Service (IHS), part of the federal Department of Health and Human Services, is the federal agency with primary responsibility for fulfilling the United States' trust obligation to provide health care for American Indians and Alaska Natives. The IHS and tribes have developed a system of hospitals, clinics, field stations, and other programs to fulfill the federal trust responsibility and meet the health care needs of American Indians and Alaska Natives. Washington State's tribal health delivery system provides care to American Indians and Alaska Natives residing in both rural and urban areas. Twenty-eight of the 29 tribes have clinics providing medical or behavioral health services. In addition, there are two urban Indian health clinics in Seattle and Spokane that provide care to urban American Indians and Alaska Natives.

Under Medicaid, the federal government matches state expenditures on behalf of American Indians and Alaska Natives at 100 percent of the Federal Medical Assistance Percentage (FMAP) for covered services received through an IHS and tribal health care facility. States, however, are reimbursed for payments made to non-IHS or non-Indian health providers for Medicaid services provided to American Indians and Alaska Natives based on the state's normal FMAP rate.

In February 2016 the federal Centers for Medicare and Medicaid Services (CMS) issued an update to its payment policy affecting federal funding for Medicaid enrollees who are American Indians and Alaska Natives. Among the changes, CMS will allow a service to be considered to have been received through an IHS and tribal health care facility when an IHS and tribal health care facility practitioner requests the service from a non-IHS or non-tribal provider, who is also a Medicaid provider, in accordance with a care coordination agreement. This change in policy makes the services eligible for a 100 percent FMAP.

Governor's Indian Health Council. The 2018 supplemental operating budget established the Governor's Indian Health Council (Health Council). The Health Council was directed to address policies with tribal implications, facilitate training for state agency leadership and staff, and provide oversight of contracting and performance of service coordination agencies and service contracting entities. The Health Council submitted its report to the Governor and the Legislature in December 2018. The report recommended establishing the Governor's Indian Health Advisory Council (Advisory Council), establishing an account for new state savings appropriations, providing funding for Health Care Authority (Authority) staff to partner with tribes to achieve the new state savings, and partnering with tribes to cover the

expenses of the Advisory Council to complete the first Indian Health Improvement Advisory Plan (Advisory Plan).

Summary of Bill: The Governor's Indian Health Advisory Council. The Advisory Council is established, and the voting members are:

- one representative from each tribe;
- the chief executive officer of each urban Indian organization;
- four legislative members representing the majority and minority caucuses in the House and Senate; and
- one member representing the Governor's Office.

The Advisory Council also includes non-voting members, including representatives from

- the Authority;
- the Department of Children, Youth and Families;
- the Department of Commerce;
- the Department of Corrections;
- the Department of Health; the Department of Social and Health Services;
- the Office of the Insurance Commissioner;
- the Office of the Superintendent of Public Instruction;
- the Washington Health Benefit Exchange;
- the chief operating officer of each IHS area office and service unit;
- the executive director of the American Indian Health Commission; and
- the executive director of the Northwest Portland Area Indian Health Board.

The Advisory Council must establish the Reinvestment Committee. The voting members of the Reinvestment Committee are every Advisory Council member who represents a tribe or urban Indian organization. The nonvoting members of the Reinvestment Committee are every Advisory Council member who represents a state agency, the IHS area office or service unit, the American Indian Health Commission, and the Northwest Portland Area Indian Health Board.

The Advisory Council is responsible for adopting the biennial Advisory Plan prepared by the Reinvestment Committee by November 1st of each odd-numbered year. It also must provide oversight of the Indian Health Improvement Reinvestment Account (Reinvestment Account) to ensure that expenditures are consistent with the Advisory Plan. The Advisory Council must address policies or actions having tribal implications that are not able to be resolved at the agency level. The Advisory Council must also facilitate better understanding among its members of the Indian health system, American Indian and Alaska Native health disparities and historical trauma, and tribal sovereignty and self-governance. In addition, the Advisory Council must provide oversight of state contracting and delivery of health related services to address their impacts on American Indians and Alaska Natives and relationships with Indian health care providers.

The Indian Health Improvement Advisory Plan. The Reinvestment Committee must prepare and amend the biennial Advisory Plan to (1) raise the health status of American Indians and Alaska Natives in Washington to at least the levels set forth in the goals contained in the federal Healthy People 2020 initiative; and (2) help the state, the IHS, tribes, and urban Indian organizations improve delivery systems for American Indians and Alaska Natives.

The Advisory Plan must include an assessment of Indian health and Indian health care in the state; specific recommendations for programs, projects, or activities; and review the ways the programs, projects, or activities that have received investment from the Reinvestment Account have or have not achieved the objectives. The types of programs, projects, and activities may include:

- tribally operated facilities providing evaluation, treatment, and recovery services for opioid use disorder, other substance use disorders, mental illness, or specialty care;
- increased access to quality, culturally-appropriate, trauma-informed specialty services;
- a third party administrative entity to provide, arrange, and make payment for services for American Indians and Alaska Natives;
- expansion of suicide prevention services;
- expansion of traditional healing services;
- development of a community health aide program;
- health information technology capability within tribes and urban Indian health organizations to assure the technological capacity to promote best practices, coordinate care, provide interoperability with state claims and reportable data systems, and support patient-centered medical home models;
- support for care coordination by tribes and other Indian health care providers;
- expanded support for tribal and urban Indian epidemiology centers; and
- other health care services and public health services that contribute to reducing health inequities and increasing access to quality, culturally-appropriate health care for American Indians and Alaska Natives.

The Indian Health Improvement Reinvestment Account. The Reinvestment Account is established. Receipts from new state savings and other appropriated money shall be deposited into the Reinvestment Account, less the Authority's administrative costs. "New state savings" is defined as savings to the state general fund achieved through recent federal authority to provide 100 percent FMAP for services provided to American Indians and Alaska Natives who are enrolled in Medicaid when those services are provided by a non-IHS or tribal provider according to a care coordination agreement. The new state savings is reflected as the difference between the 100 percent FMAP actually received for the service and the match the state would have otherwise received for the service.

Funds from the Reinvestment Account must fund projects, program, and activities authorized by the Advisory Plan. Only the director of the Authority may authorize expenditures from the Reinvestment Account and an appropriation is not required.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

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

Staff Summary of Public Testimony (Health & Long Term Care): PRO: Health care delivery is not homogeneous throughout the Indian health care system. Tribes and urban

Indian organizations are in the unique position to be able to understand how to improve the system and what type of projects would work. The bill will allow the state and stakeholders address disparities in the system by using state savings generated by drawing down more federal Medicaid money.

Persons Testifying (Health & Long Term Care): PRO: Esther Lucero, Seattle Indian Health Board; Stephen Kutz, Cowlitz Indian Tribe.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Any investment in Indian health in Washington is a good investment. This is a good way for us to fund our health initiatives on our reservations and in our communities by getting the full funding from the federal government and by helping the federal government fulfill its treaty responsibilities for healthcare in Indian country. This will help reverse some of the disparities we have seen in the past decades. This will help us get healthcare in a more culturally appropriate manner. There are three reasons why we believe you should support this bill: (1) it improves healthcare access; (2) it saves money; and (3) it allows us to build the system. As an example, when managed care came into southwest Washington, specialty care started drying up in fee-for-service. This creates huge inequities. We can move specialty care into our system and pay them a wage that will allow people to be seen faster.

Persons Testifying (Ways & Means): PRO: Chairman Leonard Forsman, The Suquamish Tribe; Stephen Kutz, Executive Director, Health & Human Service, Cowlitz Tribe.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.