HOUSE BILL REPORT
SB 5415

As Passed House - Amended:
April 11, 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 Care & Wellness: 3/22/19, 3/27/19 [DPA];
Appropriations: 4/6/19, 4/8/19 [DPA(HCW)].
Floor Activity:
Passed House - Amended: 4/11/19, 96-0.

Brief Summary of Bill
(As Amended by House)

- Establishes the Governor's Indian Health Advisory Council to adopt the biennial Indian Health Improvement 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 Indian Health Improvement Advisory Plan.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 14 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Davis, DeBolt, Harris, Jinkins, Riccelli, Robinson, Stonier, Thai and Tharinger.

Staff: Chris Blake (786-7392).

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.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Health Care & Wellness. Signed by 32 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Catrina Lucero (786-7192).

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'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 that provide 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 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 match 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, the 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 federal match.

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, establishing an account for appropriations of new state savings, providing funding for Health Care 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.

Summary of Amended Bill:

The Governor's Indian Health Advisory Council.
The Governor's Indian Health Advisory Council (Advisory Council) is established. The voting members of the Advisory Council are:

- one representative from each tribe;
- the chief executive officer of each urban Indian organization;
- one member from each of the two largest caucuses of the Washington State House of Representatives;
- one member from each of the two largest caucuses of the Washington State Senate; and
- one member representing the Governor's Office.

The nonvoting members of the Advisory Council are:

- one member from: the executive leadership team of the Health Care Authority (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; and the Washington Health Benefit Exchange;
- the chief operating officer of each Indian Health Service (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 Indian Health Improvement Advisory Plan (Advisory Plan) prepared by the Reinvestment Committee by November 1 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 that have 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 the contracting and performance of service coordination organizations or service

contracting entities to address their impacts on services to American Indians and Alaska Natives and relationships with Indian health care providers.

The Advisory Committee may appoint technical advisory committees to address specific issues and concerns. The Authority must provide administrative and clerical assistance to the Advisory Council and its committees.

The Indian Health Improvement Advisory Plan.
The Reinvestment Committee must prepare and amend the 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 that the programs, projects, or activities that have received investment from the Reinvestment Account have or have not achieved the objectives. In addition, the Advisory Plan must include recommended Reinvestment Account expenditure amounts and priorities. The types of programs, projects, and activities that the Advisory Plan may address include:

- the creation and expansion of facilities operated by Indian Health Services, tribes, and urban Indian health programs providing evaluation, treatment, and recovery services for opioid use disorder, other substance use disorders, mental illness, or specialty care;
- improvement in access to, and utilization of, culturally appropriate primary care, mental health, and substance use disorder and recovery services;
- the elimination of barriers to, and maximization of, federal funding of substance use disorder and mental health services under Medicaid;
- increased availability of, and identification of barriers to, crisis and related services under the Involuntary Treatment Act, including increased access to involuntary commitment orders, designated crisis responders, and discharge planning;
- 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 that are achieved through recent federal authority to provide 100 percent federal match 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 are reflected as the difference between the 100 percent federal match actually received for the service and the match that the state would have otherwise received for the service. The methodology selected for tracking the new state savings must involve the same forecasting procedures that are used to inform medical assistance and behavioral health appropriations to prospectively identify new state savings each fiscal year.

Funds from the Reinvestment Account shall 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.

Legislative Findings and Intent.
Legislative findings are made regarding the nation's policy toward the health status of Native Americans and Alaska Natives, the health disparities that affect American Indians and Alaska Natives as a result of historical trauma and inadequate federal funding, the opportunity to shift the cost of care from the state to the federal government and the need for incentives to the tribes to take on the activities needed to shift the funds, and the federal government's intent to help improve delivery systems for American Indians and Alaska Natives.
Legislative intent is declared to be to: (1) establish the policy of the state to provide quality care to American Indians and Alaska Natives, implement national policies of self-determination, and reduce health inequities for American Indians and Alaska Natives; (2) establish the Governor's Indian Health Advisory Council; (3) establish the Reinvestment Account; (4) appropriate and deposit new state savings into the Reinvestment Account; and (5) require funds in the Reinvestment Account to be spent only on costs for projects, programs, or activities identified in the Advisory Plan.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) This provides American Indians the ability to take care of their own. Culture is prevention and the best way to stop substance use and suicidality is to strengthen cultural identity.

This legislation is important for addressing health disparities for American Indians and Alaska Natives in this state. While the process to achieve the new savings is complicated,

the federal funds that will go into the Reinvestment Account from the new state savings will help to address health disparities. Urban and rural areas have major disparities for health with respect to finding services.

It is the federal government's fiduciary responsibility to maintain health systems in Indian Country, but it has never provided adequate funding. With this bill, the funding can be used to help communities receive and pay for services. Many tribal members have to utilize Medicaid because of the lack of funding that comes into Indian health clinics and services. Under the use of care coordination agreements, specialty providers will receive a better reimbursement than they are currently receiving under the Medicaid fee-for-service program. Ninety percent of the funds from this bill will go to direct services. These funds will support such things as the implementation of traditional Indian medicine services and workforce development. These funds will build the system that best meets the needs of the members of the American Indian community.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) The Governor's Indian Health Advisory Council is composed of a variety of stakeholders including: representatives from Tribal and Urban Indian Health Programs, state legislators, representatives from state health agencies, and a representative from the Governor's Office. This bill came out of the conversations of that group and is a priority for the tribes.

(Opposed) None.

Persons Testifying (Health Care & Wellness): Senator McCoy, prime sponsor; Stephen Kutz, American Indian Health Commission; Norma Sanchez, Confederated Tribes of the Colville Reservation; and Esther Lucero, Seattle Indian Health Board.

Persons Testifying (Appropriations): Vicki Lowe, American Indian Health Commission.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.