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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, and Cleveland

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

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

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

7 (1) The legislature finds that:

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

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

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

18 (iii) Ensure tribal self-determination and maximum participation  
19 by American Indians and Alaska Natives in the direction of health  
20 care services so as to render the persons administering such services

1 and the services themselves more responsive to the needs and desires  
2 of tribes and American Indian and Alaska Native communities;

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

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

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

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

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

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

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

37 (d) Under a 2016 update in payment policy from the centers for  
38 medicare and medicaid services, the state has the opportunity to  
39 shift more of the cost of care for American Indian and Alaska Native

1    medicaid enrollees from the state general fund to the federal  
2    government if all of the federal requirements are met;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (7) "Community health aide" means a tribal community health  
2 provider certified by a community health aide program of the Indian  
3 health service or one or more tribes or tribal organizations  
4 consistent with the provisions of 25 U.S.C. Sec. 16161, who can  
5 perform a wide range of duties within the provider's scope of  
6 certified practice in health programs of a tribe, tribal  
7 organization, Indian health service facility, or urban Indian  
8 organization to improve access to culturally appropriate, quality  
9 care for American Indians and Alaska Natives and their families and  
10 communities, including but not limited to community health aides,  
11 community health practitioners, behavioral health aides, behavioral  
12 health practitioners, dental health aides, and dental health aide  
13 therapists.

14 (8) "Community health aide program" means a community health aide  
15 certification board for the state consistent with 25 U.S.C. Sec.  
16 16161 and the training programs and certification requirements  
17 established thereunder.

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

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

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

27 (12) "New state savings" means the savings to the state general  
28 fund that are achieved as a result of the centers for medicare and  
29 medicaid services state health official letter 16-002 and related  
30 guidance, calculated as the difference between (a) medicaid payments  
31 received from the centers for medicare and medicaid services based on  
32 the one hundred percent federal medical assistance percentage; and  
33 (b) medicaid payments received from the centers for medicare and  
34 medicaid services based on the federal medical assistance percentage  
35 that would apply in the absence of state health official letter  
36 16-002 and related guidance.

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

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

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

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

9 (17) "Tribe" means any Indian tribe, band, nation, or other  
10 organized group or community, including any Alaska Native village or  
11 group or regional or village corporation as defined in or established  
12 pursuant to the Alaska Native claims settlement act (43 U.S.C. Sec.  
13 1601 et seq.) which is recognized as eligible for the special  
14 programs and services provided by the United States to Indians  
15 because of their status as Indians.

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

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

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

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