
SENATE BILL 5729

State of Washington

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By Senators Franklin, Brandland, Keiser, Kline, Rasmussen, Marr, Hargrove, Kastama, Murray, Fairley, Kohl-Welles, Hatfield, Regala, Jacobsen, Poulsen and Parlette

Read first time 01/30/2007. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to public health funding; amending RCW 82.24.020,
2 43.70.575, and 43.70.520; adding new sections to chapter 43.70 RCW; and
3 adding a new section to chapter 43.135 RCW.

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

5 **Sec. 1.** RCW 82.24.020 and 2003 c 114 s 1 are each amended to read
6 as follows:

7 (1) There is levied and there shall be collected as provided in
8 this chapter, a tax upon the sale, use, consumption, handling,
9 possession or distribution of all cigarettes, in an amount equal to the
10 rate of eleven and one-half mills per cigarette. All revenues
11 collected during any month from this tax must be deposited into the
12 local public health financing account created in section 3 of this act.

13 (2) An additional tax is imposed upon the sale, use, consumption,
14 handling, possession, or distribution of all cigarettes, in an amount
15 equal to the rate of five and one-fourth mills per cigarette. All
16 revenues collected during any month from this additional tax shall be
17 deposited in the violence reduction and drug enforcement account under
18 RCW 69.50.520 by the twenty-fifth day of the following month.

1 (3) An additional tax is imposed upon the sale, use, consumption,
2 handling, possession, or distribution of all cigarettes, in an amount
3 equal to the rate of ten mills per cigarette through June 30, 1994,
4 eleven and one-fourth mills per cigarette for the period July 1, 1994,
5 through June 30, 1995, twenty mills per cigarette for the period July
6 1, 1995, through June 30, 1996, and twenty and one-half mills per
7 cigarette thereafter. All revenues collected during any month from
8 this additional tax shall be deposited in the health services account
9 created under RCW 43.72.900 by the twenty-fifth day of the following
10 month.

11 (4) Wholesalers subject to the payment of this tax may, if they
12 wish, absorb one-half mill per cigarette of the tax and not pass it on
13 to purchasers without being in violation of this section or any other
14 act relating to the sale or taxation of cigarettes.

15 (5) For purposes of this chapter, "possession" shall mean both (a)
16 physical possession by the purchaser and, (b) when cigarettes are being
17 transported to or held for the purchaser or his or her designee by a
18 person other than the purchaser, constructive possession by the
19 purchaser or his or her designee, which constructive possession shall
20 be deemed to occur at the location of the cigarettes being so
21 transported or held.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW
23 to read as follows:

24 (1) Protecting the public's health across the state is a
25 fundamental responsibility of the state. With the commitment to state
26 funding of the public health system as provided in section 3 of this
27 act, the state expects that measurable benefits will be realized to the
28 health of the residents of Washington. In addition, a well-funded
29 public health system is expected to become a more integral part of the
30 state's emergency preparedness system.

31 (2) This increase in public health funding shall deliver the
32 following outcomes, subject to available funding levels:

33 (a) Create a disease response system capable of responding at all
34 times;

35 (b) Stop the increase in, and reduce, sexually transmitted disease
36 rates;

37 (c) Reduce vaccine preventable diseases;

- 1 (d) Build capacity to quickly contain disease outbreaks;
- 2 (e) Decrease childhood obesity and diabetes rates;
- 3 (f) Increase childhood immunization rates;
- 4 (g) Provide home visiting services that improve birth outcomes and
- 5 decrease child abuse;
- 6 (h) Reduce animal-to-human disease rates; and
- 7 (i) Monitor and protect drinking water across jurisdictional
- 8 boundaries.

9 (3) Benchmarks for these outcomes shall be drawn from the national
10 healthy people 2010 goals, other reliable data sets, and any subsequent
11 national goals.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.70 RCW
13 to read as follows:

14 (1) The definitions in this subsection apply throughout this
15 section unless the context clearly requires otherwise.

16 (a) "Base year" means the calendar year ending December 31, 2006.

17 (b) "Core public health functions of statewide significance" or
18 "public health functions" means health services that:

19 (i) Address: Communicable disease prevention and response;
20 preparation for, and response to, public health emergencies caused by
21 pandemic disease, earthquake, flood, or terrorism; prevention and
22 management of chronic diseases and disabilities; provision of services
23 to promote healthy families and the development of children; assessment
24 of local health conditions, risks, and trends, and evaluation of the
25 effectiveness of intervention efforts; and environmental health
26 concerns;

27 (ii) Promote uniformity in the public health activities conducted
28 by all local health jurisdictions in the public health system, increase
29 the overall strength of the public health system, or apply to broad
30 public health efforts; and

31 (iii) If left neglected or inadequately addressed, are reasonably
32 likely to have a significant adverse impact on counties beyond the
33 borders of the local health jurisdiction.

34 (c) "Local funding" means discretionary local resources for public
35 health functions, including amounts from general and special revenue
36 funds, but excluding amounts received from fees and licenses and other

1 user fee types of payments for service. "Local funding" does not
2 include payments received from the state or federal government.

3 (d) "Local health jurisdiction" or "jurisdiction" means a county
4 board of health organized under chapter 70.05 RCW, a health district
5 organized under chapter 70.46 RCW, or a combined city and county health
6 department organized under chapter 70.08 RCW.

7 (e) "Population" means the most recent population estimates by the
8 office of financial management for state revenue allocations.

9 (2) The local public health financing account is created in the
10 state treasury. All receipts from RCW 82.24.020(1) must be deposited
11 in the account. Money in the account may be spent only after
12 appropriation. Expenditures from the account must be used for the
13 purposes specified in subsections (3) and (4) of this section.

14 (3) Beginning January 1, 2008, and on the first business day of
15 each January thereafter, the state treasurer shall distribute from the
16 local public health financing account five million four hundred twenty-
17 five thousand dollars to be shared equally amongst all local health
18 jurisdictions. Jurisdictions shall use the money to fill at least two
19 full-time equivalent positions to address core public health functions
20 of statewide significance.

21 (4) Beginning January 1, 2008, and on the first business day of
22 each fiscal quarter thereafter, the state treasurer, in consultation
23 with the department of revenue or the department of health, as
24 necessary, shall distribute money in the local public health financing
25 account as provided in this subsection (4). The distributions under
26 this subsection (4) are subsequent to the distribution under subsection
27 (3) of this section.

28 (a) Sixty-seven percent of the distribution under this subsection
29 (4) must be apportioned to local health jurisdictions in the manner
30 provided in this subsection (4)(a). The apportionment factor for each
31 jurisdiction is the population of the jurisdiction's county as a
32 percentage of the statewide population for the prior calendar year.
33 For two or more counties that have jointly created a health district
34 under chapter 70.46 RCW, the combined population of all counties
35 comprising the health district must be used. Money received by a
36 jurisdiction under this subsection (4)(a) must be used to fund core
37 public health functions of statewide significance, and until July 1,

1 2008, money shall be used to fund only known deficiencies in core
2 public health functions of statewide significance of the jurisdiction.

3 (b)(i) Sixteen percent of the distribution under this subsection
4 (4) shall be deposited into the local core public health incentive
5 account hereby created in the custody of the state treasurer.
6 Expenditures from the account must be used only for the funding of core
7 public health functions of statewide significance by local health
8 jurisdictions, and until July 1, 2008, money shall be used to fund only
9 known deficiencies in core public health functions of statewide
10 significance of jurisdictions. Only the secretary, or the secretary's
11 designee, may authorize expenditures from the account. The account is
12 subject to allotment procedures under chapter 43.88 RCW, but an
13 appropriation is not required for expenditures.

14 (ii) For a jurisdiction to receive funding under this subsection
15 (4)(b), an application must be submitted to the department. The
16 application must be in a form and manner prescribed by the department.
17 A distribution to a jurisdiction under this subsection (4)(b) shall
18 equal the lesser of: (A) The amount by which local funding spent by
19 the jurisdiction on public health functions in the previous calendar
20 year exceeded the amount of local funding spent by the jurisdiction on
21 public health functions in the base year; or (B) sixteen percent of the
22 revenue collected under RCW 82.24.020(1) in the previous calendar year,
23 as reduced by the distribution in subsection (3) of this section in the
24 previous calendar year, multiplied by the county's population as a
25 percentage of the statewide population for the prior calendar year.
26 For two or more counties that have jointly created a health district
27 under chapter 70.46 RCW, the local funding and population amounts must
28 be determined by combining the amounts for the counties comprising the
29 health district. The department shall distribute money to a
30 jurisdiction under this subsection (4)(b) in the same calendar year in
31 which the jurisdiction applied for funding under this subsection
32 (4)(b). A jurisdiction must reapply every calendar year to receive
33 funding under this subsection (4)(b). Distributions under this
34 subsection (4)(b) are subject to available funding. Beginning with the
35 account balance existing on December 31, 2008, and the balance on
36 December 31st of each year thereafter, any balance remaining in the
37 local core public health incentive account in excess of three million

1 dollars must be transferred, within thirty days, to the state
2 treasurer. The state treasurer shall distribute the excess funds in
3 accordance with (a) of this subsection.

4 (c) Seven percent of the distribution under this subsection (4)
5 shall be deposited into the local core public health incentive account
6 created in (b) of this subsection (4). For a jurisdiction to receive
7 funding under this subsection (4)(c), an application must be submitted
8 to the department. The application must be in a form and manner
9 prescribed by the department. A jurisdiction may receive a
10 distribution under this subsection (4)(c) if the jurisdiction's per
11 capita local funding in the previous calendar year exceeded the median
12 per capita local funding for all jurisdictions in that year. A
13 distribution to a jurisdiction under this subsection (4)(c) shall equal
14 the lesser of: (i) Fifty percent of the difference between the per
15 capita local funding of the jurisdiction in the previous calendar year
16 and the median per capita local funding for all jurisdictions in that
17 year, multiplied by the county population of the jurisdiction in that
18 year; or (ii) seven percent of the revenue collected under RCW
19 82.24.020(1) for the previous calendar year, as reduced by the
20 distribution in subsection (3) of this section in the previous calendar
21 year, multiplied by the county population of the jurisdiction as a
22 percentage of the statewide population for the prior calendar year.
23 For two or more counties that have jointly created a health district
24 under chapter 70.46 RCW, the local funding and population amounts must
25 be determined by combining the amounts for the counties comprising the
26 health district. The department shall distribute money to a
27 jurisdiction under this subsection (4)(c) in the same calendar year in
28 which the jurisdiction applied for funding under this subsection
29 (4)(c). A jurisdiction must reapply every calendar year to receive
30 funding under this subsection (4)(c). Distributions under this
31 subsection (4)(c) are subject to available funding.

32 (d)(i) Ten percent of the distribution under this subsection (4)
33 shall be deposited into the innovative local public health services
34 account hereby created in the custody of the state treasurer.
35 Expenditures from the account may be used only for the funding of core
36 public health functions of statewide significance provided on a
37 multijurisdictional basis. Only the secretary, or the secretary's

1 designee, may authorize expenditures from the account. The account is
2 subject to allotment procedures under chapter 43.88 RCW, but an
3 appropriation is not required for expenditures.

4 (ii) A multicounty health district or two or more local health
5 departments jointly may submit an application to the department for
6 funding under this subsection (4)(d). The application must be in a
7 form and manner prescribed by the department. An application must
8 include a description of changes that a multicounty health district or
9 local health departments, acting jointly, have made to improve delivery
10 of health services related to core public health functions of statewide
11 significance on a multijurisdictional basis. Priority for
12 distributions under this subsection (4)(d) shall first be given to
13 counties that establish multicounty health districts, under chapter
14 70.46 RCW, after the effective date of this section, before funding is
15 provided to jurisdictions that consolidate resources or health services
16 on a multijurisdictional basis, but have not created a multicounty
17 health district. Distributions must be made on a competitive basis and
18 are subject to available funding. Beginning with the account balance
19 existing on December 31, 2008, and the balance on December 31st of each
20 year thereafter, any balance remaining in the innovative local public
21 health services account in excess of one million dollars must be
22 transferred, within thirty days, to the state treasurer. The state
23 treasurer shall distribute the excess funds in accordance with (a) of
24 this subsection.

25 (5) Funding for jurisdictions under subsections (3) and (4) of this
26 section is contingent upon the jurisdiction complying with the
27 performance measures adopted under section 4 of this act.

28 (6) To receive distributions under subsections (3) and (4) of this
29 section in calendar year 2009 and thereafter, total local funding spent
30 by the jurisdiction on public health functions in the calendar year
31 prior to the previous calendar year must have exceeded total local
32 funding spent by the jurisdiction on public health functions in the
33 base year. The department of health shall notify the state treasurer
34 to discontinue distributions if the jurisdiction does not meet this
35 requirement.

36 (7) The department may adopt rules necessary to administer this
37 section.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.70 RCW
2 to read as follows:

3 (1) The public health improvement committee is established
4 consisting of sixteen members appointed by the governor. In choosing
5 appointees, the governor shall make reasonable efforts to select
6 individuals with expertise in management, performance management,
7 quality management, or systems management. The committee shall be
8 comprised of the following members:

9 (a) Two local public health officials from different-sized local
10 health jurisdictions, at least one of which is an epidemiologist;

11 (b) Two members who serve on a local board of health;

12 (c) One member who serves on the state board of health;

13 (d) One member of the faculty of the University of Washington
14 school of public health and community medicine;

15 (e) Two representatives from nonprofit organizations that address
16 public health issues, at least one of which works with issues relating
17 to global health;

18 (f) One member with expertise in the development of evidence-based
19 medical guidelines or public health guidelines;

20 (g) One representative of community clinics;

21 (h) One representative of tribal health interests;

22 (i) One member who is a representative of a large employer;

23 (j) One representative of a local emergency management agency;

24 (k) One representative of the interests of physicians;

25 (l) The secretary, or his or her designee; and

26 (m) One member representing the interests of the public.

27 (2) Members of the initial committee may be appointed to staggered
28 terms of one to four years, and thereafter all terms of appointment
29 shall be for four years. No member may serve more than two consecutive
30 full terms. Each member shall hold office until a successor is
31 appointed. Members of the committee shall be compensated in accordance
32 with RCW 43.03.250 and shall be reimbursed for their travel expenses
33 while on official business in accordance with RCW 43.03.050 and
34 43.03.060. The committee shall elect a chair from its members to serve
35 for a term of one year or until a successor is elected. Meetings of
36 the committee shall be at the call of the chair. The committee may
37 appoint work groups to assist in the completion of its
38 responsibilities.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.70 RCW
2 to read as follows:

3 (1) By April 1, 2008, the committee shall develop a list of
4 activities and services offered by local health jurisdictions that
5 qualify as core public health functions of statewide significance as
6 defined in section 3 of this act.

7 (2) By October 1, 2008, the committee shall develop appropriate
8 performance measures applicable to the core public health functions of
9 statewide significance that local health jurisdictions must provide
10 pursuant to section 3 of this act. In developing the performance
11 measures, the committee shall consider levels of performance necessary
12 to promote uniformity in core public health functions of statewide
13 significance among all local health jurisdictions, national standards
14 of performance, and innovations in public health practice. The
15 performance measures shall be developed to meet the goals and outcomes
16 in section 2 of this act. The office of the state auditor shall
17 provide advice and consultation to the committee to assist in the
18 development of effective performance measures and health status
19 indicators.

20 (3) The committee may revise the performance measures as
21 appropriate.

22 (4) The department and the local health jurisdictions shall abide
23 by the list of activities and services and the performance measures
24 developed pursuant to this section. Prior to modifying the committee's
25 list, the department must consult with the committee and provide
26 written notice of its rationale for such changes.

27 (5) The department shall provide technical and administrative
28 assistance to the committee.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.70 RCW
30 to read as follows:

31 (1) Beginning July 1, 2009, local health jurisdictions are eligible
32 to receive funds under section 3(4) of this act from the local public
33 health financing account only upon demonstrating that the local health
34 jurisdiction has:

35 (a) Complied with the performance measures adopted under section 5
36 of this act; and

1 (b) Spent funds received after July 1, 2008, under section 2 of
2 this act in accordance with the criteria established in that section.

3 (2) The secretary shall adopt a schedule for reviewing the
4 compliance of local health jurisdictions with the performance measures
5 and spending requirements such that each local health jurisdiction is
6 reviewed at least once every two years. Each local health jurisdiction
7 shall submit to the secretary such data as he or she determines is
8 necessary to allow the secretary to assess the compliance of the local
9 health jurisdiction. The secretary shall inform the state treasurer
10 that a local health jurisdiction is eligible to receive funds from the
11 local public health financing account after it has been determined that
12 the local health jurisdiction has demonstrated compliance with the
13 performance measures and that prior funds received from the local
14 public health financing account have been spent to improve core public
15 health functions of statewide significance, as defined by the committee
16 or its successor in section 5 of this act.

17 (3) The secretary shall provide any local health jurisdiction that
18 has failed to meet the eligibility requirements in subsection (2) of
19 this section with a notice of noncompliance and a detailed accounting
20 of its deficiencies. The secretary shall provide technical support to
21 assist the local health jurisdiction in meeting eligibility
22 requirements.

23 (4) Any local health jurisdiction that has failed to meet the
24 eligibility requirements in subsection (2) of this section must return
25 to compliant status within one year of the secretary's issuance of a
26 notice of noncompliance. After one year, the secretary shall inform
27 the state treasurer that the local health jurisdiction is not eligible
28 to receive funds from the local public health financing account. Funds
29 may resume once the local health jurisdiction has submitted a plan of
30 correction to the secretary and demonstrated that it has returned to
31 compliant status with respect to the performance measures and spending
32 requirements.

33 (5) The secretary may temporarily suspend the eligibility
34 requirements established in subsection (2) of this section to allow for
35 the continued receipt of funds where the secretary finds that the local
36 health jurisdiction was not able to comply with the performance
37 measures and spending requirements due to extraordinary circumstances

1 requiring the local health jurisdiction to respond to a serious public
2 health threat.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.70 RCW
4 to read as follows:

5 By November 15, 2011, the department shall report to the
6 legislature and the governor on the distribution of funds under section
7 3 of this act and the use of those funds. In addition, the report must
8 discuss the performance measures adopted by the advisory committee and
9 the impact of the funds to improve compliance with the performance
10 measures and health status indicators.

11 **Sec. 8.** RCW 43.70.575 and 1995 c 43 s 2 are each amended to read
12 as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout RCW 43.70.570 through 43.70.580,
15 43.70.520, and sections 4 through 7 of this act.

16 (1) "Capacity" means actions that public health jurisdictions must
17 do as part of ongoing daily operations to adequately protect and
18 promote health and prevent disease, injury, and premature death. The
19 public health improvement plan identifies capacity necessary for
20 assessment, policy development, administration, prevention, including
21 promotion and protection, and access and quality.

22 (2) "Committee" means the public health improvement committee
23 established in section 4 of this act.

24 (3) "Department" means the department of health.

25 ((+3)) (4) "Local health jurisdiction" means the local health
26 agency, either county or multicounty, operated by local government,
27 with oversight and direction from a local board of health, that
28 provides public health services throughout a defined geographic area.

29 ((+4)) (5) "Health outcomes" means long-term objectives that
30 define optimal, measurable, future levels of health status, maximum
31 acceptable levels of disease, injury, or dysfunction, or prevalence of
32 risk factors in areas such as improving the rate of immunizations for
33 infants and children to ninety percent and controlling and reducing the
34 spread of tuberculosis and that are stated in the public health
35 improvement plan.

1 ~~((+5))~~ (6) "Public health improvement plan," also known as the
2 public health services improvement plan, means the public health
3 services improvement plan established under RCW 43.70.520, developed by
4 the department and the committee, in consultation with (~~local health~~
5 ~~departments and districts, the state board of health, the health~~
6 ~~services commission, area Indian health services, and~~) other state
7 agencies, health services providers, and residents concerned about
8 public health, to provide a detailed accounting of deficits in the core
9 functions of assessment, policy development, and assurance of the
10 current public health system, how additional public health funding
11 would be used, and to describe the benefits expected from expanded
12 expenditures.

13 ~~((+6))~~ (7) "Public health" means activities that society does
14 collectively to assure the conditions in which people can be healthy.
15 This includes organized community efforts to prevent, identify,
16 preempt, and counter threats to the public's health.

17 ~~((+7))~~ (8) "Public health system" means the department, the state
18 board of health, and local health jurisdictions.

19 **Sec. 9.** RCW 43.70.520 and 1993 c 492 s 467 are each amended to
20 read as follows:

21 (1) The legislature finds that the public health functions of
22 community assessment, policy development, and assurance of service
23 delivery are essential elements in achieving the objectives of health
24 reform in Washington state. The legislature further finds that the
25 population-based services provided by state and local health
26 departments are cost-effective and are a critical strategy for the
27 long-term containment of health care costs. The legislature further
28 finds that the public health system in the state lacks the capacity to
29 fulfill these functions consistent with the needs of a reformed health
30 care system.

31 (2) The department of health and the committee shall develop, in
32 consultation with (~~local health departments and districts, the state~~
33 ~~board of health, the health services commission, area Indian health~~
34 ~~service, and~~) other state agencies, health services providers, and
35 citizens concerned about public health, a public health services
36 improvement plan. The plan shall provide a detailed accounting of
37 deficits in the core functions of assessment, policy development,

1 assurance of the current public health system, how additional public
2 health funding would be used, and describe the benefits expected from
3 expanded expenditures.

4 (3) The plan shall include:

5 (a) Definition of minimum standards for public health protection
6 through assessment, policy development, and assurances:

7 (i) Enumeration of communities not meeting those standards;

8 (ii) A budget and staffing plan for bringing all communities up to
9 minimum standards;

10 (iii) An analysis of the costs and benefits expected from adopting
11 minimum public health standards for assessment, policy development, and
12 assurances;

13 (b) Recommended strategies and a schedule for improving public
14 health programs throughout the state, including:

15 (i) Strategies for transferring personal health care services from
16 the public health system, into the uniform benefits package where
17 feasible; and

18 (ii) Timing of increased funding for public health services linked
19 to specific objectives for improving public health; and

20 (c) A recommended level of dedicated funding for public health
21 services to be expressed in terms of a percentage of total health
22 service expenditures in the state or a set per person amount; such
23 recommendation shall also include methods to ensure that such funding
24 does not supplant existing federal, state, and local funds received by
25 local health departments, and methods of distributing funds among local
26 health departments.

27 (4) The department shall coordinate this planning process with the
28 study activities required in section 258, chapter 492, Laws of 1993.

29 (5) By March 1, 1994, the department shall provide initial
30 recommendations of the public health services improvement plan to the
31 legislature regarding minimum public health standards, and public
32 health programs needed to address urgent needs, such as those cited in
33 subsection (7) of this section.

34 (6) By December 1, 1994, the department shall present the public
35 health services improvement plan to the legislature, with specific
36 recommendations for each element of the plan to be implemented over the
37 period from 1995 through 1997.

1 (7) Thereafter, the department and the committee shall update the
2 public health services improvement plan for presentation to the
3 legislature prior to the beginning of a new biennium.

4 (8) Among the specific population-based public health activities to
5 be considered in the public health services improvement plan are:
6 Health data assessment and chronic and infectious disease surveillance;
7 rapid response to outbreaks of communicable disease; efforts to prevent
8 and control specific communicable diseases, such as tuberculosis and
9 acquired immune deficiency syndrome; health education to promote
10 healthy behaviors and to reduce the prevalence of chronic disease, such
11 as those linked to the use of tobacco; access to primary care in
12 coordination with existing community and migrant health clinics and
13 other not for profit health care organizations; programs to ensure
14 children are born as healthy as possible and they receive immunizations
15 and adequate nutrition; efforts to prevent intentional and
16 unintentional injury; programs to ensure the safety of drinking water
17 and food supplies; poison control; trauma services; and other
18 activities that have the potential to improve the health of the
19 population or special populations and reduce the need for or cost of
20 health services.

21 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.135
22 RCW to read as follows:

23 RCW 43.135.035(4) does not apply to the transfer in RCW
24 82.24.020(1).

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